

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 61

**Senator Burke
Cosponsor: Senator Rulli**

A BILL

To amend sections 4723.07, 4723.28, 4723.43, 1
4723.44, 4723.50, and 4729.01, to amend the 2
version of section 4729.01 that is scheduled to 3
take effect March 22, 2020, and to enact section 4
4723.484 of the Revised Code regarding the 5
authority of certified registered nurse 6
anesthetists to select, order, and administer 7
certain drugs. 8

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

Section 1. That sections 4723.07, 4723.28, 4723.43, 9
4723.44, 4723.50, and 4729.01 be amended and section 4723.484 of 10
the Revised Code be enacted to read as follows: 11

Sec. 4723.07. In accordance with Chapter 119. of the 12
Revised Code, the board of nursing shall adopt and may amend and 13
rescind rules that establish all of the following: 14

(A) Provisions for the board's government and control of 15
its actions and business affairs; 16

(B) Minimum standards for nursing education programs that 17
prepare graduates to be licensed under this chapter and 18

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| procedures for granting, renewing, and withdrawing approval of those programs; | 19 20 |
| (C) Criteria that applicants for licensure must meet to be eligible to take examinations for licensure; | 21 22 |
| (D) Standards and procedures for renewal of the licenses and certificates issued by the board; | 23 24 |
| (E) Standards for approval of continuing nursing education programs and courses for registered nurses, advanced practice registered nurses, and licensed practical nurses. The standards may provide for approval of continuing nursing education programs and courses that have been approved by other state boards of nursing or by national accreditation systems for nursing, including, but not limited to, the American nurses' credentialing center and the national association for practical nurse education and service. | 25 26 27 28 29 30 31 32 33 |
| (F) Standards that persons must meet to be authorized by the board to approve continuing education programs and courses and a schedule by which that authorization expires and may be renewed; | 34 35 36 37 |
| (G) Requirements, including continuing education requirements, for reactivating inactive licenses or certificates, and for reinstating licenses or certificates that have lapsed; | 38 39 40 41 |
| (H) Conditions that may be imposed for reinstatement of a license or certificate following action taken under section 3123.47, 4723.28, 4723.281, 4723.652, or 4723.86 of the Revised Code resulting in a license or certificate suspension; | 42 43 44 45 |
| (I) Requirements for board approval of courses in medication administration by licensed practical nurses; | 46 47 |

(J) Criteria for evaluating the qualifications of an applicant for a license to practice nursing as a registered nurse, a license to practice nursing as an advanced practice registered nurse, or a license to practice nursing as a licensed practical nurse for the purpose of issuing the license by the board's endorsement of the applicant's authority to practice issued by the licensing agency of another state;

(K) Universal and standard precautions that shall be used by each licensee or certificate holder. The rules shall define and establish requirements for universal and standard precautions that include the following:

- (1) Appropriate use of hand washing;
- (2) Disinfection and sterilization of equipment;
- (3) Handling and disposal of needles and other sharp instruments;
- (4) Wearing and disposal of gloves and other protective garments and devices.

(L) Quality assurance standards for advanced practice registered nurses;

(M) Additional criteria for the standard care arrangement required by section 4723.431 of the Revised Code entered into by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and the nurse's collaborating physician or podiatrist;

(N) For purposes of division (B) ~~(31)~~ (32) of section 4723.28 of the Revised Code, the actions, omissions, or other circumstances that constitute failure to establish and maintain professional boundaries with a patient;

(O) Standards and procedures for delegation under section 76
4723.48 of the Revised Code of the authority to administer 77
drugs. 78

The board may adopt other rules necessary to carry out the 79
provisions of this chapter. The rules shall be adopted in 80
accordance with Chapter 119. of the Revised Code. 81

Sec. 4723.28. (A) The board of nursing, by a vote of a 82
quorum, may impose one or more of the following sanctions if it 83
finds that a person committed fraud in passing an examination 84
required to obtain a license or dialysis technician certificate 85
issued by the board or to have committed fraud, 86
misrepresentation, or deception in applying for or securing any 87
nursing license or dialysis technician certificate issued by the 88
board: deny, revoke, suspend, or place restrictions on any 89
nursing license or dialysis technician certificate issued by the 90
board; reprimand or otherwise discipline a holder of a nursing 91
license or dialysis technician certificate; or impose a fine of 92
not more than five hundred dollars per violation. 93

(B) The board of nursing, by a vote of a quorum, may 94
impose one or more of the following sanctions: deny, revoke, 95
suspend, or place restrictions on any nursing license or 96
dialysis technician certificate issued by the board; reprimand 97
or otherwise discipline a holder of a nursing license or 98
dialysis technician certificate; or impose a fine of not more 99
than five hundred dollars per violation. The sanctions may be 100
imposed for any of the following: 101

(1) Denial, revocation, suspension, or restriction of 102
authority to engage in a licensed profession or practice a 103
health care occupation, including nursing or practice as a 104
dialysis technician, for any reason other than a failure to 105

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| renew, in Ohio or another state or jurisdiction; | 106 |
| (2) Engaging in the practice of nursing or engaging in | 107 |
| practice as a dialysis technician, having failed to renew a | 108 |
| nursing license or dialysis technician certificate issued under | 109 |
| this chapter, or while a nursing license or dialysis technician | 110 |
| certificate is under suspension; | 111 |
| (3) Conviction of, a plea of guilty to, a judicial finding | 112 |
| of guilt of, a judicial finding of guilt resulting from a plea | 113 |
| of no contest to, or a judicial finding of eligibility for a | 114 |
| pretrial diversion or similar program or for intervention in | 115 |
| lieu of conviction for, a misdemeanor committed in the course of | 116 |
| practice; | 117 |
| (4) Conviction of, a plea of guilty to, a judicial finding | 118 |
| of guilt of, a judicial finding of guilt resulting from a plea | 119 |
| of no contest to, or a judicial finding of eligibility for a | 120 |
| pretrial diversion or similar program or for intervention in | 121 |
| lieu of conviction for, any felony or of any crime involving | 122 |
| gross immorality or moral turpitude; | 123 |
| (5) Selling, giving away, or administering drugs or | 124 |
| therapeutic devices for other than legal and legitimate | 125 |
| therapeutic purposes; or conviction of, a plea of guilty to, a | 126 |
| judicial finding of guilt of, a judicial finding of guilt | 127 |
| resulting from a plea of no contest to, or a judicial finding of | 128 |
| eligibility for a pretrial diversion or similar program or for | 129 |
| intervention in lieu of conviction for, violating any municipal, | 130 |
| state, county, or federal drug law; | 131 |
| (6) Conviction of, a plea of guilty to, a judicial finding | 132 |
| of guilt of, a judicial finding of guilt resulting from a plea | 133 |
| of no contest to, or a judicial finding of eligibility for a | 134 |

pretrial diversion or similar program or for intervention in 135
lieu of conviction for, an act in another jurisdiction that 136
would constitute a felony or a crime of moral turpitude in Ohio; 137

(7) Conviction of, a plea of guilty to, a judicial finding 138
of guilt of, a judicial finding of guilt resulting from a plea 139
of no contest to, or a judicial finding of eligibility for a 140
pretrial diversion or similar program or for intervention in 141
lieu of conviction for, an act in the course of practice in 142
another jurisdiction that would constitute a misdemeanor in 143
Ohio; 144

