

As Reported by the Senate Health Committee

**122nd General Assembly
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Sub. S. B. No. 66

Senators Drake, Gaeth, Howard

A B I L L

To amend sections 2305.234, 2305.25, 2305.33, 1
2317.02, 2913.02, 2913.51, 2925.01, 2925.02, 2
2925.03, 2925.09, 2925.11, 2925.12, 2925.14, 3
2925.23, 2925.50, 2927.24, 3313.713, 3701.33, 4
3709.161, 3715.01, 3715.03, 3715.52 to 3715.57, 5
3715.59, 3715.63 to 3715.66, 3715.69, 3715.70, 6
3715.71, 3715.73, 3719.01, 3719.011, 3719.05 to 7
3719.09, 3719.12, 3719.121, 3719.15, 3719.172, 8
3719.19, 3719.30, 3719.34 to 3719.36, 3719.42, 9
3719.44, 3719.61, 3719.81, 3719.99, 3729.01, 10
4121.443, 4301.01, 4301.69, 4303.01, 4303.21, 11
4303.27, 4303.34, 4723.28, 4725.01, 4729.01, 12
4729.02, 4729.03, 4729.06 to 4729.09, 4729.11 to 13
4729.16, 4729.25, 4729.26, 4729.27 to 4729.30, 14
4729.36, 4729.37, 4729.38, 4729.381, 4729.51, 15
4729.52, 4729.54, 4729.55, 4729.57, 4729.59, 16
4729.60, 4729.63, 4729.66, 4729.67, 4731.052, 17
4741.22, 5123.193, 5126.35, and 5739.02; to amend, 18
for the purpose of adopting new section numbers as 19
indicated in parentheses, sections 4729.01 20
(4729.02) and 4729.02 (4729.01); to enact section 21
4729.39; and to repeal sections 4729.021, 22
4729.261, and 4729.262 of the Revised Code to 23
revise the laws pertaining to drugs and the 24
practice of pharmacy. 25

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

Section 1. That sections 2305.234, 2305.25, 2305.33, 2317.02, 26
2913.02, 2913.51, 2925.01, 2925.02, 2925.03, 2925.09, 2925.11, 27
2925.12, 2925.14, 2925.23, 2925.50, 2927.24, 3313.713, 3701.33, 28
3709.161, 3715.01, 3715.03, 3715.52, 3715.53, 3715.54, 3715.55, 29
3715.56, 3715.57, 3715.59, 3715.63, 3715.64, 3715.65, 3715.66, 30
3715.69, 3715.70, 3715.71, 3715.73, 3719.01, 3719.011, 3719.05, 31
3719.06, 3719.07, 3719.08, 3719.09, 3719.12, 3719.121, 3719.15, 32
3719.172, 3719.19, 3719.30, 3719.34, 3719.35, 3719.36, 3719.42, 33
3719.44, 3719.61, 3719.81, 3719.99, 3729.01, 4121.443, 4301.01, 34
4301.69, 4303.01, 4303.21, 4303.27, 4303.34, 4723.28, 4725.01, 35
4729.01, 4729.02, 4729.03, 4729.06, 4729.07, 4729.08, 4729.09, 36
4729.11, 4729.12, 4729.13, 4729.14, 4729.15, 4729.16, 4729.25, 37
4729.26, 4729.27, 4729.28, 4729.29, 4729.30, 4729.36, 4729.37, 38
4729.38, 4729.381, 4729.51, 4729.52, 4729.54, 4729.55, 4729.57, 39
4729.59, 4729.60, 4729.63, 4729.66, 4729.67, 4731.052, 4741.22, 40
5123.193, 5126.35, and 5739.02 be amended; sections 4729.01 41
(4729.02) and 4729.02 (4729.01) be amended for the purpose of 42
adopting new section numbers as indicated in parentheses; and 43
section 4729.39 of the Revised Code be enacted to read as follows: 44

Sec. 2305.234. (A) As used in this section: 45

(1) "Chiropractic claim," "medical claim," and "optometric 46
claim" have the same meanings as in section 2305.11 of the Revised 47
Code. 48

(2) "Dental claim" has the same meaning as in section 2305.11 49
of the Revised Code except that it does not include any claim 50
arising out of a dental operation or any derivative claim for 51
relief that arises out of a dental operation. 52

(3) "Governmental health care program" has the same meaning 53

as in section 4731.65 of the Revised Code.	54
(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:	55
(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	56
(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	57
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	58
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	59
(e) Physical therapists licensed under Chapter 4755. of the Revised Code;	60
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	61
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	62
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	63
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	64
(j) Pharmacists registered <u>licensed</u> under Chapter 4729. of the Revised Code.	65
(5) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's	66
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activities, including medical technicians, medical assistants, 83
dental assistants, orderlies, aides, and individuals acting in 84
similar capacities. 85

(6) "Indigent and uninsured person" means a person who meets 86
all of the following requirements: 87

