

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 303

Senators Huffman, S., Manning

Cosponsors: Senators Hoagland, Lehner, Schaffer

A BILL

To amend sections 1751.91, 3923.89, 4723.28, 1
4729.01, 4729.39, 4730.25, and 5164.14 of the 2
Revised Code regarding pharmacist consult 3
agreements. 4

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

Section 1. That sections 1751.91, 3923.89, 4723.28, 5
4729.01, 4729.39, 4730.25, and 5164.14 of the Revised Code be 6
amended to read as follows: 7

Sec. 1751.91. A health insuring corporation may provide 8
payment or reimbursement to a pharmacist for providing a health 9
care service to a patient if both of the following are the case: 10

(A) The pharmacist provided the health care service to the 11
patient in accordance with Chapter 4729. of the Revised Code, 12
including any of the following services: 13

(1) Managing drug therapy under a consult agreement ~~with a~~ 14
~~physician~~ pursuant to section 4729.39 of the Revised Code; 15

(2) Administering immunizations in accordance with section 16
4729.41 of the Revised Code; 17

(3) Administering drugs in accordance with section 4729.45 18
of the Revised Code. 19

(B) The patient's individual or group health insuring 20
corporation policy, contract, or agreement provides for payment 21
or reimbursement of the service. 22

Sec. 3923.89. A sickness and accident insurer or public 23
employee benefit plan may provide payment or reimbursement to a 24
pharmacist for providing a health care service to a patient if 25
both of the following are the case: 26

(A) The pharmacist provided the health care service to the 27
patient in accordance with Chapter 4729. of the Revised Code, 28
including any of the following services: 29

(1) Managing drug therapy under a consult agreement ~~with a~~ 30
~~physician~~ pursuant to section 4729.39 of the Revised Code; 31

(2) Administering immunizations in accordance with section 32
4729.41 of the Revised Code; 33

(3) Administering drugs in accordance with section 4729.45 34
of the Revised Code. 35

(B) The patient's individual or group policy of sickness 36
and accident insurance or public employee benefit plan provides 37
for payment or reimbursement of the service. 38

Sec. 4723.28. (A) The board of nursing, by a vote of a 39
quorum, may impose one or more of the following sanctions if it 40
finds that a person committed fraud in passing an examination 41
required to obtain a license or dialysis technician certificate 42
issued by the board or to have committed fraud, 43
misrepresentation, or deception in applying for or securing any 44
nursing license or dialysis technician certificate issued by the 45

board: deny, revoke, suspend, or place restrictions on any 46
nursing license or dialysis technician certificate issued by the 47
board; reprimand or otherwise discipline a holder of a nursing 48
license or dialysis technician certificate; or impose a fine of 49
not more than five hundred dollars per violation. 50

(B) The board of nursing, by a vote of a quorum, may 51
impose one or more of the following sanctions: deny, revoke, 52
suspend, or place restrictions on any nursing license or 53
dialysis technician certificate issued by the board; reprimand 54
or otherwise discipline a holder of a nursing license or 55
dialysis technician certificate; or impose a fine of not more 56
than five hundred dollars per violation. The sanctions may be 57
imposed for any of the following: 58

(1) Denial, revocation, suspension, or restriction of 59
authority to engage in a licensed profession or practice a 60
health care occupation, including nursing or practice as a 61
dialysis technician, for any reason other than a failure to 62
renew, in Ohio or another state or jurisdiction; 63

(2) Engaging in the practice of nursing or engaging in 64
practice as a dialysis technician, having failed to renew a 65
nursing license or dialysis technician certificate issued under 66
this chapter, or while a nursing license or dialysis technician 67
certificate is under suspension; 68

(3) Conviction of, a plea of guilty to, a judicial finding 69
of guilt of, a judicial finding of guilt resulting from a plea 70
of no contest to, or a judicial finding of eligibility for a 71
pretrial diversion or similar program or for intervention in 72
lieu of conviction for, a misdemeanor committed in the course of 73
practice; 74

(4) Conviction of, a plea of guilty to, a judicial finding 75
of guilt of, a judicial finding of guilt resulting from a plea 76
of no contest to, or a judicial finding of eligibility for a 77
pretrial diversion or similar program or for intervention in 78
lieu of conviction for, any felony or of any crime involving 79
gross immorality or moral turpitude; 80

(5) Selling, giving away, or administering drugs or 81
therapeutic devices for other than legal and legitimate 82
therapeutic purposes; or conviction of, a plea of guilty to, a 83
judicial finding of guilt of, a judicial finding of guilt 84
resulting from a plea of no contest to, or a judicial finding of 85
eligibility for a pretrial diversion or similar program or for 86
intervention in lieu of conviction for, violating any municipal, 87
state, county, or federal drug law; 88

(6) Conviction of, a plea of guilty to, a judicial finding 89
of guilt of, a judicial finding of guilt resulting from a plea 90
of no contest to, or a judicial finding of eligibility for a 91
pretrial diversion or similar program or for intervention in 92
lieu of conviction for, an act in another jurisdiction that 93
would constitute a felony or a crime of moral turpitude in Ohio; 94

(7) Conviction of, a plea of guilty to, a judicial finding 95
of guilt of, a judicial finding of guilt resulting from a plea 96
of no contest to, or a judicial finding of eligibility for a 97
pretrial diversion or similar program or for intervention in 98
lieu of conviction for, an act in the course of practice in 99
another jurisdiction that would constitute a misdemeanor in 100
Ohio; 101

(8) Self-administering or otherwise taking into the body 102
any dangerous drug, as defined in section 4729.01 of the Revised 103
Code, in any way that is not in accordance with a legal, valid 104

prescription issued for that individual, or self-administering	105
or otherwise taking into the body any drug that is a schedule I	106
controlled substance;	107
(9) Habitual or excessive use of controlled substances,	108
other habit-forming drugs, or alcohol or other chemical	109
substances to an extent that impairs the individual's ability to	110
provide safe nursing care or safe dialysis care;	111
(10) Impairment of the ability to practice according to	112
acceptable and prevailing standards of safe nursing care or safe	113
dialysis care because of the use of drugs, alcohol, or other	114
chemical substances;	115
(11) Impairment of the ability to practice according to	116
acceptable and prevailing standards of safe nursing care or safe	117
dialysis care because of a physical or mental disability;	118
(12) Assaulting or causing harm to a patient or depriving	119
a patient of the means to summon assistance;	120
(13) Misappropriation or attempted misappropriation of	121
money or anything of value in the course of practice;	122
(14) Adjudication by a probate court of being mentally ill	123
or mentally incompetent. The board may reinstate the person's	124
nursing license or dialysis technician certificate upon	125
adjudication by a probate court of the person's restoration to	126
competency or upon submission to the board of other proof of	127
competency.	128
(15) The suspension or termination of employment by the	129
United States department of defense or department of veterans	130
affairs for any act that violates or would violate this chapter;	131
(16) Violation of this chapter or any rules adopted under	132

