

AN ACT

To amend sections 4723.06, 4723.063, 4723.08, 4723.091, 4723.24, 4723.42, 4723.47, 4729.01, 4729.281, and 4729.39 and to enact section 4731.74 of the Revised Code regarding the practice of pharmacy under consult agreements, the authority of pharmacists to dispense or sell drugs without a prescription, the authority of physicians to prescribe drugs based on remote examination of patients, and the procedures for renewal of nursing licenses.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4723.06, 4723.063, 4723.08, 4723.091, 4723.24, 4723.42, 4723.47, 4729.01, 4729.281, and 4729.39 be amended and section 4731.74 of the Revised Code be enacted to read as follows:

Sec. 4723.06. (A) The board of nursing shall:

(1) Administer and enforce the provisions of this chapter, including the taking of disciplinary action for violations of section 4723.28 of the Revised Code, any other provisions of this chapter, or rules adopted under this chapter;

(2) Develop criteria that an applicant must meet to be eligible to sit for the examination for licensure to practice as a registered nurse or as a licensed practical nurse;

(3) Issue and renew nursing licenses, dialysis technician certificates, and community health worker certificates, as provided in this chapter;

(4) Define the minimum standards for educational programs of the schools of registered nursing and schools of practical nursing in this state;

(5) Survey, inspect, and grant full approval to prelicensure nursing education programs in this state that meet the standards established by rules adopted under section 4723.07 of the Revised Code. Prelicensure nursing education programs include, but are not limited to, diploma, associate degree, baccalaureate degree, master's degree, and doctor of nursing programs leading to initial licensure to practice nursing as a registered nurse and practical nurse programs leading to initial licensure to practice nursing as a licensed practical nurse.

(6) Grant conditional approval, by a vote of a quorum of the board, to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate, if the program meets and maintains the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. If the board does not grant conditional approval, it shall hold an adjudication under Chapter 119. of the Revised Code to consider conditional approval of the program. If the board grants conditional approval, at the first meeting following completion of the survey process required by division (A)(5) of this section, the board shall determine whether to grant full approval to the program. If the board does not grant full approval or if it appears that the program

has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the board shall hold an adjudication under Chapter 119. of the Revised Code to consider the program. Based on results of the adjudication, the board may continue or withdraw conditional approval, or grant full approval.

(7) Place on provisional approval, for a period of time specified by the board, a program that has ceased to meet and maintain the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. Prior to or at the end of the period, the board shall reconsider whether the program meets the standards and shall grant full approval if it does. If it does not, the board may withdraw approval, pursuant to an adjudication under Chapter 119. of the Revised Code.

(8) Approve continuing education programs and courses under standards established in rules adopted under sections 4723.07, 4723.69, 4723.79, and 4723.88 of the Revised Code;

(9) Establish a program for monitoring chemical dependency in accordance with section 4723.35 of the Revised Code;

(10) Establish the practice intervention and improvement program in accordance with section 4723.282 of the Revised Code;

(11) Issue and renew certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(12) Approve under section 4723.46 of the Revised Code national certifying organizations for examination and certification of certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

(13) Issue and renew certificates to prescribe in accordance with sections 4723.48 and 4723.486 of the Revised Code;

(14) Grant approval to the course of study in advanced pharmacology and related topics required by section 4723.482 of the Revised Code to be eligible for a certificate to prescribe;

(15) Make an annual edition of the formulary established in rules adopted under section 4723.50 of the Revised Code available to the public either in printed form or by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public in printed form or by electronic means;

(16) Provide guidance and make recommendations to the general assembly, the governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the enforcement of this chapter;

(17) Make an annual report to the governor, which shall be open for public inspection;

(18) Maintain and have open for public inspection the following records:

(a) A record of all its meetings and proceedings;

(b) A record of all applicants for, and holders of, licenses and certificates issued by the board under this chapter or in accordance with rules adopted under this chapter. The record shall be maintained in a format determined by the board.

(c) A list of education and training programs approved by the board.

(19) Deny approval to a person who submits or causes to be submitted false, misleading, or deceptive statements, information, or documentation to the board in the process of applying for approval of a new education or training program. If the board proposes to deny approval of a new

education or training program, it shall do so pursuant to an adjudication conducted under Chapter 119. of the Revised Code.

(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under section 4723.07 of the Revised Code to approve continuing education programs and courses. Persons so authorized shall approve continuing education programs and courses in accordance with standards established in rules adopted under section 4723.07 of the Revised Code.

Persons seeking authorization to approve continuing education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing education programs and courses shall expire, and may be renewed according to the schedule established in rules adopted under section 4723.07 of the Revised Code.

In addition to approving continuing education programs under division (A)(8) of this section, the board may sponsor continuing education activities that are directly related to the statutes and rules the board enforces.