(a) The person's income is not greater than one hundred fifty 88
per cent of the current poverty line as defined by the United 89
States office of management and budget and revised in accordance 90
with section 673(2) of the "Omnibus Budget Reconciliation Act of 91
1981," 95 Stat. 511, 42 U.S.C. 9902, as amended. 92
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(b) The person is not eligible to receive medical assistance 94
under Chapter 5111., disability assistance medical assistance 95
under Chapter 5115. of the Revised Code, or assistance under any 96
other governmental health care program; 97

(c) Either of the following applies: 98

(i) The person is not a policyholder, certificate holder, 99
insured, contract holder, subscriber, enrollee, member, 100
beneficiary, or other covered individual under a health insurance 101
or health care policy, contract, or plan; 102

(ii) The person is a policyholder, certificate holder, 103
insured, contract holder, subscriber, enrollee, member, 104
beneficiary, or other covered individual under a health insurance 105
or health care policy, contract, or plan, but the insurer, policy, 106
contract, or plan denies coverage or is the subject of insolvency 107
or bankruptcy proceedings in any jurisdiction. 108

(7) "Operation" means any procedure that involves cutting or 109
otherwise infiltrating human tissue by mechanical means, including 110
surgery, laser surgery, ionizing radiation, therapeutic 111
ultrasound, or the removal of intraocular foreign bodies. 112

"Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. 113
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(8) "Nonprofit shelter or health care facility" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides shelter, health care services, or shelter and health care services to indigent and uninsured persons, except that "shelter or health care facility" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a medical facility that is operated for profit. 117
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(9) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities. 127
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(10) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any shelter or health care facility, or any other person or government entity. 131
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(B)(1) Subject to divisions (E) and (F)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or 138
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loss to person or property that allegedly arises from an action or 144
omission of the volunteer in the provision at a nonprofit shelter 145
or health care facility to an indigent and uninsured person of 146
medical, dental, or other health-related diagnosis, care, or 147
treatment, including the provision of samples of medicine and 148
other medical products, unless the action or omission constitutes 149
willful or wanton misconduct. 150

(2) To qualify for the immunity described in division (B)(1) 151
of this section, a health care professional shall do all of the 152
following prior to providing diagnosis, care, or treatment: 153

(a) Determine, in good faith, that the indigent and uninsured 154
person is mentally capable of giving informed consent to the 155
provision of the diagnosis, care, or treatment and is not subject 156
to duress or under undue influence; 157

(b) Inform the person of the provisions of this section; 158

(c) Obtain the informed consent of the person and a written 159
waiver, signed by the person or by another individual on behalf of 160
and in the presence of the person, that states that the person is 161
mentally competent to give informed consent and, without being 162
subject to duress or under undue influence, gives informed consent 163
to the provision of the diagnosis, care, or treatment subject to 164
the provisions of this section. 165

(3) A physician or podiatrist who is not covered by medical 166
malpractice insurance, but complies with division (B)(2) of this 167
section, is not required to comply with division (A) of section 168
4731.143 of the Revised Code. 169

(C) Subject to divisions (E) and (F)(3) of this section, 170
health care workers who are volunteers are not liable in damages 171
to any person or government entity in a tort or other civil 172
action, including an action upon a medical, dental, chiropractic, 173
optometric, or other health-related claim, for injury, death, or 174

loss to person or property that allegedly arises from an action or
omission of the health care worker in the provision at a nonprofit
shelter or health care facility to an indigent and uninsured
person of medical, dental, or other health-related diagnosis,
care, or treatment, unless the action or omission constitutes
willful or wanton misconduct.

(D) Subject to divisions (E) and (F)(3) of this section and
section 3701.071 of the Revised Code, a nonprofit shelter or
health care facility associated with a health care professional
described in division (B)(1) of this section or a health care
worker described in division (C) of this section is not liable in
damages to any person or government entity in a tort or other
civil action, including an action on a medical, dental,
chiropractic, optometric, or other health-related claim, for
injury, death, or loss to person or property that allegedly arises
from an action or omission of the health care professional or
worker in providing for the shelter or facility medical, dental,
or other health-related diagnosis, care, or treatment to an
indigent and uninsured person, unless the action or omission
constitutes willful or wanton misconduct.

(E)(1) Except as provided in division (E)(2) of this section,
the immunities provided by divisions (B), (C), and (D) of this
section are not available to an individual or to a nonprofit
shelter or health care facility if, at the time of an alleged
injury, death, or loss to person or property, the individuals
involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis,
care, or treatment pursuant to a community service work order
entered by a court under division (H)(1) or (2) of section 2951.02
of the Revised Code as a condition of probation or other
suspension of a term of imprisonment.