it;	133
(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;	134 135
(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;	136 137 138
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	139 140
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	141 142 143
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	144 145 146
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	147 148 149
(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	150 151 152
(24) In the case of an advanced practice registered nurse, except as provided in division (M) of this section, either of the following:	153 154 155
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to	156 157 158 159 160

receive health care services from that provider;	161
(b) Advertising that the nurse will waive the payment of	162
all or any part of a deductible or copayment that a patient,	163
pursuant to a health insurance or health care policy, contract,	164
or plan that covers such nursing services, would otherwise be	165
required to pay.	166
(25) Failure to comply with the terms and conditions of	167
participation in the substance use disorder monitoring program	168
established under section 4723.35 of the Revised Code;	169
(26) Failure to comply with the terms and conditions	170
required under the practice intervention and improvement program	171
established under section 4723.282 of the Revised Code;	172
(27) In the case of an advanced practice registered nurse:	173
(a) Engaging in activities that exceed those permitted for	174
the nurse's nursing specialty under section 4723.43 of the	175
Revised Code;	176
(b) Failure to meet the quality assurance standards	177
established under section 4723.07 of the Revised Code.	178
(28) In the case of an advanced practice registered nurse	179
other than a certified registered nurse anesthetist, failure to	180
maintain a standard care arrangement in accordance with section	181
4723.431 of the Revised Code or to practice in accordance with	182
the standard care arrangement;	183
(29) In the case of an advanced practice registered nurse	184
who is designated as a clinical nurse specialist, certified	185
nurse-midwife, or certified nurse practitioner, failure to	186
prescribe drugs and therapeutic devices in accordance with	187
section 4723.481 of the Revised Code;	188

(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	189 190
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	191 192 193
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	194 195 196 197
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	198 199
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	200 201 202
(33) Assisting suicide, as defined in section 3795.01 of the Revised Code;	203 204
(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	205 206 207 208
(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	209 210 211 212
(36) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to	213 214 215 216

prescribe drugs by the drug enforcement administration of the 217
United States department of justice; 218

(37) In the case of an advanced practice registered nurse 219
who is designated as a clinical nurse specialist, certified 220
nurse-midwife, or certified nurse practitioner, failure to 221
comply with the terms of a consult agreement entered into with a 222
pharmacist pursuant to section 4729.39 of the Revised Code. 223

(C) Disciplinary actions taken by the board under 224
divisions (A) and (B) of this section shall be taken pursuant to 225
an adjudication conducted under Chapter 119. of the Revised 226
Code, except that in lieu of a hearing, the board may enter into 227
a consent agreement with an individual to resolve an allegation 228
of a violation of this chapter or any rule adopted under it. A 229
consent agreement, when ratified by a vote of a quorum, shall 230
constitute the findings and order of the board with respect to 231
the matter addressed in the agreement. If the board refuses to 232
ratify a consent agreement, the admissions and findings 233
contained in the agreement shall be of no effect. 234

(D) The hearings of the board shall be conducted in 235
accordance with Chapter 119. of the Revised Code, the board may 236
appoint a hearing examiner, as provided in section 119.09 of the 237
Revised Code, to conduct any hearing the board is authorized to 238
hold under Chapter 119. of the Revised Code. 239

In any instance in which the board is required under 240
Chapter 119. of the Revised Code to give notice of an 241
opportunity for a hearing and the applicant, licensee, or 242
certificate holder does not make a timely request for a hearing 243
in accordance with section 119.07 of the Revised Code, the board 244
is not required to hold a hearing, but may adopt, by a vote of a 245
quorum, a final order that contains the board's findings. In the 246

final order, the board may order any of the sanctions listed in 247
division (A) or (B) of this section. 248

(E) If a criminal action is brought against a registered 249
nurse, licensed practical nurse, or dialysis technician for an 250
act or crime described in divisions (B)(3) to (7) of this 251
section and the action is dismissed by the trial court other 252
than on the merits, the board shall conduct an adjudication to 253
determine whether the registered nurse, licensed practical 254
nurse, or dialysis technician committed the act on which the 255
action was based. If the board determines on the basis of the 256
adjudication that the registered nurse, licensed practical 257
nurse, or dialysis technician committed the act, or if the 258
registered nurse, licensed practical nurse, or dialysis 259
technician fails to participate in the adjudication, the board 260
may take action as though the registered nurse, licensed 261
practical nurse, or dialysis technician had been convicted of 262
the act. 263

If the board takes action on the basis of a conviction, 264
plea, or a judicial finding as described in divisions (B)(3) to 265
(7) of this section that is overturned on appeal, the registered 266
nurse, licensed practical nurse, or dialysis technician may, on 267
exhaustion of the appeal process, petition the board for 268
reconsideration of its action. On receipt of the petition and 269
supporting court documents, the board shall temporarily rescind 270
its action. If the board determines that the decision on appeal 271
was a decision on the merits, it shall permanently rescind its 272
action. If the board determines that the decision on appeal was 273
not a decision on the merits, it shall conduct an adjudication 274
to determine whether the registered nurse, licensed practical 275
nurse, or dialysis technician committed the act on which the 276
original conviction, plea, or judicial finding was based. If the 277

board determines on the basis of the adjudication that the 278
registered nurse, licensed practical nurse, or dialysis 279
technician committed such act, or if the registered nurse, 280
licensed practical nurse, or dialysis technician does not 281
request an adjudication, the board shall reinstate its action; 282
otherwise, the board shall permanently rescind its action. 283

Notwithstanding the provision of division (C) (2) of 284
section 2953.32 of the Revised Code specifying that if records 285
pertaining to a criminal case are sealed under that section the 286
proceedings in the case shall be deemed not to have occurred, 287
sealing of the following records on which the board has based an 288
action under this section shall have no effect on the board's 289
action or any sanction imposed by the board under this section: 290
records of any conviction, guilty plea, judicial finding of 291
guilt resulting from a plea of no contest, or a judicial finding 292
of eligibility for a pretrial diversion program or intervention 293
in lieu of conviction. 294

The board shall not be required to seal, destroy, redact, 295
or otherwise modify its records to reflect the court's sealing 296
of conviction records. 297