Sec. 4723.063. (A) As used in this section:

(1) "Health care facility" means:

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

(b) 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;

(c) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(d) A freestanding dialysis center;

(e) A freestanding inpatient rehabilitation facility;

(f) An ambulatory surgical facility;

(g) A freestanding cardiac catheterization facility;

(h) A freestanding birthing center;

(i) A freestanding or mobile diagnostic imaging center;

(j) A freestanding radiation therapy center.

(2) "Nurse education program" means a prelicensure nurse education program approved by the board of nursing under section 4723.06 of the Revised Code or a postlicensure nurse education program approved by the board of regents under section 3333.04 of the Revised Code.

(B) The state board of nursing shall establish and administer the nurse education grant program. Under the program, the board shall award grants to nurse education programs that have partnerships with other education programs, community health agencies, health care facilities, or patient centered medical homes. Grant recipients shall use the money to fund partnerships to increase the nurse education program's enrollment capacity. Methods of increasing a program's enrollment capacity may include hiring faculty and preceptors, purchasing educational equipment and materials, and other actions acceptable to the board. Grant money shall not be used to construct or renovate buildings. Partnerships may be developed between one or more nurse education programs and one or more health care facilities.

In awarding grants, the board shall give preference to partnerships between nurse education programs and hospitals, nursing homes, and county homes or county nursing homes, but may also award grants to fund partnerships between nurse education programs and other health care facilities and between nurse education programs and patient centered medical homes.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the following:

- (1) Eligibility requirements for receipt of a grant;
- (2) Grant application forms and procedures;
- (3) The amounts in which grants may be made and the total amount that may be awarded to a nurse education program that has a partnership with other education programs, a community health agency, a health care facility, or a patient centered medical home;
- (4) A method whereby the board may evaluate the effectiveness of a partnership between joint recipients in increasing the nurse education program's enrollment capacity;
- (5) The percentage of the money in the fund that must remain in the fund at all times to maintain a fiscally responsible fund balance;
- (6) The percentage of available grants to be awarded to licensed practical nurse education programs, registered nurse education programs, and graduate programs;
- (7) Any other matters incidental to the operation of the program.

(D) Until December 31, 2023, ten dollars of each ~~biennial~~ nursing license renewal fee collected under section 4723.08 of the Revised Code shall be dedicated to the nurse education grant program fund, which is hereby created in the state treasury. The board shall use money in the fund for grants awarded under division (A) of this section and for expenses of administering the grant program. The amount used for administrative expenses in any year shall not exceed ten per cent of the amount transferred to the fund in that year.

(E) Each quarter, for the purposes of transferring funds to the nurse education grant program, the board of nursing shall certify to the director of budget and management the number of ~~biennial~~ licenses renewed under this chapter during the preceding quarter and the amount equal to that number times ten dollars.

(F) Notwithstanding the requirements of section 4743.05 of the Revised Code, from January 1, 2004, until December 31, 2023, at the end of each quarter, the director of budget and management shall transfer from the occupational licensing and regulatory fund to the nurse education grant program fund the amount certified under division (E) of this section.

Sec. 4723.08. (A) The board of nursing may impose fees not to exceed the following limits:

- (1) For application for licensure by examination to practice nursing as a registered nurse or as a licensed practical nurse, seventy-five dollars;
- (2) For application for licensure by endorsement to practice nursing as a registered nurse or as a licensed practical nurse, seventy-five dollars;
- (3) For application for a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, one hundred dollars;
- (4) For application for a temporary dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(5) For application for a dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(6) For application for a certificate to prescribe, fifty dollars;

(7) For providing, pursuant to division (B) of section 4723.271 of the Revised Code, written verification of a nursing license, certificate of authority, certificate to prescribe, dialysis technician certificate, medication aide certificate, or community health worker certificate to another jurisdiction, fifteen dollars;

(8) For providing, pursuant to division (A) of section 4723.271 of the Revised Code, a replacement copy of a wall certificate suitable for framing as described in that division, twenty-five dollars;

(9) For ~~biennial~~-renewal of a nursing license, sixty-five dollars;

(10) For ~~biennial~~-renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, eighty-five dollars;

(11) For renewal of a certificate to prescribe, fifty dollars;

(12) For ~~biennial~~-renewal of a dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(13) For processing a late application for renewal of a nursing license, certificate of authority, or dialysis technician certificate, fifty dollars;

(14) For application for authorization to approve continuing education programs and courses from an applicant accredited by a national accreditation system for nursing, five hundred dollars;

(15) For application for authorization to approve continuing education programs and courses from an applicant not accredited by a national accreditation system for nursing, one thousand dollars;

(16) For each year for which authorization to approve continuing education programs and courses is renewed, one hundred fifty dollars;

(17) For application for approval to operate a dialysis training program, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(18) For reinstatement of a lapsed license or certificate issued under this chapter, one hundred dollars except as provided in section 5903.10 of the Revised Code;

(19) For processing a check returned to the board by a financial institution, twenty-five dollars;

(20) The amounts specified in rules adopted under section 4723.88 of the Revised Code pertaining to the issuance of certificates to community health workers, including fees for application for a certificate, ~~biennial~~-renewal of a certificate, processing a late application for renewal of a certificate, reinstatement of a lapsed certificate, application for approval of a community health worker training program for community health workers, and ~~biennial~~-renewal of the approval of a training program for community health workers.