(8) Self-administering or otherwise taking into the body 145
any dangerous drug, as defined in section 4729.01 of the Revised 146
Code, in any way that is not in accordance with a legal, valid 147
prescription issued for that individual, or self-administering 148
or otherwise taking into the body any drug that is a schedule I 149
controlled substance; 150

(9) Habitual or excessive use of controlled substances, 151
other habit-forming drugs, or alcohol or other chemical 152
substances to an extent that impairs the individual's ability to 153
provide safe nursing care or safe dialysis care; 154

(10) Impairment of the ability to practice according to 155
acceptable and prevailing standards of safe nursing care or safe 156
dialysis care because of the use of drugs, alcohol, or other 157
chemical substances; 158

(11) Impairment of the ability to practice according to 159
acceptable and prevailing standards of safe nursing care or safe 160
dialysis care because of a physical or mental disability; 161

(12) Assaulting or causing harm to a patient or depriving 162
a patient of the means to summon assistance; 163

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| (13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice; | 164 165 |
| (14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency. | 166 167 168 169 170 171 |
| (15) The suspension or termination of employment by the United States department of defense or department of veterans affairs for any act that violates or would violate this chapter; | 172 173 174 |
| (16) Violation of this chapter or any rules adopted under it; | 175 176 |
| (17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate; | 177 178 |
| (18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code; | 179 180 181 |
| (19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care; | 182 183 |
| (20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse; | 184 185 186 |
| (21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse; | 187 188 189 |
| (22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of | 190 191 |

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| the Revised Code; | 192 |
| (23) Aiding and abetting a person in that person's | 193 |
| practice of nursing without a license or practice as a dialysis | 194 |
| technician without a certificate issued under this chapter; | 195 |
| (24) In the case of an advanced practice registered nurse, | 196 |
| except as provided in division (M) of this section, either of | 197 |
| the following: | 198 |
| (a) Waiving the payment of all or any part of a deductible | 199 |
| or copayment that a patient, pursuant to a health insurance or | 200 |
| health care policy, contract, or plan that covers such nursing | 201 |
| services, would otherwise be required to pay if the waiver is | 202 |
| used as an enticement to a patient or group of patients to | 203 |
| receive health care services from that provider; | 204 |
| (b) Advertising that the nurse will waive the payment of | 205 |
| all or any part of a deductible or copayment that a patient, | 206 |
| pursuant to a health insurance or health care policy, contract, | 207 |
| or plan that covers such nursing services, would otherwise be | 208 |
| required to pay. | 209 |
| (25) Failure to comply with the terms and conditions of | 210 |
| participation in the substance use disorder monitoring program | 211 |
| established under section 4723.35 of the Revised Code; | 212 |
| (26) Failure to comply with the terms and conditions | 213 |
| required under the practice intervention and improvement program | 214 |
| established under section 4723.282 of the Revised Code; | 215 |
| (27) In the case of an advanced practice registered nurse: | 216 |
| (a) Engaging in activities that exceed those permitted for | 217 |
| the nurse's nursing specialty under section 4723.43 of the | 218 |
| Revised Code; | 219 |

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| (b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code. | 220 221 |
| (28) In the case of an advanced practice registered nurse other than a certified registered nurse anesthetist, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement; | 222 223 224 225 226 |
| (29) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code; | 227 228 229 230 231 |
| (30) <u>In the case of an advanced practice registered nurse who is designated as a certified registered nurse anesthetist, failure to select, order, or administer drugs other than anesthesia in accordance with section 4723.484 of the Revised Code;</u> | 232 233 234 235 236 |
| <u>(31)</u> Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion; | 237 238 |
| (31) <u>(32)</u> Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code; | 239 240 241 |
| (32) <u>(33)</u> 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: | 242 243 244 245 |
| (a) Sexual contact, as defined in section 2907.01 of the Revised Code; | 246 247 |

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| (b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning. | 248 249 250 |
| (33) <u>(34)</u> Assisting suicide, as defined in section 3795.01 of the Revised Code; | 251 252 |
| (34) <u>(35)</u> 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; | 253 254 255 256 |
| (35) <u>(36)</u> 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; | 257 258 259 260 |
| (36) <u>(37)</u> 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. | 261 262 263 264 265 266 |
| (C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings | 267 268 269 270 271 272 273 274 275 276 |

contained in the agreement shall be of no effect. 277

(D) The hearings of the board shall be conducted in 278
accordance with Chapter 119. of the Revised Code, the board may 279
appoint a hearing examiner, as provided in section 119.09 of the 280
Revised Code, to conduct any hearing the board is authorized to 281
hold under Chapter 119. of the Revised Code. 282

In any instance in which the board is required under 283
Chapter 119. of the Revised Code to give notice of an 284
opportunity for a hearing and the applicant, licensee, or 285
certificate holder does not make a timely request for a hearing 286
in accordance with section 119.07 of the Revised Code, the board 287
is not required to hold a hearing, but may adopt, by a vote of a 288
quorum, a final order that contains the board's findings. In the 289
final order, the board may order any of the sanctions listed in 290
division (A) or (B) of this section. 291

(E) If a criminal action is brought against a registered 292
nurse, licensed practical nurse, or dialysis technician for an 293
act or crime described in divisions (B) (3) to (7) of this 294
section and the action is dismissed by the trial court other 295
than on the merits, the board shall conduct an adjudication to 296
determine whether the registered nurse, licensed practical 297
nurse, or dialysis technician committed the act on which the 298
action was based. If the board determines on the basis of the 299
adjudication that the registered nurse, licensed practical 300
nurse, or dialysis technician committed the act, or if the 301
registered nurse, licensed practical nurse, or dialysis 302
technician fails to participate in the adjudication, the board 303
may take action as though the registered nurse, licensed 304
practical nurse, or dialysis technician had been convicted of 305
the act. 306

If the board takes action on the basis of a conviction, 307
plea, or a judicial finding as described in divisions (B) (3) to 308
(7) of this section that is overturned on appeal, the registered 309
nurse, licensed practical nurse, or dialysis technician may, on 310
exhaustion of the appeal process, petition the board for 311
reconsideration of its action. On receipt of the petition and 312
supporting court documents, the board shall temporarily rescind 313
its action. If the board determines that the decision on appeal 314
was a decision on the merits, it shall permanently rescind its 315
action. If the board determines that the decision on appeal was 316
not a decision on the merits, it shall conduct an adjudication 317
to determine whether the registered nurse, licensed practical 318
nurse, or dialysis technician committed the act on which the 319
original conviction, plea, or judicial finding was based. If the 320
board determines on the basis of the adjudication that the 321
registered nurse, licensed practical nurse, or dialysis 322
technician committed such act, or if the registered nurse, 323
licensed practical nurse, or dialysis technician does not 324
request an adjudication, the board shall reinstate its action; 325
otherwise, the board shall permanently rescind its action. 326