(F) The board may investigate an individual's criminal 298
background in performing its duties under this section. As part 299
of such investigation, the board may order the individual to 300
submit, at the individual's expense, a request to the bureau of 301
criminal identification and investigation for a criminal records 302
check and check of federal bureau of investigation records in 303
accordance with the procedure described in section 4723.091 of 304
the Revised Code. 305

(G) During the course of an investigation conducted under 306
this section, the board may compel any registered nurse, 307

licensed practical nurse, or dialysis technician or applicant 308
under this chapter to submit to a mental or physical 309
examination, or both, as required by the board and at the 310
expense of the individual, if the board finds reason to believe 311
that the individual under investigation may have a physical or 312
mental impairment that may affect the individual's ability to 313
provide safe nursing care. Failure of any individual to submit 314
to a mental or physical examination when directed constitutes an 315
admission of the allegations, unless the failure is due to 316
circumstances beyond the individual's control, and a default and 317
final order may be entered without the taking of testimony or 318
presentation of evidence. 319

If the board finds that an individual is impaired, the 320
board shall require the individual to submit to care, 321
counseling, or treatment approved or designated by the board, as 322
a condition for initial, continued, reinstated, or renewed 323
authority to practice. The individual shall be afforded an 324
opportunity to demonstrate to the board that the individual can 325
begin or resume the individual's occupation in compliance with 326
acceptable and prevailing standards of care under the provisions 327
of the individual's authority to practice. 328

For purposes of this division, any registered nurse, 329
licensed practical nurse, or dialysis technician or applicant 330
under this chapter shall be deemed to have given consent to 331
submit to a mental or physical examination when directed to do 332
so in writing by the board, and to have waived all objections to 333
the admissibility of testimony or examination reports that 334
constitute a privileged communication. 335

(H) The board shall investigate evidence that appears to 336
show that any person has violated any provision of this chapter 337

or any rule of the board. Any person may report to the board any 338
information the person may have that appears to show a violation 339
of any provision of this chapter or rule of the board. In the 340
absence of bad faith, any person who reports such information or 341
who testifies before the board in any adjudication conducted 342
under Chapter 119. of the Revised Code shall not be liable for 343
civil damages as a result of the report or testimony. 344

(I) All of the following apply under this chapter with 345
respect to the confidentiality of information: 346

(1) Information received by the board pursuant to a 347
complaint or an investigation is confidential and not subject to 348
discovery in any civil action, except that the board may 349
disclose information to law enforcement officers and government 350
entities for purposes of an investigation of either a licensed 351
health care professional, including a registered nurse, licensed 352
practical nurse, or dialysis technician, or a person who may 353
have engaged in the unauthorized practice of nursing or dialysis 354
care. No law enforcement officer or government entity with 355
knowledge of any information disclosed by the board pursuant to 356
this division shall divulge the information to any other person 357
or government entity except for the purpose of a government 358
investigation, a prosecution, or an adjudication by a court or 359
government entity. 360

(2) If an investigation requires a review of patient 361
records, the investigation and proceeding shall be conducted in 362
such a manner as to protect patient confidentiality. 363

(3) All adjudications and investigations of the board 364
shall be considered civil actions for the purposes of section 365
2305.252 of the Revised Code. 366

(4) Any board activity that involves continued monitoring 367
of an individual as part of or following any disciplinary action 368
taken under this section shall be conducted in a manner that 369
maintains the individual's confidentiality. Information received 370
or maintained by the board with respect to the board's 371
monitoring activities is not subject to discovery in any civil 372
action and is confidential, except that the board may disclose 373
information to law enforcement officers and government entities 374
for purposes of an investigation of a licensee or certificate 375
holder. 376

(J) Any action taken by the board under this section 377
resulting in a suspension from practice shall be accompanied by 378
a written statement of the conditions under which the person may 379
be reinstated to practice. 380

(K) When the board refuses to grant a license or 381
certificate to an applicant, revokes a license or certificate, 382
or refuses to reinstate a license or certificate, the board may 383
specify that its action is permanent. An individual subject to 384
permanent action taken by the board is forever ineligible to 385
hold a license or certificate of the type that was refused or 386
revoked and the board shall not accept from the individual an 387
application for reinstatement of the license or certificate or 388
for a new license or certificate. 389

(L) No unilateral surrender of a nursing license or 390
dialysis technician certificate issued under this chapter shall 391
be effective unless accepted by majority vote of the board. No 392
application for a nursing license or dialysis technician 393
certificate issued under this chapter may be withdrawn without a 394
majority vote of the board. The board's jurisdiction to take 395
disciplinary action under this section is not removed or limited 396

when an individual has a license or certificate classified as 397
inactive or fails to renew a license or certificate. 398

(M) Sanctions shall not be imposed under division (B) (24) 399
of this section against any licensee who waives deductibles and 400
copayments as follows: 401

(1) In compliance with the health benefit plan that 402
expressly allows such a practice. Waiver of the deductibles or 403
copayments shall be made only with the full knowledge and 404
consent of the plan purchaser, payer, and third-party 405
administrator. Documentation of the consent shall be made 406
available to the board upon request. 407

(2) For professional services rendered to any other person 408
licensed pursuant to this chapter to the extent allowed by this 409
chapter and the rules of the board. 410

Sec. 4729.01. As used in this chapter: 411

(A) "Pharmacy," except when used in a context that refers 412
to the practice of pharmacy, means any area, room, rooms, place 413
of business, department, or portion of any of the foregoing 414
where the practice of pharmacy is conducted. 415

(B) "Practice of pharmacy" means providing pharmacist care 416
requiring specialized knowledge, judgment, and skill derived 417
from the principles of biological, chemical, behavioral, social, 418
pharmaceutical, and clinical sciences. As used in this division, 419
"pharmacist care" includes the following: 420

(1) Interpreting prescriptions; 421

(2) Dispensing drugs and drug therapy related devices; 422

(3) Compounding drugs; 423

(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;	424 425 426 427 428
(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;	429 430 431
(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;	432 433 434 435 436
(7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;	437 438 439
(8) Acting pursuant to a consult agreement with 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;	440 441 442 443
(9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code;	444 445
(10) Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code.	446 447
(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:	448 449 450
(1) Pursuant to a prescription issued by a licensed health	451

professional authorized to prescribe drugs;	452
(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;	453 454
(3) As an incident to research, teaching activities, or chemical analysis;	455 456
(4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns;	457 458 459
(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:	460 461 462 463 464
(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.	465 466 467 468 469
(b) A limited quantity of the drug is compounded and provided to the professional.	470 471
(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.	472 473 474
(D) "Consult agreement" means an agreement that has been entered into under section 4729.39 of the Revised Code.	475 476
(E) "Drug" means:	477
(1) Any article recognized in the United States	478

pharmacopoeia and national formulary, or any supplement to them, 479
intended for use in the diagnosis, cure, mitigation, treatment, 480
or prevention of disease in humans or animals; 481