(B) Each quarter, for purposes of transferring funds under section 4743.05 of the Revised Code to the nurse education assistance fund created in section 3333.28 of the Revised Code, the board of nursing shall certify to the director of budget and management the number of ~~biennial~~ licenses renewed under this chapter during the preceding quarter and the amount equal to that number times five dollars.

(C) The board may charge a participant in a board-sponsored continuing education activity an amount not exceeding fifteen dollars for each activity.

(D) The board may contract for services pertaining to the process of providing written verification of a license or certificate when the verification is performed for purposes other than providing verification to another jurisdiction. The contract may include provisions pertaining to the collection of the fee charged for providing the written verification. As part of these provisions, the board may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.

Sec. 4723.091. (A) An individual who applies for licensure under section 4723.09 of the Revised Code; issuance of a certificate under section 4723.651, 4723.75, 4723.76, or 4723.85 of the Revised Code; reactivation of a license, under division (D) of section 4723.24 of the Revised Code, that has been inactive for at least five years; or reinstatement of a license, under division (D) of section 4723.24 of the Revised Code, that has ~~been expired~~ lapsed for at least five years shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant. The request shall be made in accordance with section 109.572 of the Revised Code.

(B) An applicant requesting a criminal records check under division (A) of this section shall also ask the superintendent of the bureau of criminal identification and investigation to request that the federal bureau of investigation send to the superintendent any information the federal bureau of investigation has with respect to the applicant.

(C) On receipt of all items required for the commencement of a criminal records check pursuant to division (A) of this section, the bureau of criminal identification and investigation shall conduct a criminal records check of the applicant. On the completion of the criminal records check, the bureau shall send the results to the board of nursing.

(D) The results of a criminal records check conducted pursuant to a request made under division (A) of this section, and any report containing those results, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than the following:

(1) The results may be made available to any person for use in determining under section 4723.09, 4723.651, 4723.75, 4723.76, or 4723.85 of the Revised Code whether the individual who is the subject of the check should be granted a license or certificate under this chapter or whether any temporary permit granted to the individual under either of the following has terminated automatically:

(a) Section 4723.09 of the Revised Code;

(b) Section 4723.76 of the Revised Code as that section existed at any time before ~~the effective date of this section~~ March 20, 2013.

(2) The results may be made available to any person for use in determining under division (D) of section 4723.24 of the Revised Code whether the individual who is the subject of the check should have the individual's license or certificate reactivated or reinstated.

(3) The results may be made available to any person for use in determining under section 4723.28 of the Revised Code whether the individual who is the subject of the check should be subject to disciplinary action in accordance with that section.

(4) The results may be made available to the individual who is the subject of the check or that

individual's representative.

Sec. 4723.24. (A)(1) Except as otherwise specified—provided in this chapter, all of the following apply with respect to the schedules for renewal of licenses and certificates issued by the board of nursing:

(a) An active license to practice nursing as a registered nurse is subject to renewal in odd-numbered years. An application for renewal of the license is due on the fifteenth day of September of the renewal year. A late application may be submitted before the license lapses. If a license is not renewed or classified as inactive, the license lapses on the first day of November of the renewal year.

(b) An active license to practice nursing as a licensed practical nurse is subject to renewal in even-numbered years. An application for renewal of the license is due on the fifteenth day of September of the renewal year. A late application may be submitted before the license lapses. If a license is not renewed or classified as inactive, the license lapses on the first day of November of the renewal year.

(c) All other active licenses and certificates issued under this chapter shall be renewed biennially—are subject to renewal according to a schedule established by the board of nursing. The in rules adopted under section 4723.07 of the Revised Code.

(2) The board shall provide an application for renewal to every holder of an active license or certificate, except when the board is aware that an individual is ineligible for license or certificate renewal for any reason, including pending criminal charges in this state or another jurisdiction, failure to comply with a disciplinary order from the board or the terms of a consent agreement entered into with the board, failure to pay fines or fees owed to the board, or failure to provide on the board's request documentation of having completed the continuing nursing education requirements specified in division (C) of this section.

If the board provides a renewal application by mail, the application shall be addressed to the last known post-office address of the license or certificate holder and mailed before the date ~~specified in the board's schedule~~ the application is due. Failure of the license or certificate holder to receive an application for renewal from the board shall not excuse the holder from the requirements contained in this section, except as provided in section 5903.10 of the Revised Code.