(b) Performance of an operation.	206
(c) Delivery of a baby.	207
(2) Division (E)(1) of this section does not apply to an individual who provides, or a nonprofit shelter or health care facility at which the individual provides, diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.	208 209 210 211 212
(F)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, or nonprofit shelter or health care facility.	213 214 215
(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which an individual or a nonprofit shelter or health care facility may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.	216 217 218 219 220 221
(3) This section does not grant an immunity from tort or other civil liability to an individual or a nonprofit shelter or health care facility for actions that are outside the scope of authority of health care professionals or health care workers.	222 223 224 225
(4) This section does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this state or rule of an agency of this state.	226 227 228 229
(5) This section does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.	230 231 232 233 234 235

Sec. 2305.25. (A) No health care entity and no individual who 236
is a member of or works on behalf of any of the following boards 237
or committees of a health care entity or of any of the following 238
corporations shall be liable in damages to any person for any 239
acts, omissions, decisions, or other conduct within the scope of 240
the functions of the board, committee, or corporation: 241

(1) A peer review committee of a hospital, a nonprofit health 242
care corporation which is a member of the hospital or of which the 243
hospital is a member, or a community mental health center; 244

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(2) A board or committee of a hospital or of a nonprofit 246
health care corporation which is a member of the hospital or of 247
which the hospital is a member reviewing professional 248
qualifications or activities of the hospital medical staff or 249
applicants for admission to the medical staff; 250

(3) A utilization committee of a state or local society 251
composed of doctors of medicine ~~or~~ doctors of osteopathic 252
medicine ~~and surgery~~, or doctors of podiatric medicine; 253

(4) A peer review committee of nursing home providers or 254
administrators, including a corporation engaged in performing the 255
functions of a peer review committee of nursing home providers or 256
administrators, or a corporation engaged in the functions of 257
another type of peer review or professional standards review 258
committee; 259

(5) A peer review committee, professional standards review 260
committee, or arbitration committee of a state or local society 261
composed of doctors of medicine, doctors of osteopathic medicine 262
~~and surgery~~, doctors of dentistry, doctors of optometry, doctors 263
of podiatric medicine, psychologists, or ~~registered~~ pharmacists; 264

(6) A peer review committee of a health insuring corporation 265

that has at least a two-thirds majority of member physicians in 266
active practice and that conducts professional credentialing and 267
quality review activities involving the competence or professional 268
conduct of health care providers, which conduct adversely affects, 269
or could adversely affect, the health or welfare of any patient. 270
For purposes of this division, "health insuring corporation" 271
includes wholly owned subsidiaries of a health insuring 272
corporation. 273

(7) A peer review committee of any insurer authorized under 274
Title XXXIX of the Revised Code to do the business of sickness and 275
accident insurance in this state that has at least a two-thirds 276
majority of physicians in active practice and that conducts 277
professional credentialing and quality review activities involving 278
the competence or professional conduct of health care providers, 279
which conduct adversely affects, or could adversely affect, the 280
health or welfare of any patient; 281

(8) A peer review committee of any insurer authorized under 282
Title XXXIX of the Revised Code to do the business of sickness and 283
accident insurance in this state that has at least a two-thirds 284
majority of physicians in active practice and that conducts 285
professional credentialing and quality review activities involving 286
the competence or professional conduct of a health care facility 287
that has contracted with the insurer to provide health care 288
services to insureds, which conduct adversely affects, or could 289
adversely affect, the health or welfare of any patient; 290

(9) A quality assurance committee of a state correctional 291
institution operated by the department of rehabilitation and 292
correction; 293

(10) A quality assurance committee of the central office of 294
the department of rehabilitation and correction or department of 295
mental health; 296

(11) A peer review committee of an insurer authorized under 297
Title XXXIX of the Revised Code to do the business of medical 298
professional liability insurance in this state and that conducts 299
professional quality review activities involving the competence or 300
professional conduct of health care providers, which conduct 301
adversely affects, or could affect, the health or welfare of any 302
patient; 303

(12) A peer review committee of a health care entity. 304

(B)(1) A hospital shall be presumed to not be negligent in 305
the credentialing of a qualified person if the hospital proves by 306
a preponderance of the evidence that at the time of the alleged 307
negligent credentialing of the qualified person it was accredited 308
by the joint commission on accreditation of health care 309
organizations, the American osteopathic association, or the 310
national committee for quality assurance. 311

(2) The presumption that a hospital is not negligent as 312
provided in division (B)(1) of this section may be rebutted only 313
by proof, by a preponderance of the evidence, of any of the 314
following: 315

(a) The credentialing and review requirements of the 316
accrediting organization did not apply to the hospital, the 317
qualified person, or the type of professional care that is the 318
basis of the claim against the hospital. 319

(b) The hospital failed to comply with all material 320
credentialing and review requirements of the accrediting 321
organization that applied to the qualified person. 322