(2) Any other article intended for use in the diagnosis, 482
cure, mitigation, treatment, or prevention of disease in humans 483
or animals; 484

(3) Any article, other than food, intended to affect the 485
structure or any function of the body of humans or animals; 486

(4) Any article intended for use as a component of any 487
article specified in division (E) (1), (2), or (3) of this 488
section; but does not include devices or their components, 489
parts, or accessories. 490

"Drug" does not include "hemp" or a "hemp product" as 491
those terms are defined in section 928.01 of the Revised Code. 492

(F) "Dangerous drug" means any of the following: 493

(1) Any drug to which either of the following applies: 494

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 495
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is 496
required to bear a label containing the legend "Caution: Federal 497
law prohibits dispensing without prescription" or "Caution: 498
Federal law restricts this drug to use by or on the order of a 499
licensed veterinarian" or any similar restrictive statement, or 500
the drug may be dispensed only upon a prescription; 501

(b) Under Chapter 3715. or 3719. of the Revised Code, the 502
drug may be dispensed only upon a prescription. 503

(2) Any drug that contains a schedule V controlled 504
substance and that is exempt from Chapter 3719. of the Revised 505
Code or to which that chapter does not apply; 506

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body; 507
508
509

(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code. 510
511

(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code. 512
513

(H) "Prescription" means all of the following: 514

(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; 515
516
517
518

(2) For purposes of sections 2925.61, 4723.488, 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. 519
520
521
522
523
524

(3) For purposes of section 4729.44 of the Revised Code, a written, electronic, or oral order for naloxone issued to and in the name of either of the following: 525
526
527

(a) An individual who there is reason to believe is at risk of experiencing an opioid-related overdose; 528
529

(b) 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. 530
531
532

(4) For purposes of sections 4723.4810, 4729.282, 4730.432, and 4731.93 of the Revised Code, a written, 533
534

electronic, or oral order for a drug to treat chlamydia, 535
gonorrhea, or trichomoniasis issued to and in the name of a 536
patient who is not the intended user of the drug but is the 537
sexual partner of the intended user; 538

(5) For purposes of sections 3313.7110, 3313.7111, 539
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 540
4731.96, and 5101.76 of the Revised Code, a written, electronic, 541
or oral order for an epinephrine autoinjector issued to and in 542
the name of a school, school district, or camp; 543

(6) For purposes of Chapter 3728. and sections 4723.483, 544
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 545
electronic, or oral order for an epinephrine autoinjector issued 546
to and in the name of a qualified entity, as defined in section 547
3728.01 of the Revised Code. 548

(I) "Licensed health professional authorized to prescribe 549
drugs" or "prescriber" means an individual who is authorized by 550
law to prescribe drugs or dangerous drugs or drug therapy 551
related devices in the course of the individual's professional 552
practice, including only the following: 553

(1) A dentist licensed under Chapter 4715. of the Revised 554
Code; 555

(2) A clinical nurse specialist, certified nurse-midwife, 556
or certified nurse practitioner who holds a current, valid 557
license to practice nursing as an advanced practice registered 558
nurse issued under Chapter 4723. of the Revised Code; 559

(3) An optometrist licensed under Chapter 4725. of the 560
Revised Code to practice optometry under a therapeutic 561
pharmaceutical agents certificate; 562

(4) A physician authorized under Chapter 4731. of the 563

Revised Code to practice medicine and surgery, osteopathic	564
medicine and surgery, or podiatric medicine and surgery;	565
(5) A physician assistant who holds a license to practice	566
as a physician assistant issued under Chapter 4730. of the	567
Revised Code, holds a valid prescriber number issued by the	568
state medical board, and has been granted physician-delegated	569
prescriptive authority;	570
(6) A veterinarian licensed under Chapter 4741. of the	571
Revised Code.	572
(J) "Sale" or "sell" includes any transaction made by any	573
person, whether as principal proprietor, agent, or employee, to	574
do or offer to do any of the following: deliver, distribute,	575
broker, exchange, gift or otherwise give away, or transfer,	576
whether the transfer is by passage of title, physical movement,	577
or both.	578
(K) "Wholesale sale" and "sale at wholesale" mean any sale	579
in which the purpose of the purchaser is to resell the article	580
purchased or received by the purchaser.	581
(L) "Retail sale" and "sale at retail" mean any sale other	582
than a wholesale sale or sale at wholesale.	583
(M) "Retail seller" means any person that sells any	584
dangerous drug to consumers without assuming control over and	585
responsibility for its administration. Mere advice or	586
instructions regarding administration do not constitute control	587
or establish responsibility.	588
(N) "Price information" means the price charged for a	589
prescription for a particular drug product and, in an easily	590
understandable manner, all of the following:	591

(1) The proprietary name of the drug product;	592
(2) The established (generic) name of the drug product;	593
(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.	594 595 596 597 598 599 600 601
(4) The dosage form;	602
(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.	603 604 605 606 607 608 609 610
(O) "Wholesale distributor of dangerous drugs" or "wholesale distributor" 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.	611 612 613 614 615
(P) "Manufacturer of dangerous drugs" or "manufacturer" means a person, other than a pharmacist or prescriber, who manufactures dangerous drugs and who is engaged in the sale of those dangerous drugs.	616 617 618 619
(Q) "Terminal distributor of dangerous drugs" or "terminal	620

distributor" means a person who is engaged in the sale of 621
dangerous drugs at retail, or any person, other than a 622
manufacturer, repackager, outsourcing facility, third-party 623
logistics provider, wholesale distributor, or pharmacist, who 624
has possession, custody, or control of dangerous drugs for any 625
purpose other than for that person's own use and consumption. 626
"Terminal distributor" includes pharmacies, hospitals, nursing 627
homes, and laboratories and all other persons who procure 628
dangerous drugs for sale or other distribution by or under the 629
supervision of a pharmacist, licensed health professional 630
authorized to prescribe drugs, or other person authorized by the 631
state board of pharmacy. 632

(R) "Promote to the public" means disseminating a 633
representation to the public in any manner or by any means, 634
other than by labeling, for the purpose of inducing, or that is 635
likely to induce, directly or indirectly, the purchase of a 636
dangerous drug at retail. 637