~~The~~ (3) A license or certificate holder seeking renewal of the license or certificate shall complete the renewal form—application and return—submit it to the board with the renewal fee required by—established under section 4723.08 of the Revised Code—on or before the date specified by the board. The license or certificate holder—If a renewal application is submitted after the date the application is due, but before the date the license or certificate lapses, the applicant shall include with the application the fee established under section 4723.08 of the Revised Code for processing a late application for renewal.

With the renewal application, the applicant shall report any conviction, plea, or judicial finding regarding a criminal offense that constitutes grounds for the board to impose sanctions under section 4723.28 of the Revised Code since the holder—applicant last submitted an application to the board.

(4) On receipt of the renewal application, the board shall verify whether the applicant meets the renewal requirements. If the applicant meets the requirements, the board shall renew the license or certificate for the following two-year period.

~~If a renewal application that meets the renewal requirements is submitted after the date specified in the board's schedule, but before expiration of the license or certificate, the board shall grant a renewal upon payment of the late renewal fee authorized under section 4723.08 of the Revised Code.~~

(B) Every license or certificate holder shall give written notice to the board of any change of name or address within thirty days of the change. The board shall require the holder to document a change of name in a manner acceptable to the board.

(C)(1) Except in the case of a first renewal after licensure by examination, to be eligible for renewal of an active license to practice nursing as a registered nurse or licensed practical nurse, each individual who holds an active license shall, in each two-year period specified by the board, complete continuing nursing education as follows:

(a) For renewal of a license that was issued for a two-year renewal period, twenty-four hours of continuing nursing education;

(b) For renewal of a license that was issued for less than a two-year renewal period, the number of hours of continuing nursing education specified by the board in rules adopted in accordance with Chapter 119. of the Revised Code;

(c) Of the hours of continuing nursing education completed in any renewal period, at least one hour of the education must be directly related to the statutes and rules pertaining to the practice of nursing in this state.

(2) The board shall adopt rules establishing the procedure for a license holder to certify to the board completion of the required continuing nursing education. The board may conduct a random sample of license holders and require that the license holders included in the sample submit satisfactory documentation of having completed the requirements for continuing nursing education. On the board's request, a license holder included in the sample shall submit the required documentation.

(3) An educational activity may be applied toward meeting the continuing nursing education requirement only if it is obtained through a program or course approved by the board or a person the board has authorized to approve continuing nursing education programs and courses.

(4) The continuing education required of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to maintain certification by a national certifying organization shall be applied toward the continuing education requirements for renewal of a license to practice nursing as a registered nurse only if it is obtained through a program or course approved by the board or a person the board has authorized to approve continuing nursing education programs and courses.

(D) Except as otherwise provided in section 4723.28 of the Revised Code, an individual who holds an active license to practice nursing as a registered nurse or licensed practical nurse and who does not intend to practice in Ohio may send to the board written notice to that effect on or before the ~~renewal date~~ the license lapses, and the board shall classify the license as inactive. During the period that the license is classified as inactive, the holder may not engage in the practice of nursing in Ohio and is not required to pay the renewal fee.

The holder of an inactive license or an individual who has failed to renew the individual's license may have the license reactivated or reinstated upon doing the following, as applicable to the

holder or individual:

(1) Applying to the board for license reactivation or reinstatement on forms provided by the board;

(2) Meeting the requirements for reactivating or reinstating licenses established in rules adopted under section 4723.07 of the Revised Code or, if the individual did not renew because of service 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, as provided in section 5903.10 of the Revised Code;

(3) If the license has been inactive for at least five years from the date of application for reactivation or has lapsed for at least five years from the date of application for reinstatement, submitting a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records pursuant to section 4723.091 of the Revised Code.

Sec. 4723.42. (A) If the applicant for authorization to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner has met all the requirements of section 4723.41 of the Revised Code and has paid the fee required by section 4723.08 of the Revised Code, the board of nursing shall issue its certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, which shall designate the nursing specialty the nurse is authorized to practice. The certificate entitles its holder to practice nursing in the specialty designated on the certificate.

The board shall issue or deny its certificate not later than sixty days after receiving all of the documents required by section 4723.41 of the Revised Code.

If an applicant is under investigation for a violation of this chapter, the board shall conclude the investigation not later than ninety days after receipt of all required documents, unless this ninety-day period is extended by written consent of the applicant, or unless the board determines that a substantial question of such a violation exists and the board has notified the applicant in writing of the reasons for the continuation of the investigation. If the board determines that the applicant has not violated this chapter, it shall issue a certificate not later than forty-five days after making that determination.

(B) ~~Authorization~~ A certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner ~~shall be renewed biennially according to rules and a the same schedule adopted by the board for renewal that applies under section 4723.24 of the Revised Code with respect to a license to practice nursing as a registered nurse.~~ In providing renewal applications to certificate holders, the board shall follow the procedures ~~it follows under that apply under~~ section 4723.24 of the Revised Code in for providing renewal applications to license holders. Failure of the certificate holder to receive an application for renewal from the board does not excuse the holder from the requirements of section 4723.44 of the Revised Code.