Notwithstanding the provision of division (C) (2) of 327
section 2953.32 of the Revised Code specifying that if records 328
pertaining to a criminal case are sealed under that section the 329
proceedings in the case shall be deemed not to have occurred, 330
sealing of the following records on which the board has based an 331
action under this section shall have no effect on the board's 332
action or any sanction imposed by the board under this section: 333
records of any conviction, guilty plea, judicial finding of 334
guilt resulting from a plea of no contest, or a judicial finding 335
of eligibility for a pretrial diversion program or intervention 336
in lieu of conviction. 337

The board shall not be required to seal, destroy, redact, 338
or otherwise modify its records to reflect the court's sealing 339
of conviction records. 340

(F) The board may investigate an individual's criminal 341
background in performing its duties under this section. As part 342
of such investigation, the board may order the individual to 343
submit, at the individual's expense, a request to the bureau of 344
criminal identification and investigation for a criminal records 345
check and check of federal bureau of investigation records in 346
accordance with the procedure described in section 4723.091 of 347
the Revised Code. 348

(G) During the course of an investigation conducted under 349
this section, the board may compel any registered nurse, 350
licensed practical nurse, or dialysis technician or applicant 351
under this chapter to submit to a mental or physical 352
examination, or both, as required by the board and at the 353
expense of the individual, if the board finds reason to believe 354
that the individual under investigation may have a physical or 355
mental impairment that may affect the individual's ability to 356
provide safe nursing care. Failure of any individual to submit 357
to a mental or physical examination when directed constitutes an 358
admission of the allegations, unless the failure is due to 359
circumstances beyond the individual's control, and a default and 360
final order may be entered without the taking of testimony or 361
presentation of evidence. 362

If the board finds that an individual is impaired, the 363
board shall require the individual to submit to care, 364
counseling, or treatment approved or designated by the board, as 365
a condition for initial, continued, reinstated, or renewed 366
authority to practice. The individual shall be afforded an 367

opportunity to demonstrate to the board that the individual can 368
begin or resume the individual's occupation in compliance with 369
acceptable and prevailing standards of care under the provisions 370
of the individual's authority to practice. 371

For purposes of this division, any registered nurse, 372
licensed practical nurse, or dialysis technician or applicant 373
under this chapter shall be deemed to have given consent to 374
submit to a mental or physical examination when directed to do 375
so in writing by the board, and to have waived all objections to 376
the admissibility of testimony or examination reports that 377
constitute a privileged communication. 378

(H) The board shall investigate evidence that appears to 379
show that any person has violated any provision of this chapter 380
or any rule of the board. Any person may report to the board any 381
information the person may have that appears to show a violation 382
of any provision of this chapter or rule of the board. In the 383
absence of bad faith, any person who reports such information or 384
who testifies before the board in any adjudication conducted 385
under Chapter 119. of the Revised Code shall not be liable for 386
civil damages as a result of the report or testimony. 387

(I) All of the following apply under this chapter with 388
respect to the confidentiality of information: 389

(1) Information received by the board pursuant to a 390
complaint or an investigation is confidential and not subject to 391
discovery in any civil action, except that the board may 392
disclose information to law enforcement officers and government 393
entities for purposes of an investigation of either a licensed 394
health care professional, including a registered nurse, licensed 395
practical nurse, or dialysis technician, or a person who may 396
have engaged in the unauthorized practice of nursing or dialysis 397

care. No law enforcement officer or government entity with 398
knowledge of any information disclosed by the board pursuant to 399
this division shall divulge the information to any other person 400
or government entity except for the purpose of a government 401
investigation, a prosecution, or an adjudication by a court or 402
government entity. 403

(2) If an investigation requires a review of patient 404
records, the investigation and proceeding shall be conducted in 405
such a manner as to protect patient confidentiality. 406

(3) All adjudications and investigations of the board 407
shall be considered civil actions for the purposes of section 408
2305.252 of the Revised Code. 409

(4) Any board activity that involves continued monitoring 410
of an individual as part of or following any disciplinary action 411
taken under this section shall be conducted in a manner that 412
maintains the individual's confidentiality. Information received 413
or maintained by the board with respect to the board's 414
monitoring activities is not subject to discovery in any civil 415
action and is confidential, except that the board may disclose 416
information to law enforcement officers and government entities 417
for purposes of an investigation of a licensee or certificate 418
holder. 419

(J) Any action taken by the board under this section 420
resulting in a suspension from practice shall be accompanied by 421
a written statement of the conditions under which the person may 422
be reinstated to practice. 423

(K) When the board refuses to grant a license or 424
certificate to an applicant, revokes a license or certificate, 425
or refuses to reinstate a license or certificate, the board may 426

specify that its action is permanent. An individual subject to 427
permanent action taken by the board is forever ineligible to 428
hold a license or certificate of the type that was refused or 429
revoked and the board shall not accept from the individual an 430
application for reinstatement of the license or certificate or 431
for a new license or certificate. 432

(L) No unilateral surrender of a nursing license, 433
certificate of authority, or dialysis technician certificate 434
issued under this chapter shall be effective unless accepted by 435
majority vote of the board. No application for a nursing 436
license, certificate of authority, or dialysis technician 437
certificate issued under this chapter may be withdrawn without a 438
majority vote of the board. The board's jurisdiction to take 439
disciplinary action under this section is not removed or limited 440
when an individual has a license or certificate classified as 441
inactive or fails to renew a license or certificate. 442

(M) Sanctions shall not be imposed under division (B) (24) 443
of this section against any licensee who waives deductibles and 444
copayments as follows: 445

(1) In compliance with the health benefit plan that 446
expressly allows such a practice. Waiver of the deductibles or 447
copayments shall be made only with the full knowledge and 448
consent of the plan purchaser, payer, and third-party 449
administrator. Documentation of the consent shall be made 450
available to the board upon request. 451

(2) For professional services rendered to any other person 452
licensed pursuant to this chapter to the extent allowed by this 453
chapter and the rules of the board. 454

Sec. 4723.43. A certified registered nurse anesthetist, 455

clinical nurse specialist, certified nurse-midwife, or certified 456
nurse practitioner may provide to individuals and groups nursing 457
care that requires knowledge and skill obtained from advanced 458
formal education and clinical experience. In this capacity as an 459
advanced practice registered nurse, a certified nurse-midwife is 460
subject to division (A) of this section, a certified registered 461
nurse anesthetist is subject to division (B) of this section, a 462
certified nurse practitioner is subject to division (C) of this 463
section, and a clinical nurse specialist is subject to division 464
(D) of this section. 465

(A) A nurse authorized to practice as a certified nurse- 466
midwife, in collaboration with one or more physicians, may 467
provide the management of preventive services and those primary 468
care services necessary to provide health care to women 469
anteperthally, intraperthally, postperthally, and gynecologically, 470
consistent with the nurse's education and certification, and in 471
accordance with rules adopted by the board of nursing. 472

No certified nurse-midwife may perform version, deliver 473
breech or face presentation, use forceps, do any obstetric 474
operation, or treat any other abnormal condition, except in 475
emergencies. Division (A) of this section does not prohibit a 476
certified nurse-midwife from performing episiotomies or normal 477
vaginal deliveries, or repairing vaginal tears. A certified 478
nurse-midwife may, in collaboration with one or more physicians, 479
prescribe drugs and therapeutic devices in accordance with 480
section 4723.481 of the Revised Code. 481