(c) The hospital, through its medical staff executive 323
committee or its governing body and sufficiently in advance to 324
take appropriate action, knew that a previously competent 325
qualified person with staff privileges at the hospital had 326
developed a pattern of incompetence that indicated that the 327

qualified person's privileges should have been limited prior to 328
treating the plaintiff at the hospital. 329

(d) The hospital, through its medical staff executive 330
committee or its governing body and sufficiently in advance to 331
take appropriate action, knew that a previously competent 332
qualified person with staff privileges at the hospital would 333
provide fraudulent medical treatment but failed to limit the 334
qualified person's privileges prior to treating the plaintiff at 335
the hospital. 336

(3) If the plaintiff fails to rebut the presumption provided 337
in division (B)(1) of this section, upon the motion of the 338
hospital, the court shall enter judgment in favor of the hospital 339
on the claim of negligent credentialing. 340

(C) Nothing in this section otherwise shall relieve any 341
individual or health care entity from liability arising from 342
treatment of a patient. Nothing in this section shall be construed 343
as creating an exception to section 2305.251 of the Revised Code. 344
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(D) No person who provides information under this section 346
without malice and in the reasonable belief that the information 347
is warranted by the facts known to the person shall be subject to 348
suit for civil damages as a result of providing the information. 349

(E) For purposes of this section: 350

(1) "Peer review committee" means a utilization review 351
committee, quality assurance committee, quality improvement 352
committee, tissue committee, credentialing committee, or other 353
committee that conducts professional credentialing and quality 354
review activities involving the competence or professional conduct 355
of health care practitioners. 356

(2) "Health care entity" means a government entity, a 357

for-profit or nonprofit corporation, a limited liability company, 358
a partnership, a professional corporation, a state or local 359
society as described in division (A)(3) of this section, or other 360
health care organization, including, but not limited to, health 361
care entities described in division (A) of this section, whether 362
acting on its own behalf or on behalf of or in affiliation with 363
other health care entities, that conducts, as part of its purpose, 364
professional credentialing or quality review activities involving 365
the competence or professional conduct of health care 366
practitioners or providers. 367

(3) "Hospital" means either of the following: 368

(a) An institution that has been registered or licensed by 369
the Ohio department of health as a hospital; 370

(b) An entity, other than an insurance company authorized to 371
do business in this state, that owns, controls, or is affiliated 372
with an institution that has been registered or licensed by the 373
Ohio department of health as a hospital. 374

(4) "Qualified person" means a member of the medical staff of 375
a hospital or a person who has professional privileges at a 376
hospital pursuant to section 3701.351 of the Revised Code. 377

(F) This section shall be considered to be purely remedial in 378
its operation and shall be applied in a remedial manner in any 379
civil action in which this section is relevant, whether the civil 380
action is pending in court or commenced on or after the effective 381
date of this section, regardless of when the cause of action 382
accrued and notwithstanding any other section of the Revised Code 383
or prior rule of law of this state. 384

Sec. 2305.33. (A) As used in this section: 385

(1) "Bus" has the same meaning as in section 4511.78 of the 386
Revised Code. 387

(2) "Business of public transportation" means a business that 388
includes among its functions the transporting of passengers in 389
interstate or intrastate commerce by aircraft, railroad train, 390
school or other bus, taxicab, or other type of common carrier, 391
whether or not a charge is imposed for the transportation. 392
"Business of public transportation" includes, but is not limited 393
to, an Ohio transit system. 394

(3) "Civil action" means a tort or contract action for 395
damages for harm. 396

(4) "Employee" means an individual who is employed by an 397
employer to operate any aircraft, railroad train, school or other 398
bus, taxicab, or other type of common carrier. 399

(5) "Employer" means a person that is engaged in the business 400
of public transportation. 401

(6) "Harm" means injury, death, or loss to person or 402
property. 403

(7) "Ohio transit system" means a county transit system 404
operated in accordance with sections 306.01 to 306.13 of the 405
Revised Code, a regional transit authority operated in accordance 406
with sections 306.30 to 306.71 of the Revised Code, a regional 407
transit commission operated in accordance with sections 306.80 to 408
306.90 of the Revised Code, any municipally owned transportation 409
system, and any mass transit company that operates exclusively 410
within the territorial limits of a municipal corporation, or 411
within the territorial limits of a municipal corporation and one 412
or more municipal corporations immediately contiguous to that 413
municipal corporation. 414

(8) "Physician" means a person who is licensed pursuant to 415
Chapter 4731. of the Revised Code to practice medicine or surgery 416
or osteopathic medicine and surgery. 417

(9) "Prescription" has the same meaning as in section ~~4729.02~~ 418
4729.01 of the Revised Code. 419

(10) "School bus" has the same meaning as in section 4511.01 420
of the Revised Code. 421

(11) "Tort action" means a civil action for damages for 422
injury, death, or loss to person or property, other than a civil 423
action for damages for a breach of contract or another agreement 424
between persons. "Tort action" includes, but is not limited to, a 425
civil action for damages against a physician on the ground of a 426
breach of the confidentiality of the physician-patient 427
relationship. 428