~~Not later than the date specified by the board, the~~ A certificate holder seeking renewal of the certificate shall complete the renewal form application and return submit it to the board with all of the following:

(1) The renewal fee ~~required by established under~~ section 4723.08 of the Revised Code and, if the application is submitted after it is due but before the certificate lapses, the fee established under that section for processing a late application for renewal;

(2) Documentation satisfactory to the board that the holder has maintained certification in the nursing specialty with a national certifying organization approved by the board under section 4723.46 of the Revised Code;

(3) A list of the names and business addresses of the holder's current collaborating physicians and podiatrists, if the holder is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(4) If the holder's certificate was issued under division (C) of section 4723.41 of the Revised Code, as that division existed at any time before ~~the effective date of this amendment~~ March 20, 2013, documentation satisfactory to the board that the holder has completed continuing education for a clinical nurse specialist as required by rule of the board.

On receipt of the renewal application, fees, and documents, the board shall verify that the applicant holds a current license to practice nursing as a registered nurse in this state, and, if it so verifies, shall renew the certificate. ~~If an applicant submits the completed renewal application after the date specified in the board's schedule, but before the expiration of the certificate, the board shall grant a renewal when the late renewal fee required by section 4723.08 of the Revised Code is paid.~~

~~(C) An applicant for reinstatement of an expired a certificate that has lapsed shall submit the reinstatement fee, renewal fee, and late renewal fee required by for processing a late application for renewal established under section 4723.08 of the Revised Code. Any holder of a~~

~~(D) An individual who holds an active certificate who desires inactive status shall give and does not intend to practice in this state may send to the board written notice to that effect on or before the date the certificate lapses, and the board shall classify the certificate as inactive.~~

Sec. 4723.47. (A) If a certified registered nurse anesthetist's, clinical nurse specialist's, certified nurse-midwife's, or certified nurse practitioner's license to practice nursing as a registered nurse ~~expires-lapses~~ for failure to renew under section 4723.24 of the Revised Code, the nurse's certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is lapsed until the license is reinstated. If the license is revoked under section 4723.28 or 4723.281 of the Revised Code, the nurse's certificate of authority is automatically revoked. If the license is suspended under either section, the nurse's certificate of authority is automatically suspended while the license remains suspended. If the license is classified as inactive under section 4723.24 of the Revised Code, the nurse's certificate of authority is automatically classified as inactive while the license remains inactive.

(B) If a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner holds a certificate to prescribe issued under section 4723.48 of the Revised Code and the nurse's certificate of authority to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner ~~expires-lapses~~ for failure to renew under section 4723.41 of the Revised Code, the nurse's certificate to prescribe is lapsed until the certificate of authority is reinstated. If the certificate of authority becomes inactive in accordance with section 4723.42 of the Revised Code, the nurse's certificate to prescribe is lapsed until the certificate of authority becomes active. If the certificate of

authority is revoked under section 4723.28 or 4723.281 of the Revised Code, the nurse's certificate to prescribe is automatically revoked. If the certificate of authority is suspended under either section, the nurse's certificate to prescribe is automatically suspended while the certificate of authority remains suspended. If a restriction is placed on the certificate of authority under section 4723.28 of the Revised Code, the same restriction is placed on the nurse's certificate to prescribe while the certificate of authority remains restricted.

Sec. 4729.01. As used in this chapter:

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

(B) "Practice of pharmacy" means providing pharmacist care requiring specialized knowledge, judgment, and skill derived from the principles of biological, chemical, behavioral, social, pharmaceutical, and clinical sciences. As used in this division, "pharmacist care" includes the following:

- (1) Interpreting prescriptions;
- (2) Dispensing drugs and drug therapy related devices;
- (3) Compounding drugs;
- (4) Counseling individuals with regard to their drug therapy, recommending drug therapy related devices, and assisting in the selection of drugs and appliances for treatment of common diseases and injuries and providing instruction in the proper use of the drugs and appliances;
- (5) Performing drug regimen reviews with individuals by discussing all of the drugs that the individual is taking and explaining the interactions of the drugs;
- (6) Performing drug utilization reviews with licensed health professionals authorized to prescribe drugs when the pharmacist determines that an individual with a prescription has a drug regimen that warrants additional discussion with the prescriber;
- (7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;
- (8) Acting pursuant to a consult agreement with ~~a physician~~ one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, if an agreement has been established ~~with the physician~~;
- (9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code.