(B) A nurse authorized to practice as a certified 482
registered nurse anesthetist, with the supervision and in the 483
immediate presence of a physician, podiatrist, or dentist, may 484
administer anesthesia and perform anesthesia induction, 485

maintenance, and emergence, and may perform with supervision 486
preanesthetic preparation and evaluation, postanesthesia care, 487
and clinical support functions, consistent with the nurse's 488
education and certification, and in accordance with rules 489
adopted by the board. 490

A certified registered nurse anesthetist who meets the 491
conditions of section 4723.484 of the Revised Code also may do 492
both of the following: 493

(1) Select, order, and administer drugs other than 494
anesthesia in accordance with section 4723.484 of the Revised 495
Code; 496

(2) Direct another person to administer a drug other than 497
anesthesia that the nurse has selected and ordered in accordance 498
with section 4723.484 of the Revised Code, but only if the nurse 499
is in the operating room when directing the person to administer 500
the drug and the person being directed is authorized by law to 501
administer drugs. 502

The physician, podiatrist, or dentist supervising a 503
certified registered nurse anesthetist must be actively engaged 504
in practice in this state. When a certified registered nurse 505
anesthetist is supervised by a podiatrist, the nurse's scope of 506
practice is limited to the anesthesia procedures that the 507
podiatrist has the authority under section 4731.51 of the 508
Revised Code to perform. A certified registered nurse 509
anesthetist may not administer general anesthesia under the 510
supervision of a podiatrist in a podiatrist's office. When a 511
certified registered nurse anesthetist is supervised by a 512
dentist, the nurse's scope of practice is limited to the 513
anesthesia procedures that the dentist has the authority under 514
Chapter 4715. of the Revised Code to perform. 515

(C) A nurse authorized to practice as a certified nurse practitioner, in collaboration with one or more physicians or podiatrists, may provide preventive and primary care services, provide services for acute illnesses, and evaluate and promote patient wellness within the nurse's nursing specialty, consistent with the nurse's education and certification, and in accordance with rules adopted by the board. A certified nurse practitioner may, in collaboration with one or more physicians or podiatrists, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

When a certified nurse practitioner is collaborating with a podiatrist, the nurse's scope of practice is limited to the procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform.

(D) A nurse authorized to practice as a clinical nurse specialist, in collaboration with one or more physicians or podiatrists, may provide and manage the care of individuals and groups with complex health problems and provide health care services that promote, improve, and manage health care within the nurse's nursing specialty, consistent with the nurse's education and in accordance with rules adopted by the board. A clinical nurse specialist may, in collaboration with one or more physicians or podiatrists, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

When a clinical nurse specialist is collaborating with a podiatrist, the nurse's scope of practice is limited to the procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform.

Sec. 4723.44. (A) No person shall knowingly do any of the following unless the person holds a current, valid license

issued by the board of nursing under this chapter to practice 546
nursing as an advanced practice registered nurse in the 547
specialty indicated by the designation: 548

(1) Engage in the practice of nursing as an advanced 549
practice registered nurse for a fee, salary, or other 550
consideration, or as a volunteer; 551

(2) Represent the person as being an advanced practice 552
registered nurse, including representing the person as being a 553
certified registered nurse anesthetist, clinical nurse 554
specialist, certified nurse-midwife, or certified nurse 555
practitioner; 556

(3) Use any title or initials implying that the person is 557
an advanced practice registered nurse, including using any title 558
or initials implying the person is a certified registered nurse 559
anesthetist, clinical nurse specialist, certified nurse-midwife, 560
or certified nurse practitioner. 561

(B) No advanced practice registered nurse shall knowingly 562
do any of the following: 563

(1) Engage, for a fee, salary, or other consideration, or 564
as a volunteer, in the practice of a nursing specialty other 565
than the specialty designated on the nurse's current, valid 566
license issued by the board under this chapter to practice 567
nursing as an advanced practice registered nurse; 568

(2) Represent the person as being authorized to practice 569
any nursing specialty other than the specialty designated on the 570
current, valid license to practice nursing as an advanced 571
practice registered nurse; 572

(3) Use the title "certified registered nurse anesthetist" 573
or the initials "N.A." or "C.R.N.A.," the title "clinical nurse 574

specialist" or the initials "C.N.S.," the title "certified 575
nurse-midwife" or the initials "C.N.M.," the title "certified 576
nurse practitioner" or the initials "C.N.P.," the title 577
"advanced practice registered nurse" or the initials "A.P.R.N.," 578
or any other title or initials implying that the nurse is 579
authorized to practice any nursing specialty other than the 580
specialty designated on the nurse's current, valid license to 581
practice nursing as an advanced practice registered nurse; 582

(4) Except as provided in division (A) (2) (c) of section 583
4723.431 of the Revised Code, enter into a standard care 584
arrangement with a physician or podiatrist who is practicing in 585
a specialty that is not the same as or similar to the nurse's 586
nursing specialty; 587

(5) Prescribe drugs or therapeutic devices in a manner 588
that does not comply with section 4723.481 of the Revised Code; 589

(6) In the case of a certified registered nurse 590
anesthetist, select, order, or administer drugs other than 591
anesthesia in a manner that does not comply with section 592
4723.484 of the Revised Code; 593

(7) Prescribe any drug or device to perform or induce an 594
abortion, or otherwise perform or induce an abortion. 595

(C) No person shall knowingly employ a person to engage in 596
the practice of nursing as an advanced practice registered nurse 597
unless the person so employed holds a current, valid license and 598
designation issued by the board under this chapter to practice 599
as an advanced practice registered nurse in the specialty 600
indicated by the designation. 601

(D) A document certified by the executive director of the 602
board, under the official seal of the board, to the effect that 603

it appears from the records of the board that no license to 604
practice nursing as an advanced practice registered nurse has 605
been issued to the person specified in the document, or that a 606
license to practice nursing as an advanced practice registered 607
nurse, if issued, has been revoked or suspended, shall be 608
received as prima-facie evidence of the record of the board in 609
any court or before any officer of the state. 610

Sec. 4723.484. (A) Except as provided in division (C) of 611
this section, a certified registered nurse anesthetist may 612
select, order, and administer drugs other than anesthesia under 613
division (B) of section 4723.43 of the Revised Code if all of 614
the following conditions are met: 615

(1) The nurse selects, orders, and administers each drug 616
at a facility that is one of the following: 617

(a) A hospital registered under section 3701.07 of the 618
Revised Code; 619

(b) An entity owned or controlled, in whole or in part, by 620
a hospital or by an entity that owns or controls, in whole or in 621
part, one or more hospitals; 622

(c) An ambulatory surgical facility, as defined in section 623
3702.30 of the Revised Code. 624

(2) The medical staff of the facility described in 625
division (A)(1) of this section has granted the nurse 626
appropriate credentials or clinical privileges, as evidenced by 627
written documents, authorizing the nurse to select, order, and 628
administer drugs. 629

(3) The nurse selects, orders, and administers each drug 630
in the immediate post-operative period, which does not include 631
the period of time in which a patient is in the process of being 632

moved or has moved from a post-anesthesia care unit to another 633
part of the facility. 634