(B) A physician is not liable in damages in a civil action 429
for harm that allegedly is incurred by an employee as a result of 430
the physician reporting any of the following to the employer of 431
the employee: 432

(1) The physician has determined that the employee is using a 433
drug of abuse dispensed pursuant to a prescription and that the 434
employee's use of the drug of abuse represents a potential risk of 435
harm to passengers on any aircraft, railroad train, school or 436
other bus, taxicab, or other type of common carrier operated by 437
the employee; 438

(2) The physician has determined that the employee is using a 439
drug of abuse otherwise than pursuant to a prescription. 440

(3) The physician has determined that the employee has a 441
condition, other than one involving the use of a drug of abuse, 442
that represents a potential risk of harm to passengers on any 443
aircraft, railroad train, school or other bus, taxicab, or other 444
type of common carrier operated by the employee. 445

(C)(1) This section does not create, and shall not be 446
construed as creating, a new cause of action or substantive legal 447

right against a physician and in favor of an employee who was a 448
patient of the physician, who was the subject of a report 449
described in division (B) of this section, and who allegedly 450
sustained harm as a result of the report, or in favor of any other 451
person who allegedly sustained harm as a result of the report. 452

(2) This section does not impose, and shall not be construed 453
as imposing, a duty upon a physician to make a report as described 454
in division (B) of this section to an employer of an employee who 455
the physician determines is using a drug of abuse dispensed 456
pursuant to a prescription or is using a drug of abuse other than 457
pursuant to a prescription, or who the physician determines has a 458
condition, other than one involving the use of a drug of abuse, 459
that represents a potential risk of harm to passengers on the type 460
of common carrier operated by the employee. 461

(3) This section does not affect and shall not be construed 462
as affecting, any immunities from civil liability or defenses 463
established by another section of the Revised Code or available at 464
common law, to which a physician may be entitled. 465

(D) In the event that a physician makes a report described in 466
division (B) of this section, the physician also shall make a 467
report to the employee who was the subject of the report. If the 468
report to the employer is in writing, the report to the employee 469
shall be in writing. 470

Sec. 2317.02. The following persons shall not testify in 471
certain respects: 472

(A) An attorney, concerning a communication made to the 473
attorney by ~~the attorney's~~ a client in that relation or the 474
attorney's advice to ~~the~~ a client, except that the attorney may 475
testify by express consent of the client or, if the client is 476
deceased, by the express consent of the surviving spouse or the 477

executor or administrator of the estate of the deceased client and 478
except that, if the client voluntarily testifies or is deemed by 479
section 2151.421 of the Revised Code to have waived any 480
testimonial privilege under this division, the attorney may be 481
compelled to testify on the same subject. 482

(B)(1) A physician or a dentist concerning a communication 483
made to the physician or dentist by ~~the physician's or dentist's~~ a 484
patient in that relation or the physician's or dentist's advice to 485
~~the~~ a patient, except as otherwise provided in this division, 486
division (B)(2), and division (B)(3) of this section, and except 487
that, if the patient is deemed by section 2151.421 of the Revised 488
Code to have waived any testimonial privilege under this division, 489
the physician may be compelled to testify on the same subject. 490

The testimonial privilege under this division does not apply, 491
and a physician or dentist may testify or may be compelled to 492
testify in any of the following circumstances: 493

(a) In any civil action, in accordance with the discovery 494
provisions of the Rules of Civil Procedure in connection with a 495
civil action, or in connection with a claim under Chapter 4123. of 496
the Revised Code, under any of the following circumstances: 497

(i) If the patient or the guardian or other legal 498
representative of the patient gives express consent; 499

(ii) If the patient is deceased, the spouse of the patient or 500
the executor or administrator of the patient's estate gives 501
express consent; 502

(iii) If a medical claim, dental claim, chiropractic claim, 503
or optometric claim, as defined in section 2305.11 of the Revised 504
Code, an action for wrongful death, any other type of civil 505
action, or a claim under Chapter 4123. of the Revised Code is 506
filed by the patient, the personal representative of the estate of 507
the patient if deceased, or the patient's guardian or other legal 508

representative.

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(b) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, or alcohol and a drug of abuse in the patient's blood, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

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(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, or alcohol and a drug of abuse in the person's blood, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records.

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(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence.

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Division (A) of section 2317.422 of the Revised Code does not
apply to any certified copy of records submitted in accordance
with this division. Nothing in this division shall be construed to
limit the right of any party to call as a witness the person who
administered the test to which the records pertain, the person
under whose supervision the test was administered, the custodian
of the records, the person who made the records, or the person
under whose supervision the records were made.