(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:

- (1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;
- (2) Pursuant to the modification of a prescription made in accordance with a consult agreement;
- (3) As an incident to research, teaching activities, or chemical analysis;
- (4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns;
- (5) Pursuant to a request made by a licensed health professional authorized to prescribe drugs

for a drug that is to be used by the professional for the purpose of direct administration to patients in the course of the professional's practice, if all of the following apply:

(a) At the time the request is made, the drug is not commercially available regardless of the reason that the drug is not available, including the absence of a manufacturer for the drug or the lack of a readily available supply of the drug from a manufacturer.

(b) A limited quantity of the drug is compounded and provided to the professional.

(c) The drug is compounded and provided to the professional as an occasional exception to the normal practice of dispensing drugs pursuant to patient-specific prescriptions.

(D) "Consult agreement" means an agreement ~~to manage an individual's drug therapy that has been entered into by a pharmacist and a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery under section 4729.39 of the Revised Code.~~

(E) "Drug" means:

(1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;

(4) Any article intended for use as a component of any article specified in division (E)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.

(F) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

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

(H) "Prescription" means both of the following:

(1) A written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs;

(2) For purposes of ~~section~~ sections 2925.61, 4723.488, 4729.44, 4730.431, and 4731.94 of

the Revised Code, a written, electronic, or oral order for naloxone issued to and in the name of a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.

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

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

(2) 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;

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

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

(5) A physician assistant who holds a license to practice as a physician assistant issued under Chapter 4730. of the Revised Code, holds a valid prescriber number issued by the state medical board, and has been granted physician-delegated prescriptive authority;

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

(J) "Sale" and "sell" include delivery, transfer, barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal proprietor, agent, or employee.

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

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

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

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

(1) The proprietary name of the drug product;

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

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

(4) The dosage form;

(5) The price charged for a specific quantity of the drug product. The stated price shall include all charges to the consumer, including, but not limited to, the cost of the drug product, professional fees, handling fees, if any, and a statement identifying professional services routinely furnished by the pharmacy. Any mailing fees and delivery fees may be stated separately without repetition. The information shall not be false or misleading.

(O) "Wholesale distributor of dangerous drugs" means a person engaged in the sale of

dangerous drugs at wholesale and includes any agent or employee of such a person authorized by the person to engage in the sale of dangerous drugs at wholesale.

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

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

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

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

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

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

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

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

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

Sec. 4729.281. (A) A pharmacist may dispense or sell a dangerous drug, other than a schedule II controlled substance as defined in section 3719.01 of the Revised Code, without a written or oral prescription from a licensed health professional authorized to prescribe drugs if all of the following conditions are met:

(1) The pharmacy at which the pharmacist works has a record of a prescription for the drug in the name of the patient who is requesting it, but the prescription does not provide for a refill or the time permitted by rules adopted by the state board of pharmacy for providing refills has elapsed.

(2) The pharmacist is unable to obtain authorization to refill the prescription from the health care professional who issued the prescription or another health professional responsible for the patient's care.

(3) In the exercise of the pharmacist's professional judgment:

(a) The drug is essential to sustain the life of the patient or continue therapy for a chronic condition of the patient.

(b) Failure to dispense or sell the drug to the patient could result in harm to the health of the patient.

~~(4) The (a) Except as provided in division (A)(4)(b) of this section, the amount of the drug~~

that is dispensed or sold under this section does not exceed a seventy-two-hour supply as provided in the prescription.

(b)(i) Subject to division (A)(4)(b)(ii) of this section, if the drug sold or dispensed under this section is not a controlled substance and the patient has been on a consistent drug therapy as demonstrated by records maintained by a pharmacy, the amount of the drug dispensed or sold does not exceed a thirty-day supply as provided in the prescription or, if the standard unit of dispensing for the drug exceeds a thirty-day supply, the amount of the drug dispensed or sold does not exceed the standard unit of dispensing.

(ii) A pharmacist shall not dispense or sell a particular drug to the same patient in an amount described in division (A)(4)(b)(i) of this section more than once in any twelve-month period.

(B) A pharmacist who dispenses or sells a drug under this section shall do all of the following:

(1) For one year after the date of dispensing or sale, maintain a record in accordance with this chapter of the drug dispensed or sold, including the name and address of the patient and the individual receiving the drug, if the individual receiving the drug is not the patient, the amount dispensed or sold, and the original prescription number;

(2) Notify the health professional who issued the prescription described in division (A)(1) of this section or another health professional responsible for the patient's care not later than seventy-two hours after the drug is sold or dispensed;

(3) If applicable, obtain authorization for additional dispensing from one of the health professionals described in division (B)(2) of this section.

(C) A pharmacist who dispenses or sells a drug under this section may do so once for each prescription described in division (A)(1) of this section.

Sec. 4729.39. (A) ~~A pharmacist~~ One or more pharmacists may enter into a consult agreement with ~~a physician~~ one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery if all of the following conditions are met:

(1) Each physician has an ongoing physician-patient relationship with each patient whose drug therapy is being managed.

(2) The diagnosis for which each patient has been prescribed drug therapy is within the scope of each physician's practice.