(4) The nurse selects, orders, and administers each drug 635
in accordance with a protocol that meets the requirements of 636
division (B) of this section. 637

(B)(1) The protocol required by division (A)(4) of this 638
section shall be established only by all of the following: 639

(a) The facility's medical director; 640

(b) The facility's nursing director; 641

(c) The facility's pharmacy director or, if the facility 642
does not have a pharmacy director, an individual designated by 643
the facility as its consulting pharmacist. 644

(2) Each protocol shall do all of the following: 645

(a) Specify the one or more drugs other than anesthesia 646
that the nurse may select, order, and administer to treat 647
nausea, pain, or respiratory conditions related to the 648
administration of anesthesia; 649

(b) Prohibit the nurse from selecting and ordering a 650
controlled substance; 651

(c) Specify procedures to be followed by the nurse when 652
selecting, ordering, and administering a drug under the 653
protocol. 654

(3) In establishing a protocol, the medical director, 655
nursing director, and pharmacy director or consulting pharmacist 656
shall not authorize a certified registered nurse anesthetist to 657
select, order, or administer any drug that a supervising 658
physician, podiatrist, or dentist is not authorized to 659

prescribe. 660

(C) A certified registered nurse anesthetist shall not 661
select, order, and administer drugs other than anesthesia 662
pursuant to a protocol established under this section if a 663
physician, podiatrist, or dentist who supervises the nurse has 664
determined that it is not in the best interest of the 665
physician's, podiatrist's, or dentist's patient for the nurse to 666
do so. When a physician, podiatrist, or dentist makes this 667
determination, the physician, podiatrist, or dentist shall 668
indicate in the patient's medical record that the nurse is 669
prohibited from selecting, ordering, and administering drugs for 670
the patient pursuant to the protocol. 671

(D) The board of nursing may adopt rules as necessary to 672
implement this section. The rules shall be adopted in accordance 673
with Chapter 119. of the Revised Code. 674

Sec. 4723.50. (A) As used in this section: 675

(1) "Controlled substance" has the same meaning as in 676
section 3719.01 of the Revised Code. 677

(2) "Medication-assisted treatment" has the same meaning 678
as in section 340.01 of the Revised Code. 679

(B) In accordance with Chapter 119. of the Revised Code, 680
the board of nursing shall adopt rules as necessary to implement 681
the provisions of this chapter pertaining to the authority of 682
advanced practice registered nurses who are designated as 683
clinical nurse specialists, certified nurse-midwives, and 684
certified nurse practitioners to prescribe and furnish drugs and 685
therapeutic devices. 686

The board shall adopt rules that are consistent with a 687
recommended exclusionary formulary the board receives from the 688

committee on prescriptive governance pursuant to section 689
4723.492 of the Revised Code. After reviewing a formulary 690
submitted by the committee, the board may either adopt the 691
formulary as a rule or ask the committee to reconsider and 692
resubmit the formulary. The board shall not adopt any rule that 693
does not conform to a formulary developed by the committee. 694

The exclusionary formulary shall permit, in a manner 695
consistent with section 4723.481 of the Revised Code, the 696
prescribing of controlled substances, including drugs that 697
contain buprenorphine used in medication-assisted treatment and 698
both oral and long-acting opioid antagonists. The formulary 699
shall not permit the prescribing or furnishing of any of the 700
following: 701

(1) A drug or device to perform or induce an abortion; 702

(2) A drug or device prohibited by federal or state law. 703

(C) In addition to the rules described in division (B) of 704
this section, the board shall adopt rules under this section 705
that do the following: 706

(1) Establish standards for board approval of the course 707
of study in advanced pharmacology and related topics required by 708
section 4723.482 of the Revised Code; 709

(2) Establish requirements for board approval of the two- 710
hour course of instruction in the laws of this state as required 711
under division (C) (1) of section 4723.482 of the Revised Code 712
~~and division (B) (2) of section 4723.484 of the Revised Code;~~ 713

(3) Establish criteria for the components of the standard 714
care arrangements described in section 4723.431 of the Revised 715
Code that apply to the authority to prescribe, including the 716
components that apply to the authority to prescribe schedule II 717

controlled substances. The rules shall be consistent with that 718
section and include all of the following: 719

(a) Quality assurance standards; 720

(b) Standards for periodic review by a collaborating 721
physician or podiatrist of the records of patients treated by 722
the clinical nurse specialist, certified nurse-midwife, or 723
certified nurse practitioner; 724

(c) Acceptable travel time between the location at which 725
the clinical nurse specialist, certified nurse-midwife, or 726
certified nurse practitioner is engaging in the prescribing 727
components of the nurse's practice and the location of the 728
nurse's collaborating physician or podiatrist; 729

(d) Any other criteria recommended by the committee on 730
prescriptive governance. 731

(D) This section does not affect the authority of a 732
certified registered nurse anesthetist under section 4723.43 of 733
the Revised Code. 734

Sec. 4729.01. As used in this chapter: 735

(A) "Pharmacy," except when used in a context that refers 736
to the practice of pharmacy, means any area, room, rooms, place 737
of business, department, or portion of any of the foregoing 738
where the practice of pharmacy is conducted. 739

(B) "Practice of pharmacy" means providing pharmacist care 740
requiring specialized knowledge, judgment, and skill derived 741
from the principles of biological, chemical, behavioral, social, 742
pharmaceutical, and clinical sciences. As used in this division, 743
"pharmacist care" includes the following: 744

(1) Interpreting prescriptions; 745

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| (2) Dispensing drugs and drug therapy related devices; | 746 |
| (3) Compounding drugs; | 747 |
| (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; | 748 749 750 751 752 |
| (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; | 753 754 755 |
| (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; | 756 757 758 759 760 |
| (7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy; | 761 762 763 |
| (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; | 764 765 766 767 |
| (9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code; | 768 769 |
| (10) Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code. | 770 771 |
| (C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any | 772 773 |

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| of the following circumstances: | 774 |
| (1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs; | 775 776 |
| (2) Pursuant to the modification of a prescription made in accordance with a consult agreement; | 777 778 |
| (3) As an incident to research, teaching activities, or chemical analysis; | 779 780 |
| (4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns; | 781 782 783 |
| (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: | 784 785 786 787 788 |
| (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. | 789 790 791 792 793 |
| (b) A limited quantity of the drug is compounded and provided to the professional. | 794 795 |
| (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. | 796 797 798 |
| (D) "Consult agreement" means an agreement that has been entered into under section 4729.39 of the Revised Code. | 799 800 |

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| (E) "Drug" means: | 801 |
| (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; | 802 803 804 805 |
| (2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; | 806 807 808 |
| (3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals; | 809 810 |
| (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. | 811 812 813 814 |
| (F) "Dangerous drug" means any of the following: | 815 |
| (1) Any drug to which either of the following applies: | 816 |
| (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; | 817 818 819 820 821 822 823 |
| (b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription. | 824 825 |
| (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; | 826 827 828 |

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body; 829
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(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code. 832
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(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code. 834
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(H) "Prescription" means all of the following: 836