(3)(a) If the testimonial privilege described in division
(B)(1) of this section does not apply as provided in division
(B)(1)(a)(iii) of this section, a physician or dentist may be
compelled to testify or to submit to discovery under the Rules of
Civil Procedure only as to a communication made to the physician
or dentist by the patient in question in that relation, or the
physician's or dentist's advice to the patient in question, that
related causally or historically to physical or mental injuries
that are relevant to issues in the medical claim, dental claim,
chiropractic claim, or optometric claim, action for wrongful
death, other civil action, or claim under Chapter 4123. of the
Revised Code.

(b) If the testimonial privilege described in division (B)(1)
of this section does not apply to a physician or dentist as
provided in division (B)(1)(b) of this section, the physician or
dentist, in lieu of personally testifying as to the results of the
test in question, may submit a certified copy of those results,
and, upon its submission, the certified copy is qualified as
authentic evidence and may be admitted as evidence in accordance
with the Rules of Evidence. Division (A) of section 2317.422 of
the Revised Code does not apply to any certified copy of results
submitted in accordance with this division. Nothing in this
division shall be construed to limit the right of any party to
call as a witness the person who administered the test in

question, the person under whose supervision the test was 573
administered, the custodian of the results of the test, the person 574
who compiled the results, or the person under whose supervision 575
the results were compiled. 576

(4)(a) As used in divisions (B)(1) to (3) of this section, 577
"communication" means acquiring, recording, or transmitting any 578
information, in any manner, concerning any facts, opinions, or 579
statements necessary to enable a physician or dentist to diagnose, 580
treat, prescribe, or act for a patient. A "communication" may 581
include, but is not limited to, any medical or dental, office, or 582
hospital communication such as a record, chart, letter, 583
memorandum, laboratory test and results, x-ray, photograph, 584
financial statement, diagnosis, or prognosis. 585

(b) As used in division (B)(2) of this section, "health care 586
provider" has the same meaning as in section 3729.01 of the 587
Revised Code. 588

(5) Divisions (B)(1), (2), (3), and (4) of this section apply 589
to doctors of medicine, doctors of osteopathic medicine, doctors 590
of podiatry, and dentists. 591

(6) Nothing in divisions (B)(1) to (5) of this section 592
affects, or shall be construed as affecting, the immunity from 593
civil liability conferred by section 2305.33 of the Revised Code 594
upon physicians who report an employee's use of a drug of abuse, 595
or a condition of an employee other than one involving the use of 596
a drug of abuse, to the employer of the employee in accordance 597
with division (B) of that section. As used in this division, 598
"employee," "employer," and "physician" have the same meanings as 599
in section 2305.33 of the Revised Code. 600

(C) A member of the clergy, rabbi, priest, or regularly 601
ordained, accredited, or licensed minister of an established and 602
legally cognizable church, denomination, or sect, when the clerie 603

member of the clergy, rabbi, priest, or minister remains 604
accountable to the authority of that church, denomination, or 605
sect, concerning a confession made, or any information 606
confidentially communicated, to the ~~clergyman~~ member of the 607
clergy, rabbi, priest, or minister for a religious counseling 608
purpose in the ~~clergyman's~~ member of the clergy's, rabbi's, 609
priest's, or minister's professional character; however, the 610
~~clergy~~ member of the clergy, rabbi, priest, or minister may 611
testify by express consent of the person making the communication, 612
except when the disclosure of the information is in violation of 613
~~the clergyman's rabbi's, priest's, or minister's~~ a sacred trust. 614

(D) Husband or wife, concerning any communication made by one 615
to the other, or an act done by either in the presence of the 616
other, during coverture, unless the communication was made, or act 617
done, in the known presence or hearing of a third person competent 618
to be a witness; and such rule is the same if the marital relation 619
has ceased to exist. 620

(E) A person who assigns a claim or interest, concerning any 621
matter in respect to which the person would not, if a party, be 622
permitted to testify~~+~~. 623

(F) A person who, if a party, would be restricted under 624
section 2317.03 of the Revised Code, when the property or thing is 625
sold or transferred by an executor, administrator, guardian, 626
trustee, heir, devisee, or legatee, shall be restricted in the 627
same manner in any action or proceeding concerning the property or 628
thing. 629

(G)(1) A school guidance counselor who holds a valid educator 630
license from the state board of education as provided for in 631
section 3319.22 of the Revised Code, a person licensed under 632
Chapter 4757. of the Revised Code as a professional clinical 633
counselor, professional counselor, social worker, or independent 634
social worker, or registered under Chapter 4757. of the Revised 635

Code as a social work assistant concerning a confidential 636
communication ~~such person such person's~~ received from a client in 637
that relation or ~~such person's~~ the person's advice to ~~the~~ a client 638
unless any of the following applies: 639

(a) The communication or advice indicates clear and present 640
danger to the client or other persons. For the purposes of this 641
division, cases in which there are indications of present or past 642
child abuse or neglect of the client constitute a clear and 643
present danger. 644