(S) "Person" includes any individual, partnership, 638
association, limited liability company, or corporation, the 639
state, any political subdivision of the state, and any district, 640
department, or agency of the state or its political 641
subdivisions. 642

(T) "Animal shelter" means a facility operated by a humane 643
society or any society organized under Chapter 1717. of the 644
Revised Code or a dog pound operated pursuant to Chapter 955. of 645
the Revised Code. 646

(U) "Food" has the same meaning as in section 3715.01 of 647
the Revised Code. 648

(V) "Pain management clinic" has the same meaning as in 649

section 4731.054 of the Revised Code. 650

(W) "Investigational drug or product" means a drug or 651
product that has successfully completed phase one of the United 652
States food and drug administration clinical trials and remains 653
under clinical trial, but has not been approved for general use 654
by the United States food and drug administration. 655
"Investigational drug or product" does not include controlled 656
substances in schedule I, as defined in section 3719.01 of the 657
Revised Code. 658

(X) "Product," when used in reference to an 659
investigational drug or product, means a biological product, 660
other than a drug, that is made from a natural human, animal, or 661
microorganism source and is intended to treat a disease or 662
medical condition. 663

(Y) "Third-party logistics provider" means a person that 664
provides or coordinates warehousing or other logistics services 665
pertaining to dangerous drugs including distribution, on behalf 666
of a manufacturer, wholesale distributor, or terminal 667
distributor of dangerous drugs, but does not take ownership of 668
the drugs or have responsibility to direct the sale or 669
disposition of the drugs. 670

(Z) "Repackager of dangerous drugs" or "repackager" means 671
a person that repacks and relabels dangerous drugs for sale or 672
distribution. 673

(AA) "Outsourcing facility" means a facility that is 674
engaged in the compounding and sale of sterile drugs and is 675
registered as an outsourcing facility with the United States 676
food and drug administration. 677

(BB) "Laboratory" means a laboratory licensed under this 678

chapter as a terminal distributor of dangerous drugs and 679
entrusted to have custody of any of the following drugs and to 680
use the drugs for scientific and clinical purposes and for 681
purposes of instruction: dangerous drugs that are not controlled 682
substances, as defined in section 3719.01 of the Revised Code; 683
dangerous drugs that are controlled substances, as defined in 684
that section; and controlled substances in schedule I, as 685
defined in that section. 686

Sec. 4729.39. (A) One—As used in this section: 687

(1) "Certified nurse practitioner," "certified nurse- 688
midwife," "clinical nurse specialist," and "standard care 689
arrangement" have the same meanings as in section 4723.01 of the 690
Revised Code. 691

(2) "Collaborating physician" means a physician who has 692
entered into a standard care arrangement with a clinical nurse 693
specialist, certified nurse-midwife, or certified nurse 694
practitioner. 695

(3) "Physician" means an individual authorized under 696
Chapter 4731. of the Revised Code to practice medicine and 697
surgery or osteopathic medicine and surgery. 698

(4) "Physician assistant" means an individual who is 699
licensed to practice as a physician assistant under Chapter 700
4730. of the Revised Code, holds a valid prescriber number 701
issued by the state medical board, and has been granted 702
physician-delegated prescriptive authority. 703

(5) "Supervising physician" means a physician who has 704
entered into a supervision agreement with a physician assistant 705
under section 4730.19 of the Revised Code. 706

(B) Subject to division (C) of this section, one or more 707

pharmacists may enter into a consult agreement with one or more 708
~~physicians authorized under Chapter 4731. of the Revised Code to~~ 709
~~practice medicine and surgery or osteopathic medicine and~~ 710
~~surgery if of the following practitioners:~~ 711

(1) Physicians; 712

(2) Physician assistants, if entering into a consult 713
agreement is authorized by one or more supervising physicians; 714

(3) Clinical nurse specialists, certified nurse-midwives, 715
or certified nurse practitioners, if entering into a consult 716
agreement is authorized by one or more collaborating physicians. 717

(C) Before entering into a consult agreement, all of the 718
following conditions ~~are~~ must be met: 719

(1) Each ~~physician has~~ practitioner must have an ongoing 720
~~physician-patient-practitioner-patient~~ relationship with each 721
patient whose drug therapy is ~~being~~ to be managed. 722

(2) The diagnosis for which each patient has been 723
prescribed drug therapy ~~is~~ must be within the scope of each 724
~~physician's~~ practitioner's practice. 725

(3) Each pharmacist ~~has~~ must have training and experience 726
related to the particular diagnosis for which drug therapy is to 727
be prescribed. 728

~~(B)~~ (D) With respect to consult agreements, all of the 729
following apply: 730

(1) Under a consult agreement, a pharmacist is authorized 731
to do both of the following, but only to the extent specified in 732
the agreement, this section, and the rules adopted under this 733
section: 734

(a) Manage drug therapy for treatment of specified	735
diagnoses or diseases for each patient who is subject to the	736
agreement, including all of the following:	737
(i) Changing the duration of treatment for the current	738
drug therapy;	739
(ii) Adjusting a drug's strength, dose, dosage form,	740
frequency of administration, or route of administration;	741
(iii) Discontinuing the use of a drug;	742
(iv) Administering a drug;	743
(v) Notwithstanding the definition of "licensed health	744
professional authorized to prescribe drugs" in section 4729.01	745
of the Revised Code, adding a drug to the patient's drug	746
therapy.	747
(b) (i) Order <u>laboratory and diagnostic tests, including</u>	748
<u>blood and urine tests and evaluate results, that are related to</u>	749
<u>the drug therapy being managed, and evaluate the results of the</u>	750
<u>tests that are ordered.</u>	751
(ii) A pharmacist's authority to evaluate blood and urine	752
tests <u>test results</u> under division (B) (1) (b) (i) <u>(D) (1) (b) (i)</u> of	753
this section does not authorize the pharmacist to make a	754
diagnosis.	755
(2) (a) A consult agreement, or the portion of the	756
agreement that applies to a particular patient, may be	757
terminated by any of the following:	758
(i) A pharmacist who entered into the agreement;	759
(ii) A physician <u>practitioner</u> who entered into the	760
agreement;	761