(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; 837
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(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. 841
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(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: 847
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(a) An individual who there is reason to believe is at risk of experiencing an opioid-related overdose; 850
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(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. 852
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(4) For purposes of sections 4723.4810, 4729.282, 4730.432, and 4731.93 of the Revised Code, a written, 855
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electronic, or oral order for a drug to treat chlamydia, 857
gonorrhea, or trichomoniasis issued to and in the name of a 858
patient who is not the intended user of the drug but is the 859
sexual partner of the intended user; 860

(5) For purposes of sections 3313.7110, 3313.7111, 861
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 862
4731.96, and 5101.76 of the Revised Code, a written, electronic, 863
or oral order for an epinephrine autoinjector issued to and in 864
the name of a school, school district, or camp; 865

(6) For purposes of Chapter 3728. and sections 4723.483, 866
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 867
electronic, or oral order for an epinephrine autoinjector issued 868
to and in the name of a qualified entity, as defined in section 869
3728.01 of the Revised Code. 870

(I) "Licensed health professional authorized to prescribe 871
drugs" or "prescriber" means an individual who is authorized by 872
law to prescribe drugs or dangerous drugs or drug therapy 873
related devices in the course of the individual's professional 874
practice, including only the following: 875

(1) A dentist licensed under Chapter 4715. of the Revised 876
Code; 877

(2) A clinical nurse specialist, certified nurse-midwife, 878
or certified nurse practitioner who holds a current, valid 879
license to practice nursing as an advanced practice registered 880
nurse issued under Chapter 4723. of the Revised Code; 881

(3) A certified registered nurse anesthetist who holds a 882
current, valid license to practice nursing as an advanced 883
practice registered nurse issued under Chapter 4723. of the 884
Revised Code, but only to the extent of the nurse's authority 885

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| <u>under section 4723.484 of the Revised Code to select and order</u> | 886 |
| <u>drugs other than anesthesia;</u> | 887 |
| <u>(4)</u> An optometrist licensed under Chapter 4725. of the | 888 |
| Revised Code to practice optometry under a therapeutic | 889 |
| pharmaceutical agents certificate; | 890 |
| (4) <u>(5)</u> A physician authorized under Chapter 4731. of the | 891 |
| Revised Code to practice medicine and surgery, osteopathic | 892 |
| medicine and surgery, or podiatric medicine and surgery; | 893 |
| (5) <u>(6)</u> A physician assistant who holds a license to | 894 |
| practice as a physician assistant issued under Chapter 4730. of | 895 |
| the Revised Code, holds a valid prescriber number issued by the | 896 |
| state medical board, and has been granted physician-delegated | 897 |
| prescriptive authority; | 898 |
| (6) <u>(7)</u> A veterinarian licensed under Chapter 4741. of the | 899 |
| Revised Code. | 900 |
| (J) "Sale" or "sell" includes any transaction made by any | 901 |
| person, whether as principal proprietor, agent, or employee, to | 902 |
| do or offer to do any of the following: deliver, distribute, | 903 |
| broker, exchange, gift or otherwise give away, or transfer, | 904 |
| whether the transfer is by passage of title, physical movement, | 905 |
| or both. | 906 |
| (K) "Wholesale sale" and "sale at wholesale" mean any sale | 907 |
| in which the purpose of the purchaser is to resell the article | 908 |
| purchased or received by the purchaser. | 909 |
| (L) "Retail sale" and "sale at retail" mean any sale other | 910 |
| than a wholesale sale or sale at wholesale. | 911 |
| (M) "Retail seller" means any person that sells any | 912 |
| dangerous drug to consumers without assuming control over and | 913 |

responsibility for its administration. Mere advice or 914
instructions regarding administration do not constitute control 915
or establish responsibility. 916

(N) "Price information" means the price charged for a 917
prescription for a particular drug product and, in an easily 918
understandable manner, all of the following: 919

(1) The proprietary name of the drug product; 920

(2) The established (generic) name of the drug product; 921

(3) The strength of the drug product if the product 922
contains a single active ingredient or if the drug product 923
contains more than one active ingredient and a relevant strength 924
can be associated with the product without indicating each 925
active ingredient. The established name and quantity of each 926
active ingredient are required if such a relevant strength 927
cannot be so associated with a drug product containing more than 928
one ingredient. 929

(4) The dosage form; 930

(5) The price charged for a specific quantity of the drug 931
product. The stated price shall include all charges to the 932
consumer, including, but not limited to, the cost of the drug 933
product, professional fees, handling fees, if any, and a 934
statement identifying professional services routinely furnished 935
by the pharmacy. Any mailing fees and delivery fees may be 936
stated separately without repetition. The information shall not 937
be false or misleading. 938

(O) "Wholesale distributor of dangerous drugs" or 939
"wholesale distributor" means a person engaged in the sale of 940
dangerous drugs at wholesale and includes any agent or employee 941
of such a person authorized by the person to engage in the sale 942

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| of dangerous drugs at wholesale. | 943 |
| (P) "Manufacturer of dangerous drugs" or "manufacturer" | 944 |
| means a person, other than a pharmacist or prescriber, who | 945 |
| manufactures dangerous drugs and who is engaged in the sale of | 946 |
| those dangerous drugs. | 947 |
| (Q) "Terminal distributor of dangerous drugs" or "terminal | 948 |
| distributor" means a person who is engaged in the sale of | 949 |
| dangerous drugs at retail, or any person, other than a | 950 |
| manufacturer, repackager, outsourcing facility, third-party | 951 |
| logistics provider, wholesale distributor, or pharmacist, who | 952 |
| has possession, custody, or control of dangerous drugs for any | 953 |
| purpose other than for that person's own use and consumption. | 954 |
| "Terminal distributor" includes pharmacies, hospitals, nursing | 955 |
| homes, and laboratories and all other persons who procure | 956 |
| dangerous drugs for sale or other distribution by or under the | 957 |
| supervision of a pharmacist or licensed health professional | 958 |
| authorized to prescribe drugs. | 959 |
| (R) "Promote to the public" means disseminating a | 960 |
| representation to the public in any manner or by any means, | 961 |
| other than by labeling, for the purpose of inducing, or that is | 962 |
| likely to induce, directly or indirectly, the purchase of a | 963 |
| dangerous drug at retail. | 964 |
| (S) "Person" includes any individual, partnership, | 965 |
| association, limited liability company, or corporation, the | 966 |
| state, any political subdivision of the state, and any district, | 967 |
| department, or agency of the state or its political | 968 |
| subdivisions. | 969 |
| (T) "Animal shelter" means a facility operated by a humane | 970 |
| society or any society organized under Chapter 1717. of the | 971 |