(3) Each pharmacist has training and experience related to the particular diagnosis for which drug therapy is prescribed.

Under (B) With respect to consult agreements, all of the following apply:

(1) Under a consult agreement, a pharmacist is authorized to ~~manage an individual's drug therapy~~ do both of the following, but only to the extent specified in the agreement, this section, and the rules adopted under this section:

(a) Manage drug therapy for treatment of specified diagnoses or diseases for each patient who is subject to the agreement, including all of the following:

(i) Changing the duration of treatment for the current drug therapy;

(ii) Adjusting a drug's strength, dose, dosage form, frequency, administration, or route of administration;

(iii) Discontinuing the use of a drug;

(iv) Administering a drug;

(v) Notwithstanding the definition of "licensed health professional authorized to prescribe drugs" in section 4729.01 of the Revised Code, adding a drug to the patient's drug therapy.

(b)(i) Order blood and urine tests and, in accordance with practice protocols that are part of the consult agreement, evaluate results related to the drug therapy being managed.

(ii) A pharmacist's authority to evaluate blood and urine tests under division (B)(1)(b)(i) of this section does not authorize the pharmacist to make a diagnosis.

(B) All of the following apply to a consult agreement that authorizes a pharmacist to manage the drug therapy of an individual who is not a patient of a hospital, as defined in section 3727.01 of the Revised Code, or a resident in a long-term care facility, as defined in section 3729.01 of the Revised Code:

(1) A separate consult agreement must be entered into for each individual whose drug therapy is to be managed by a pharmacist. A consult agreement applies only to the particular diagnosis for which a physician prescribed an individual's drug therapy. If a different diagnosis is made for the individual, the pharmacist and physician must enter into a new or additional consult agreement.

(2) Management of an individual's drug therapy by a pharmacist under a consult agreement may include monitoring and modifying a prescription that has been issued for the individual. Except as provided in section 4729.38 of the Revised Code for the selection of generically equivalent drugs, management of an individual's drug therapy by a pharmacist under a consult agreement shall not include dispensing a drug that has not been prescribed by the physician.

(3) Each consult agreement shall be in writing, except that a consult agreement may be entered into verbally if it is immediately reduced to writing.

(4) A physician entering into a consult agreement shall specify in the agreement the extent to which the pharmacist is authorized to manage the drug therapy of the individual specified in the agreement.

(5) A physician entering into a consult agreement may specify one other physician who has agreed to serve as an alternate physician in the event that the primary physician is unavailable to consult directly with the pharmacist. The pharmacist may specify one other pharmacist who has agreed to serve as an alternate pharmacist in the event that the primary pharmacist is unavailable to consult directly with the physician.

(6) A consult agreement may not be implemented until it has been signed by the primary pharmacist, the primary physician, and the individual whose drug therapy will be managed or another person who has the authority to provide consent to treatment on behalf of the individual. Once the agreement is signed by all required parties, the physician shall include in the individual's medical record the fact that a consult agreement has been entered into with a pharmacist.

(7) Prior to commencing any action to manage an individual's drug therapy under a consult agreement, the pharmacist shall make reasonable attempts to contact and confer with the physician who entered into the consult agreement with the pharmacist. A pharmacist may commence an action to manage an individual's drug therapy prior to conferring with the physician or the physician's alternate, but shall immediately cease the action that was commenced if the pharmacist has not conferred with either physician within forty-eight hours.

~~A pharmacist acting under a consult agreement shall maintain a record of each action taken to manage an individual's drug therapy. The pharmacist shall send to the individual's physician a written report of all actions taken to manage the individual's drug therapy at intervals the physician shall specify when entering into the agreement. The physician shall include the pharmacist's report in the medical records the physician maintains for the individual.~~

~~(8) (2)(a) A consult agreement, or the portion of the agreement that applies to a particular patient, may be terminated by either the any of the following:~~

~~(i) A pharmacist or who entered into the agreement;~~

~~(ii) A physician who entered into the agreement. By withdrawing consent, the individual;~~

~~(iii) A patient whose drug therapy is being managed or the;~~

~~(iv) An individual who consented to the treatment on behalf of the individual may terminate a consult agreement a patient or an individual authorized to act on behalf of a patient.~~

~~The (b) The pharmacist or physician who receives the individual's withdrawal of consent notice of a patient's termination of the agreement shall provide written notice to the opposite party every other pharmacist or physician who is a party to the agreement. A pharmacist or physician who terminates a consult agreement with regard to one or more patients shall provide written notice to the opposite party all other pharmacists and physicians who entered into the agreement and to the each individual who consented to treatment under the agreement. The termination of a consult agreement with regard to one or more patients shall be recorded by the pharmacist and physician in the medical records they maintain on the individual being treated of each patient to whom the termination applies.~~