(b) The client gives express consent to the testimony. 645

(c) If the client is deceased, the surviving spouse or the 646
executor or administrator of the estate of the deceased client 647
gives express consent. 648

(d) The client voluntarily testifies, in which case the 649
school guidance counselor or person licensed or registered under 650
Chapter 4757. of the Revised Code may be compelled to testify on 651
the same subject. 652

(e) The court in camera determines that the information 653
communicated by the client is not germane to the counselor-client 654
or social worker-client relationship. 655

(f) A court, in an action brought against a school, its 656
administration, or any of its personnel by the client, rules after 657
an in-camera inspection that the testimony of the school guidance 658
counselor is relevant to that action. 659

(2) Nothing in division (G)(1) of this section shall relieve 660
a school guidance counselor or a person licensed or registered 661
under Chapter 4757. of the Revised Code from the requirement to 662
report information concerning child abuse or neglect under section 663
2151.421 of the Revised Code. 664

(H) A mediator acting under a mediation order issued under 665

division (A) of section 3109.052 of the Revised Code or otherwise
issued in any proceeding for divorce, dissolution, legal
separation, annulment, or the allocation of parental rights and
responsibilities for the care of children, in any action or
proceeding, other than a criminal, delinquency, child abuse, child
neglect, or dependent child action or proceeding, that is brought
by or against either parent who takes part in mediation in
accordance with the order and that pertains to the mediation
process, to any information discussed or presented in the
mediation process, to the allocation of parental rights and
responsibilities for the care of the parents' children, or to the
awarding of visitation rights in relation to their children.

(I) A communications assistant, acting within the scope of
the communication ~~that~~ assistant's authority, when providing
telecommunications relay service pursuant to section 4931.35 of
the Revised Code or Title II of the "Communications Act of 1934,"
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication
made through a telecommunications relay service. Nothing

~~Nothing in this section shall limit any immunity or privilege
granted under federal law or regulation. Nothing in this section~~
division shall limit the obligation of a communications assistant
to divulge information or testify when mandated by federal law or
regulation or pursuant to subpoena in a criminal proceeding.

(J) Except to the extent that a pharmacist is subject to the
provisions of division (B) of this section as a health care
provider, a pharmacist concerning a communication made to the
pharmacist by an individual in that relation, a communication made
to the pharmacist by a person who issued a prescription for the
individual, or the pharmacist's advice to the individual, except
that the pharmacist may testify by express consent of the
individual or, if the individual is deceased, by the express
consent of the surviving spouse or executor or administration of

the estate of the deceased. 698

Nothing in this section shall limit any immunity or privilege 699
granted under federal law. 700

Sec. 2913.02. (A) No person, with purpose to deprive the 701
owner of property or services, shall knowingly obtain or exert 702
control over either the property or services in any of the 703
following ways: 704

(1) Without the consent of the owner or person authorized to 705
give consent; 706

(2) Beyond the scope of the express or implied consent of the 707
owner or person authorized to give consent; 708

(3) By deception; 709

(4) By threat. 710

(B) Whoever violates this section is guilty of theft. Except 711
as otherwise provided in this division, a violation of this 712
section is petty theft, a misdemeanor of the first degree. If the 713
value of the property or services stolen is five hundred dollars 714
or more and is less than five thousand dollars or if the property 715
stolen is any of the property listed in section 2913.71 of the 716
Revised Code, a violation of this section is theft, a felony of 717
the fifth degree. If the value of the property or services stolen 718
is five thousand dollars or more and is less than one hundred 719
thousand dollars or if the property stolen is a firearm or 720
dangerous ordnance, as defined in section 2923.11 of the Revised 721
Code, a violation of this section is grand theft, a felony of the 722
fourth degree. If the property stolen is a motor vehicle, as 723
defined in section 4501.01 of the Revised Code, a violation of 724
this section is grand theft of a motor vehicle, a felony of the 725
fourth degree. If the value of the property or services stolen is 726
one hundred thousand dollars or more, a violation of this section 727

is aggravated theft, a felony of the third degree. If the property 728
stolen is any dangerous drug, as defined in section ~~4729.02~~ 729
4729.01 of the Revised Code, a violation of this section is theft 730
of drugs, a felony of the fourth degree, or, if the offender 731
previously has been convicted of a felony drug abuse offense, as 732
defined in section 2925.01 of the Revised Code, a felony of the 733
third degree. 734

Sec. 2913.51. (A) No person shall receive, retain, or dispose 735
of property of another knowing or having reasonable cause to 736
believe that the property has been obtained through commission of 737
a theft offense. 738