- (iii) A patient whose drug therapy is being managed; 762
- (iv) An individual who consented to the treatment on 763
behalf of a patient or an individual authorized to act on behalf 764
of a patient. 765
- (b) The pharmacist or ~~physician-practitioner~~ who receives 766
the notice of a patient's termination of the agreement shall 767
provide written notice to every other pharmacist or ~~physician-~~ 768
~~practitioner~~ who is a party to the agreement. A pharmacist or 769
~~physician-practitioner~~ who terminates a consult agreement with 770
regard to one or more patients shall provide written notice to 771
all other pharmacists and ~~physicians-practitioners~~ who entered 772
into the agreement and to each individual who consented to 773
treatment under the agreement. The termination of a consult 774
agreement with regard to one or more patients shall be recorded 775
by the pharmacist and ~~physician-practitioner~~ in the medical 776
records of each patient to whom the termination applies. 777
- (3) A consult agreement shall be made in writing and shall 778
include all of the following: 779
- (a) The diagnoses and diseases being managed under the 780
agreement, including whether each disease is primary or 781
comorbid; 782
- (b) A description of the drugs or drug categories the 783
agreement involves; 784
- (c) A description of the procedures, decision criteria, 785
and plan the pharmacist is to follow in acting under a consult 786
agreement; 787
- (d) A description of how the pharmacist is to comply with 788
divisions ~~(B) (5)~~ (D) (5) and (6) of this section. 789

(4) The content of a consult agreement shall be 790
communicated to each patient whose drug therapy is managed under 791
the agreement. 792

(5) A pharmacist acting under a consult agreement shall 793
maintain a record of each action taken for each patient whose 794
drug therapy is managed under the agreement. 795

(6) Communication between a pharmacist and ~~physician-~~ 796
practitioner acting under a consult agreement shall take place 797
at regular intervals specified by the primary ~~physician-~~ 798
practitioner acting under the agreement. The agreement may 799
include a requirement that a pharmacist send a consult report to 800
each consulting ~~physician~~ practitioner. 801

(7) A consult agreement is effective for two years and may 802
be renewed if the conditions specified in division ~~(A)-(C)~~ of 803
this section ~~are~~ continue to be met. 804

(8) A consult agreement does not permit a pharmacist to 805
manage drug therapy prescribed by a ~~physician-practitioner~~ who 806
has not entered into the agreement. 807

~~(C) The state board of pharmacy, in consultation with the~~ 808
~~state medical board, shall adopt rules to be followed by-~~ 809
~~pharmacists, and the state medical board, in consultation with-~~ 810
~~the state board of pharmacy, shall adopt rules to be followed by-~~ 811
~~physicians, that establish~~ (E) The state board of pharmacy, 812
state medical board, and board of nursing shall each adopt rules 813
as follows for its license holders establishing standards and 814
procedures for entering into a consult agreement and managing a 815
patient's drug therapy under a consult agreement: 816

(1) The state board of pharmacy, in consultation with the 817
state medical board and board of nursing, shall adopt rules to 818

be followed by pharmacists. 819

(2) The state medical board, in consultation with the 820
state board of pharmacy, shall adopt rules to be followed by 821
physicians and rules to be followed by physician assistants. 822

(3) The board of nursing, in consultation with the state 823
board of pharmacy and state medical board, shall adopt rules to 824
be followed by clinical nurse specialists, certified nurse- 825
midwives, and certified nurse practitioners. The 826

The boards shall specify in the rules any categories of 827
drugs or types of diseases for which a consult agreement may not 828
be established. ~~Either~~ Each board may adopt any other rules it 829
considers necessary for the implementation and administration of 830
this section. All rules adopted under this ~~division~~ section 831
shall be adopted in accordance with Chapter 119. of the Revised 832
Code. 833

~~(D) (1)~~ (F) (1) Subject to division ~~(D) (2)~~ (F) (2) of this 834
section, both of the following apply: 835

(a) A pharmacist acting in accordance with a consult 836
agreement regarding a ~~physician's~~ practitioner's change in a 837
drug for a patient whose drug therapy the pharmacist is managing 838
under the agreement is not liable in damages in a tort or other 839
civil action for injury or loss to person or property allegedly 840
arising from the change. 841

(b) A ~~physician~~ practitioner acting in accordance with a 842
consult agreement regarding a pharmacist's change in a drug for 843
a patient whose drug therapy the pharmacist is managing under a 844
consult agreement is not liable in damages in a tort or other 845
civil action for injury or loss to person or property allegedly 846
arising from the change unless the ~~physician~~ practitioner 847

authorized the specific change. 848

(2) Division ~~(D)(1)~~ (F)(1) of this section does not limit 849
a ~~physician's~~ practitioner's or pharmacist's liability in 850
damages in a tort or other civil action for injury or loss to 851
person or property allegedly arising from actions that are not 852
related to the ~~physician's~~ practitioner's or pharmacist's change 853
in a drug for a patient whose drug therapy is being managed 854
under a consult agreement. 855

Sec. 4730.25. (A) The state medical board, by an 856
affirmative vote of not fewer than six members, may revoke or 857
may refuse to grant a license to practice as a physician 858
assistant to a person found by the board to have committed 859
fraud, misrepresentation, or deception in applying for or 860
securing the license. 861

(B) The board, by an affirmative vote of not fewer than 862
six members, shall, to the extent permitted by law, limit, 863
revoke, or suspend an individual's license to practice as a 864
physician assistant or prescriber number, refuse to issue a 865
license to an applicant, refuse to renew a license, refuse to 866
reinstate a license, or reprimand or place on probation the 867
holder of a license for any of the following reasons: 868

(1) Failure to practice in accordance with the supervising 869
physician's supervision agreement with the physician assistant, 870
including, if applicable, the policies of the health care 871
facility in which the supervising physician and physician 872
assistant are practicing; 873

(2) Failure to comply with the requirements of this 874
chapter, Chapter 4731. of the Revised Code, or any rules adopted 875
by the board; 876