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| Revised Code or a dog pound operated pursuant to Chapter 955. of the Revised Code. | 972 973 |
| (U) "Food" has the same meaning as in section 3715.01 of the Revised Code. | 974 975 |
| (V) "Pain management clinic" has the same meaning as in section 4731.054 of the Revised Code. | 976 977 |
| (W) "Investigational drug or product" means a drug or product that has successfully completed phase one of the United States food and drug administration clinical trials and remains under clinical trial, but has not been approved for general use by the United States food and drug administration. "Investigational drug or product" does not include controlled substances in schedule I, as established pursuant to section 3719.41 of the Revised Code, and as amended. | 978 979 980 981 982 983 984 985 |
| (X) "Product," when used in reference to an investigational drug or product, means a biological product, other than a drug, that is made from a natural human, animal, or microorganism source and is intended to treat a disease or medical condition. | 986 987 988 989 990 |
| (Y) "Third-party logistics provider" means a person that provides or coordinates warehousing or other logistics services pertaining to dangerous drugs including distribution, on behalf of a manufacturer, wholesale distributor, or terminal distributor of dangerous drugs, but does not take ownership of the drugs or have responsibility to direct the sale or disposition of the drugs. | 991 992 993 994 995 996 997 |
| (Z) "Repackager of dangerous drugs" or "repackager" means a person that repacks and relabels dangerous drugs for sale or distribution. | 998 999 1000 |

(AA) "Outsourcing facility" means a facility that is 1001
engaged in the compounding and sale of sterile drugs and is 1002
registered as an outsourcing facility with the United States 1003
food and drug administration. 1004

Section 2. That existing sections 4723.07, 4723.28, 1005
4723.43, 4723.44, 4723.50, and 4729.01 of the Revised Code are 1006
hereby repealed. 1007

Section 3. That the version of section 4729.01 of the 1008
Revised Code that is scheduled to take effect March 22, 2020, be 1009
amended to read as follows: 1010

Sec. 4729.01. As used in this chapter: 1011

(A) "Pharmacy," except when used in a context that refers 1012
to the practice of pharmacy, means any area, room, rooms, place 1013
of business, department, or portion of any of the foregoing 1014
where the practice of pharmacy is conducted. 1015

(B) "Practice of pharmacy" means providing pharmacist care 1016
requiring specialized knowledge, judgment, and skill derived 1017
from the principles of biological, chemical, behavioral, social, 1018
pharmaceutical, and clinical sciences. As used in this division, 1019
"pharmacist care" includes the following: 1020

(1) Interpreting prescriptions; 1021

(2) Dispensing drugs and drug therapy related devices; 1022

(3) Compounding drugs; 1023

(4) Counseling individuals with regard to their drug 1024
therapy, recommending drug therapy related devices, and 1025
assisting in the selection of drugs and appliances for treatment 1026
of common diseases and injuries and providing instruction in the 1027
proper use of the drugs and appliances; 1028

(5) Performing drug regimen reviews with individuals by 1029
discussing all of the drugs that the individual is taking and 1030
explaining the interactions of the drugs; 1031

(6) Performing drug utilization reviews with licensed 1032
health professionals authorized to prescribe drugs when the 1033
pharmacist determines that an individual with a prescription has 1034
a drug regimen that warrants additional discussion with the 1035
prescriber; 1036

(7) Advising an individual and the health care 1037
professionals treating an individual with regard to the 1038
individual's drug therapy; 1039

(8) Acting pursuant to a consult agreement with one or 1040
more physicians authorized under Chapter 4731. of the Revised 1041
Code to practice medicine and surgery or osteopathic medicine 1042
and surgery, if an agreement has been established; 1043

(9) Engaging in the administration of immunizations to the 1044
extent authorized by section 4729.41 of the Revised Code; 1045

(10) Engaging in the administration of drugs to the extent 1046
authorized by section 4729.45 of the Revised Code. 1047

(C) "Compounding" means the preparation, mixing, 1048
assembling, packaging, and labeling of one or more drugs in any 1049
of the following circumstances: 1050

(1) Pursuant to a prescription issued by a licensed health 1051
professional authorized to prescribe drugs; 1052

(2) Pursuant to the modification of a prescription made in 1053
accordance with a consult agreement; 1054

(3) As an incident to research, teaching activities, or 1055
chemical analysis; 1056

(4) In anticipation of orders for drugs pursuant to 1057
prescriptions, based on routine, regularly observed dispensing 1058
patterns; 1059

(5) Pursuant to a request made by a licensed health 1060
professional authorized to prescribe drugs for a drug that is to 1061
be used by the professional for the purpose of direct 1062
administration to patients in the course of the professional's 1063
practice, if all of the following apply: 1064

(a) At the time the request is made, the drug is not 1065
commercially available regardless of the reason that the drug is 1066
not available, including the absence of a manufacturer for the 1067
drug or the lack of a readily available supply of the drug from 1068
a manufacturer. 1069

(b) A limited quantity of the drug is compounded and 1070
provided to the professional. 1071

(c) The drug is compounded and provided to the 1072
professional as an occasional exception to the normal practice 1073
of dispensing drugs pursuant to patient-specific prescriptions. 1074

(D) "Consult agreement" means an agreement that has been 1075
entered into under section 4729.39 of the Revised Code. 1076

(E) "Drug" means: 1077

(1) Any article recognized in the United States 1078
pharmacopoeia and national formulary, or any supplement to them, 1079
intended for use in the diagnosis, cure, mitigation, treatment, 1080
or prevention of disease in humans or animals; 1081

(2) Any other article intended for use in the diagnosis, 1082
cure, mitigation, treatment, or prevention of disease in humans 1083
or animals; 1084

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals; 1085
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(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. 1087
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(F) "Dangerous drug" means any of the following: 1091

(1) Any drug to which either of the following applies: 1092

(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; 1093
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(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription. 1100
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(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; 1102
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(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body; 1105
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(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code. 1108
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(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code. 1110
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- (H) "Prescription" means all of the following: 1112
- (1) A written, electronic, or oral order for drugs or 1113
combinations or mixtures of drugs to be used by a particular 1114
individual or for treating a particular animal, issued by a 1115
licensed health professional authorized to prescribe drugs; 1116
- (2) For purposes of sections 2925.61, 4723.488, 4730.431, 1117
and 4731.94 of the Revised Code, a written, electronic, or oral 1118
order for naloxone issued to and in the name of a family member, 1119
friend, or other individual in a position to assist an 1120
individual who there is reason to believe is at risk of 1121
experiencing an opioid-related overdose. 1122
- (3) For purposes of section 4729.44 of the Revised Code, a 1123
written, electronic, or oral order for naloxone issued to and in 1124
the name of either of the following: 1125
- (a) An individual who there is reason to believe is at 1126
risk of experiencing an opioid-related overdose; 1127
- (b) A family member, friend, or other individual in a 1128
position to assist an individual who there is reason to believe 1129
is at risk of experiencing an opioid-related overdose. 1130
- (4) For purposes of sections 4723.4810, 4729.282, 1131
4730.432, and 4731.93 of the Revised Code, a written, 1132
electronic, or oral order for a drug to treat chlamydia, 1133
gonorrhea, or trichomoniasis issued to and in the name of a 1134
patient who is not the intended user of the drug but is the 1135
sexual partner of the intended user; 1136
- (5) For purposes of sections 3313.7110, 3313.7111, 1137
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 1138
4731.96, and 5101.76 of the Revised Code, a written, electronic, 1139
or oral order for an epinephrine autoinjector issued to and in 1140

the name of a school, school district, or camp; 1141

(6) For purposes of Chapter 3728. and sections 4723.483, 1142
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 1143
electronic, or oral order for an epinephrine autoinjector issued 1144
to and in the name of a qualified entity, as defined in section 1145
3728.01 of the Revised Code. 1146