~~(9) Except as described in division (B)(5) of this section, the authority of a pharmacist to manage an individual's drug therapy under a consult agreement does not permit the pharmacist to manage drug therapy prescribed by any other physician.~~

~~(C) All of the following apply to a consult agreement that authorizes a pharmacist to manage the drug therapy of an individual who is a patient of a hospital, as defined in section 3727.01 of the Revised Code, or a resident in a long-term care facility, as defined in section 3729.01 of the Revised Code:~~

~~(1) Before a consult agreement may be entered into and implemented, a hospital or long-term care facility shall adopt a policy for consult agreements. For any period of time during which a pharmacist or physician acting under a consult agreement is not physically present and available at the hospital or facility, the policy shall require that another pharmacist and physician be available at the hospital or facility.~~

~~(2) The (3) A consult agreement shall be made in writing and shall comply with the hospital's or facility's policy on consult agreements include all of the following:~~

~~(a) The diagnoses and diseases being managed under the agreement, including whether each disease is primary or comorbid;~~

~~(b) Practice protocols;~~

~~(c) A description of the drug therapy management protocols.~~

~~(3) (4) The content of the a consult agreement shall be communicated to the individual each patient whose drug therapy will be is managed in a manner consistent with the hospital's or facility's policy on consult agreements under the agreement.~~

~~(4)~~(5) A pharmacist acting under a consult agreement shall maintain ~~in the individual's medical record~~ a record of each action taken for each patient whose drug therapy is managed under the agreement.

~~(5)~~(6) Communication between a pharmacist and physician acting under ~~the~~ a consult agreement shall take place at regular intervals specified by the primary physician acting under the agreement. The agreement may include a requirement that a pharmacist send a consult report to each consulting physician.

~~(6)~~ A consult agreement may be terminated by the individual, a person authorized to act on behalf of the individual, the primary physician acting under the agreement, or the primary pharmacist acting under the agreement. When a consult agreement is terminated, all parties to the agreement shall be notified and the termination shall be recorded in the individual's medical record.

~~(7)~~ The authority of a pharmacist acting under a A consult agreement is effective for two years and may be renewed if the conditions specified in division (A) of this section are met.

~~(8)~~ A consult agreement does not permit ~~the~~ a pharmacist to act under the agreement in a hospital long-term care facility at which the pharmacist is not authorized to practice manage drug therapy prescribed by a physician who has not entered into the agreement.

~~(D)~~(C) The state board of pharmacy, in consultation with the state medical board, shall adopt rules to be followed by pharmacists, and the state medical board, in consultation with the state board of pharmacy, shall adopt rules to be followed by physicians, that establish standards and procedures for entering into a consult agreement and managing ~~an individual's~~ a patient's drug therapy under a consult agreement. The boards shall specify in the rules any categories of drugs or types of diseases for which a consult agreement may not be established. Either board may adopt any other rules it considers necessary for the implementation and administration of this section. All rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

(D)(1) Subject to division (D)(2) of this section, both of the following apply:

(a) A pharmacist is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from a physician's change in a drug for a patient whose drug therapy the pharmacist is managing under a consult agreement.

(b) A physician is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from a pharmacist's change in a drug for a patient whose drug therapy the pharmacist is managing under a consult agreement unless the physician authorized the specific change in the drug.

(2) Division (D)(1) of this section does not limit a physician's or pharmacist's liability in damages in a tort or other civil action for injury or loss to person or property allegedly arising from actions that are not related to the physician's or pharmacist's change in a drug for a patient whose drug therapy is being managed under a consult agreement.

Sec. 4731.74. (A) As used in this section:

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

(2) "Drug" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

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

(B) The state medical board shall adopt rules governing the requirements for a physician to prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug to a person on whom the physician has never conducted a physical examination and who is at a location remote from the physician.

(1) Regarding prescription drugs that are not controlled substances, the rules shall authorize a physician to establish a physician-patient relationship by the use of appropriate technology that permits, in a manner that is consistent with the minimal standard of care for in-person care by a physician, a medical evaluation and the collection of relevant clinical history as needed to establish a diagnosis, identify any underlying conditions, and identify any contraindications to the treatment that is recommended or provided.

(2) Regarding prescription drugs that are controlled substances, the rules shall establish standards that are consistent with federal law.

(C) The board shall adopt initial rules for purposes of this section not later than one year after the effective date of this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

SECTION 2. That existing sections 4723.06, 4723.063, 4723.08, 4723.091, 4723.24, 4723.42, 4723.47, 4729.01, 4729.281, and 4729.39 of the Revised Code are hereby repealed.

SECTION 3. The amendment of section 4723.063 of the Revised Code by this act is not intended to supersede the earlier repeal, with delayed effective date, of that section by Sub. H.B. 303 of the 129th General Assembly.

SECTION 4. Section 4729.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 4 and Sub. S.B. 110 of the 131st General Assembly. 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 composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____