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;	877 878 879 880
(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	881 882 883 884
(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	885 886 887 888
(6) Administering drugs for purposes other than those authorized under this chapter;	889 890
(7) Willfully betraying a professional confidence;	891
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a license to practice as a physician assistant.	892 893 894 895 896 897 898
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	899 900 901 902 903 904 905

person to misunderstand or be deceived.	906
(9) Representing, with the purpose of obtaining	907
compensation or other advantage personally or for any other	908
person, that an incurable disease or injury, or other incurable	909
condition, can be permanently cured;	910
(10) The obtaining of, or attempting to obtain, money or	911
anything of value by fraudulent misrepresentations in the course	912
of practice;	913
(11) A plea of guilty to, a judicial finding of guilt of,	914
or a judicial finding of eligibility for intervention in lieu of	915
conviction for, a felony;	916
(12) Commission of an act that constitutes a felony in	917
this state, regardless of the jurisdiction in which the act was	918
committed;	919
(13) A plea of guilty to, a judicial finding of guilt of,	920
or a judicial finding of eligibility for intervention in lieu of	921
conviction for, a misdemeanor committed in the course of	922
practice;	923
(14) A plea of guilty to, a judicial finding of guilt of,	924
or a judicial finding of eligibility for intervention in lieu of	925
conviction for, a misdemeanor involving moral turpitude;	926
(15) Commission of an act in the course of practice that	927
constitutes a misdemeanor in this state, regardless of the	928
jurisdiction in which the act was committed;	929
(16) Commission of an act involving moral turpitude that	930
constitutes a misdemeanor in this state, regardless of the	931
jurisdiction in which the act was committed;	932
(17) A plea of guilty to, a judicial finding of guilt of,	933

or a judicial finding of eligibility for intervention in lieu of 934
conviction for violating any state or federal law regulating the 935
possession, distribution, or use of any drug, including 936
trafficking in drugs; 937

(18) Any of the following actions taken by the state 938
agency responsible for regulating the practice of physician 939
assistants in another state, for any reason other than the 940
nonpayment of fees: the limitation, revocation, or suspension of 941
an individual's license to practice; acceptance of an 942
individual's license surrender; denial of a license; refusal to 943
renew or reinstate a license; imposition of probation; or 944
issuance of an order of censure or other reprimand; 945

(19) A departure from, or failure to conform to, minimal 946
standards of care of similar physician assistants under the same 947
or similar circumstances, regardless of whether actual injury to 948
a patient is established; 949

(20) Violation of the conditions placed by the board on a 950
license to practice as a physician assistant; 951

(21) Failure to use universal blood and body fluid 952
precautions established by rules adopted under section 4731.051 953
of the Revised Code; 954

(22) Failure to cooperate in an investigation conducted by 955
the board under section 4730.26 of the Revised Code, including 956
failure to comply with a subpoena or order issued by the board 957
or failure to answer truthfully a question presented by the 958
board at a deposition or in written interrogatories, except that 959
failure to cooperate with an investigation shall not constitute 960
grounds for discipline under this section if a court of 961
competent jurisdiction has issued an order that either quashes a 962

subpoena or permits the individual to withhold the testimony or evidence in issue;	963 964
(23) Assisting suicide, as defined in section 3795.01 of the Revised Code;	965 966
(24) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	967 968
(25) Failure to comply with section 4730.53 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	969 970 971
(26) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	972 973 974 975
(27) Having certification by the national commission on certification of physician assistants or a successor organization expire, lapse, or be suspended or revoked;	976 977 978
(28) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;	979 980 981 982 983 984
<u>(29) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code.</u>	985 986 987
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except	988 989 990

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

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

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

(F) For purposes of this division, any individual who 1022
holds a license issued under this chapter, or applies for a 1023
license issued under this chapter, shall be deemed to have given 1024
consent to submit to a mental or physical examination when 1025
directed to do so in writing by the board and to have waived all 1026
objections to the admissibility of testimony or examination 1027
reports that constitute a privileged communication. 1028

(1) In enforcing division (B)(4) of this section, the 1029
board, upon a showing of a possible violation, may compel any 1030
individual who holds a license issued under this chapter or who 1031
has applied for a license pursuant to this chapter to submit to 1032
a mental examination, physical examination, including an HIV 1033
test, or both a mental and physical examination. The expense of 1034
the examination is the responsibility of the individual 1035
compelled to be examined. Failure to submit to a mental or 1036
physical examination or consent to an HIV test ordered by the 1037
board constitutes an admission of the allegations against the 1038
individual unless the failure is due to circumstances beyond the 1039
individual's control, and a default and final order may be 1040
entered without the taking of testimony or presentation of 1041
evidence. If the board finds a physician assistant unable to 1042
practice because of the reasons set forth in division (B)(4) of 1043
this section, the board shall require the physician assistant to 1044
submit to care, counseling, or treatment by physicians approved 1045
or designated by the board, as a condition for an initial, 1046
continued, reinstated, or renewed license. An individual 1047
affected under this division shall be afforded an opportunity to 1048
demonstrate to the board the ability to resume practicing in 1049
compliance with acceptable and prevailing standards of care. 1050

(2) For purposes of division (B)(5) of this section, if 1051
the board has reason to believe that any individual who holds a 1052

license issued under this chapter or any applicant for a license 1053
suffers such impairment, the board may compel the individual to 1054
submit to a mental or physical examination, or both. The expense 1055
of the examination is the responsibility of the individual 1056
compelled to be examined. Any mental or physical examination 1057
required under this division shall be undertaken by a treatment 1058
provider or physician qualified to conduct such examination and 1059
chosen by the board. 1060

Failure to submit to a mental or physical examination 1061
ordered by the board constitutes an admission of the allegations 1062
against the individual unless the failure is due to 1063
circumstances beyond the individual's control, and a default and 1064
final order may be entered without the taking of testimony or 1065
presentation of evidence. If the board determines that the 1066
individual's ability to practice is impaired, the board shall 1067
suspend the individual's license or deny the individual's 1068
application and shall require the individual, as a condition for 1069
initial, continued, reinstated, or renewed licensure, to submit 1070
to treatment. 1071

Before being eligible to apply for reinstatement of a 1072
license suspended under this division, the physician assistant 1073
shall demonstrate to the board the ability to resume practice or 1074
prescribing in compliance with acceptable and prevailing 1075
standards of care. The demonstration shall include the 1076
following: 1077

(a) Certification from a treatment provider approved under 1078
section 4731.25 of the Revised Code that the individual has 1079
successfully completed any required inpatient treatment; 1080

(b) Evidence of continuing full compliance with an 1081
aftercare contract or consent agreement; 1082

(c) Two written reports indicating that the individual's 1083
ability to practice has been assessed and that the individual 1084
has been found capable of practicing according to acceptable and 1085
prevailing standards of care. The reports shall be made by 1086
individuals or providers approved by the board for making such 1087
assessments and shall describe the basis for their 1088
determination. 1089

The board may reinstate a license suspended under this 1090
division after such demonstration and after the individual has 1091
entered into a written consent agreement. 1092

When the impaired physician assistant resumes practice or 1093
prescribing, the board shall require continued monitoring of the 1094
physician assistant. The monitoring shall include compliance 1095
with the written consent agreement entered into before 1096
reinstatement or with conditions imposed by board order after a 1097
hearing, and, upon termination of the consent agreement, 1098
submission to the board for at least two years of annual written 1099
progress reports made under penalty of falsification stating 1100
whether the physician assistant has maintained sobriety. 1101