(I) "Licensed health professional authorized to prescribe 1147
drugs" or "prescriber" means an individual who is authorized by 1148
law to prescribe drugs or dangerous drugs or drug therapy 1149
related devices in the course of the individual's professional 1150
practice, including only the following: 1151

(1) A dentist licensed under Chapter 4715. of the Revised 1152
Code; 1153

(2) A clinical nurse specialist, certified nurse-midwife, 1154
or certified nurse practitioner who holds a current, valid 1155
license to practice nursing as an advanced practice registered 1156
nurse issued under Chapter 4723. of the Revised Code; 1157

(3) A certified registered nurse anesthetist who holds a 1158
current, valid license to practice nursing as an advanced 1159
practice registered nurse issued under Chapter 4723. of the 1160
Revised Code, but only to the extent of the nurse's authority 1161
under section 4723.484 of the Revised Code to select and order 1162
drugs other than anesthesia; 1163

(4) An optometrist licensed under Chapter 4725. of the 1164
Revised Code to practice optometry under a therapeutic 1165
pharmaceutical agents certificate; 1166

~~(4)~~ (5) A physician authorized under Chapter 4731. of the 1167
Revised Code to practice medicine and surgery, osteopathic 1168
medicine and surgery, or podiatric medicine and surgery; 1169

~~(5)~~ (6) A physician assistant who holds a license to 1170
practice as a physician assistant issued under Chapter 4730. of 1171
the Revised Code, holds a valid prescriber number issued by the 1172
state medical board, and has been granted physician-delegated 1173
prescriptive authority; 1174

~~(6)~~ (7) A veterinarian licensed under Chapter 4741. of the 1175
Revised Code. 1176

(J) "Sale" or "sell" includes any transaction made by any 1177
person, whether as principal proprietor, agent, or employee, to 1178
do or offer to do any of the following: deliver, distribute, 1179
broker, exchange, gift or otherwise give away, or transfer, 1180
whether the transfer is by passage of title, physical movement, 1181
or both. 1182

(K) "Wholesale sale" and "sale at wholesale" mean any sale 1183
in which the purpose of the purchaser is to resell the article 1184
purchased or received by the purchaser. 1185

(L) "Retail sale" and "sale at retail" mean any sale other 1186
than a wholesale sale or sale at wholesale. 1187

(M) "Retail seller" means any person that sells any 1188
dangerous drug to consumers without assuming control over and 1189
responsibility for its administration. Mere advice or 1190
instructions regarding administration do not constitute control 1191
or establish responsibility. 1192

(N) "Price information" means the price charged for a 1193
prescription for a particular drug product and, in an easily 1194
understandable manner, all of the following: 1195

(1) The proprietary name of the drug product; 1196

(2) The established (generic) name of the drug product; 1197

(3) The strength of the drug product if the product 1198
contains a single active ingredient or if the drug product 1199
contains more than one active ingredient and a relevant strength 1200
can be associated with the product without indicating each 1201
active ingredient. The established name and quantity of each 1202
active ingredient are required if such a relevant strength 1203
cannot be so associated with a drug product containing more than 1204
one ingredient. 1205

(4) The dosage form; 1206

(5) The price charged for a specific quantity of the drug 1207
product. The stated price shall include all charges to the 1208
consumer, including, but not limited to, the cost of the drug 1209
product, professional fees, handling fees, if any, and a 1210
statement identifying professional services routinely furnished 1211
by the pharmacy. Any mailing fees and delivery fees may be 1212
stated separately without repetition. The information shall not 1213
be false or misleading. 1214

(O) "Wholesale distributor of dangerous drugs" or 1215
"wholesale distributor" means a person engaged in the sale of 1216
dangerous drugs at wholesale and includes any agent or employee 1217
of such a person authorized by the person to engage in the sale 1218
of dangerous drugs at wholesale. 1219

(P) "Manufacturer of dangerous drugs" or "manufacturer" 1220
means a person, other than a pharmacist or prescriber, who 1221
manufactures dangerous drugs and who is engaged in the sale of 1222
those dangerous drugs. 1223

(Q) "Terminal distributor of dangerous drugs" or "terminal 1224
distributor" means a person who is engaged in the sale of 1225
dangerous drugs at retail, or any person, other than a 1226

manufacturer, repackager, outsourcing facility, third-party 1227
logistics provider, wholesale distributor, or pharmacist, who 1228
has possession, custody, or control of dangerous drugs for any 1229
purpose other than for that person's own use and consumption. 1230
"Terminal distributor" includes pharmacies, hospitals, nursing 1231
homes, and laboratories and all other persons who procure 1232
dangerous drugs for sale or other distribution by or under the 1233
supervision of a pharmacist, licensed health professional 1234
authorized to prescribe drugs, or other person authorized by the 1235
state board of pharmacy. 1236

(R) "Promote to the public" means disseminating a 1237
representation to the public in any manner or by any means, 1238
other than by labeling, for the purpose of inducing, or that is 1239
likely to induce, directly or indirectly, the purchase of a 1240
dangerous drug at retail. 1241

(S) "Person" includes any individual, partnership, 1242
association, limited liability company, or corporation, the 1243
state, any political subdivision of the state, and any district, 1244
department, or agency of the state or its political 1245
subdivisions. 1246

(T) "Animal shelter" means a facility operated by a humane 1247
society or any society organized under Chapter 1717. of the 1248
Revised Code or a dog pound operated pursuant to Chapter 955. of 1249
the Revised Code. 1250

(U) "Food" has the same meaning as in section 3715.01 of 1251
the Revised Code. 1252

(V) "Pain management clinic" has the same meaning as in 1253
section 4731.054 of the Revised Code. 1254

(W) "Investigational drug or product" means a drug or 1255

product that has successfully completed phase one of the United States food and drug administration clinical trials and remains under clinical trial, but has not been approved for general use by the United States food and drug administration.

"Investigational drug or product" does not include controlled substances in schedule I, as defined in section 3719.01 of the Revised Code.

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

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

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

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

(BB) "Laboratory" means a laboratory licensed under this chapter as a terminal distributor of dangerous drugs and entrusted to have custody of any of the following drugs and to

use the drugs for scientific and clinical purposes and for 1285
purposes of instruction: dangerous drugs that are not controlled 1286
substances, as defined in section 3719.01 of the Revised Code; 1287
dangerous drugs that are controlled substances, as defined in 1288
that section; and controlled substances in schedule I, as 1289
defined in that section. 1290

Section 4. That the existing version of section 4729.01 of 1291
the Revised Code that is scheduled to take effect March 22, 1292
2020, is hereby repealed. 1293

Section 5. Section 4729.01 of the Revised Code that is 1294
scheduled to take effect March 22, 2020, is presented in this 1295
act as a composite of the section as amended by both Sub. S.B. 1296
119 and Sub. S.B. 229 of the 132nd General Assembly. The General 1297
Assembly, applying the principle stated in division (B) of 1298
section 1.52 of the Revised Code that amendments are to be 1299
harmonized if reasonably capable of simultaneous operation, 1300
finds that the composite is the resulting version of the section 1301
in effect prior to the effective date of the section as 1302
presented in this act. 1303