(G) If the secretary and supervising member determine that 1102
there is clear and convincing evidence that a physician 1103
assistant has violated division (B) of this section and that the 1104
individual's continued practice or prescribing presents a danger 1105
of immediate and serious harm to the public, they may recommend 1106
that the board suspend the individual's license without a prior 1107
hearing. Written allegations shall be prepared for consideration 1108
by the board. 1109

The board, upon review of those allegations and by an 1110
affirmative vote of not fewer than six of its members, excluding 1111
the secretary and supervising member, may suspend a license 1112

without a prior hearing. A telephone conference call may be 1113
utilized for reviewing the allegations and taking the vote on 1114
the summary suspension. 1115

The board shall issue a written order of suspension by 1116
certified mail or in person in accordance with section 119.07 of 1117
the Revised Code. The order shall not be subject to suspension 1118
by the court during pendency of any appeal filed under section 1119
119.12 of the Revised Code. If the physician assistant requests 1120
an adjudicatory hearing by the board, the date set for the 1121
hearing shall be within fifteen days, but not earlier than seven 1122
days, after the physician assistant requests the hearing, unless 1123
otherwise agreed to by both the board and the license holder. 1124

A summary suspension imposed under this division shall 1125
remain in effect, unless reversed on appeal, until a final 1126
adjudicative order issued by the board pursuant to this section 1127
and Chapter 119. of the Revised Code becomes effective. The 1128
board shall issue its final adjudicative order within sixty days 1129
after completion of its hearing. Failure to issue the order 1130
within sixty days shall result in dissolution of the summary 1131
suspension order, but shall not invalidate any subsequent, final 1132
adjudicative order. 1133

(H) If the board takes action under division (B) (11), 1134
(13), or (14) of this section, and the judicial finding of 1135
guilt, guilty plea, or judicial finding of eligibility for 1136
intervention in lieu of conviction is overturned on appeal, upon 1137
exhaustion of the criminal appeal, a petition for 1138
reconsideration of the order may be filed with the board along 1139
with appropriate court documents. Upon receipt of a petition and 1140
supporting court documents, the board shall reinstate the 1141
individual's license. The board may then hold an adjudication 1142

under Chapter 119. of the Revised Code to determine whether the 1143
individual committed the act in question. Notice of opportunity 1144
for hearing shall be given in accordance with Chapter 119. of 1145
the Revised Code. If the board finds, pursuant to an 1146
adjudication held under this division, that the individual 1147
committed the act, or if no hearing is requested, it may order 1148
any of the sanctions identified under division (B) of this 1149
section. 1150

(I) The license to practice issued to a physician 1151
assistant and the physician assistant's practice in this state 1152
are automatically suspended as of the date the physician 1153
assistant pleads guilty to, is found by a judge or jury to be 1154
guilty of, or is subject to a judicial finding of eligibility 1155
for intervention in lieu of conviction in this state or 1156
treatment or intervention in lieu of conviction in another state 1157
for any of the following criminal offenses in this state or a 1158
substantially equivalent criminal offense in another 1159
jurisdiction: aggravated murder, murder, voluntary manslaughter, 1160
felonious assault, kidnapping, rape, sexual battery, gross 1161
sexual imposition, aggravated arson, aggravated robbery, or 1162
aggravated burglary. Continued practice after the suspension 1163
shall be considered practicing without a license. 1164

The board shall notify the individual subject to the 1165
suspension by certified mail or in person in accordance with 1166
section 119.07 of the Revised Code. If an individual whose 1167
license is suspended under this division fails to make a timely 1168
request for an adjudication under Chapter 119. of the Revised 1169
Code, the board shall enter a final order permanently revoking 1170
the individual's license to practice. 1171

(J) In any instance in which the board is required by 1172

Chapter 119. of the Revised Code to give notice of opportunity 1173
for hearing and the individual subject to the notice does not 1174
timely request a hearing in accordance with section 119.07 of 1175
the Revised Code, the board is not required to hold a hearing, 1176
but may adopt, by an affirmative vote of not fewer than six of 1177
its members, a final order that contains the board's findings. 1178
In that final order, the board may order any of the sanctions 1179
identified under division (A) or (B) of this section. 1180

(K) Any action taken by the board under division (B) of 1181
this section resulting in a suspension shall be accompanied by a 1182
written statement of the conditions under which the physician 1183
assistant's license may be reinstated. The board shall adopt 1184
rules in accordance with Chapter 119. of the Revised Code 1185
governing conditions to be imposed for reinstatement. 1186
Reinstatement of a license suspended pursuant to division (B) of 1187
this section requires an affirmative vote of not fewer than six 1188
members of the board. 1189

(L) When the board refuses to grant or issue to an 1190
applicant a license to practice as a physician assistant, 1191
revokes an individual's license, refuses to renew an 1192
individual's license, or refuses to reinstate an individual's 1193
license, the board may specify that its action is permanent. An 1194
individual subject to a permanent action taken by the board is 1195
forever thereafter ineligible to hold the license and the board 1196
shall not accept an application for reinstatement of the license 1197
or for issuance of a new license. 1198

(M) Notwithstanding any other provision of the Revised 1199
Code, all of the following apply: 1200

(1) The surrender of a license issued under this chapter 1201
is not effective unless or until accepted by the board. 1202

Reinstatement of a license surrendered to the board requires an	1203
affirmative vote of not fewer than six members of the board.	1204
(2) An application made under this chapter for a license	1205
may not be withdrawn without approval of the board.	1206
(3) Failure by an individual to renew a license in	1207
accordance with section 4730.14 of the Revised Code shall not	1208
remove or limit the board's jurisdiction to take disciplinary	1209
action under this section against the individual.	1210
Sec. 5164.14. The medicaid program may cover a health care	1211
service that a pharmacist provides to a medicaid recipient in	1212
accordance with Chapter 4729. of the Revised Code, including any	1213
of the following services:	1214
(A) Managing drug therapy under a consult agreement with a	1215
physician pursuant to section 4729.39 of the Revised Code;	1216
(B) Administering immunizations in accordance with section	1217
4729.41 of the Revised Code;	1218
(C) Administering drugs in accordance with section 4729.45	1219
of the Revised Code.	1220
Section 2. That existing sections 1751.91, 3923.89,	1221
4723.28, 4729.01, 4729.39, 4730.25, and 5164.14 of the Revised	1222
Code are hereby repealed.	1223