(B) Whoever violates this section is guilty of receiving 739
stolen property. Except as otherwise provided in this division, 740
receiving stolen property is a misdemeanor of the first degree. If 741
the value of the property involved is five hundred dollars or more 742
and is less than five thousand dollars, if the property involved 743
is any of the property listed in section 2913.71 of the Revised 744
Code, receiving stolen property is a felony of the fifth degree. 745
If the property involved is a motor vehicle, as defined in section 746
4501.01 of the Revised Code, if the property involved is a 747
dangerous drug, as defined in section ~~4729.02~~ 4729.01 of the 748
Revised Code, ~~or~~ if the value of the property involved is five 749
thousand dollars or more and is less than one hundred thousand 750
dollars, or if the property involved is a firearm or dangerous 751
ordnance, as defined in section 2923.11 of the Revised Code, 752
receiving stolen property is a felony of the fourth degree. If the 753
value of the property involved is one hundred thousand dollars or 754
more, receiving stolen property is a felony of the third degree. 755
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Sec. 2925.01. As used in this chapter: 757

(A) "Administer," "controlled substance," "dispense," 758
"distribute," "~~federal drug abuse control laws~~," "hypodermic," 759
"manufacturer," "official written order," "person," "pharmacist," 760
"pharmacy," "~~practitioner~~," "~~prescription~~," "sale," "schedule I," 761
"schedule II," "schedule III," "schedule IV," "schedule V," and 762
"wholesaler" have the same meanings as in section 3719.01 of the 763
Revised Code. 764

(B) "Drug dependent person" and "drug of abuse" have the same 765
meanings as in section 3719.011 of the Revised Code. 766

(C) "Drug," "dangerous drug," and "~~Federal Food, Drug, and 767
Cosmetic Act licensed health professional authorized to prescribe
drugs~~," and "prescription" have the same meanings as in section 768
4729.02 4729.01 of the Revised Code. 769
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(D) "Bulk amount" of a controlled substance means any of the 771
following: 772

(1) For any compound, mixture, preparation, or substance 773
included in schedule I, schedule II, or schedule III, with the 774
exception of marihuana, cocaine, L.S.D., heroin, and hashish and 775
except as provided in division (D)(2) or (5) of this section, 776
whichever of the following is applicable: 777

(a) An amount equal to or exceeding ten grams or twenty-five 778
unit doses of a compound, mixture, preparation, or substance that 779
is or contains any amount of a schedule I opiate or opium 780
derivative; 781

(b) An amount equal to or exceeding ten grams of a compound, 782
mixture, preparation, or substance that is or contains any amount 783
of raw or gum opium; 784

(c) An amount equal to or exceeding thirty grams or ten unit 785
doses of a compound, mixture, preparation, or substance that is or 786
contains any amount of a schedule I hallucinogen other than 787

tetrahydrocannabinol or lysergic acid amide, or a schedule I
stimulant or depressant; 788
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(d) An amount equal to or exceeding twenty grams or five
times the maximum daily dose in the usual dose range specified in 790
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a standard pharmaceutical reference manual of a compound, mixture, 792
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preparation, or substance that is or contains any amount of a
schedule II opiate or opium derivative; 794

(e) An amount equal to or exceeding five grams or ten unit 795
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doses of a compound, mixture, preparation, or substance that is or
contains any amount of phencyclidine; 797

(f) An amount equal to or exceeding one hundred twenty grams 798
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or thirty times the maximum daily dose in the usual dose range
specified in a standard pharmaceutical reference manual of a 800
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compound, mixture, preparation, or substance that is or contains
any amount of a schedule II stimulant that is in a final dosage 802
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form manufactured by a person authorized by the "Federal Food,
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as 804
amended, and the federal drug abuse control laws, as defined in 805
section 3719.01 Of the Revised Code, that is or contains any 806
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amount of a schedule II depressant substance or a schedule II
hallucinogenic substance; 808

(g) An amount equal to or exceeding three grams of a 809
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compound, mixture, preparation, or substance that is or contains
any amount of a schedule II stimulant, or any of its salts or 811
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isomers, that is not in a final dosage form manufactured by a
person authorized by the Federal Food, Drug, and Cosmetic Act and 813
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the federal drug abuse control laws.

(2) An amount equal to or exceeding one hundred twenty grams 815
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or thirty times the maximum daily dose in the usual dose range
specified in a standard pharmaceutical reference manual of a 817
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compound, mixture, preparation, or substance that is or contains

any amount of a schedule III or IV substance other than an 819
anabolic steroid or a schedule III opiate or opium derivative; 820

(3) An amount equal to or exceeding twenty grams or five 821
times the maximum daily dose in the usual dose range specified in 822
a standard pharmaceutical reference manual of a compound, mixture, 823
~~specification~~ preparation, or substance that is or contains any 824
amount of a schedule III opiate or opium derivative; 825

(4) An amount equal to or exceeding two hundred fifty 826
milliliters or two hundred fifty grams of a compound, mixture, 827
preparation, or substance that is or contains any amount of a 828
schedule V substance; 829

(5) An amount equal to or exceeding two hundred solid dosage 830
units, sixteen grams, or sixteen milliliters of a compound, 831
mixture, preparation, or substance that is or contains any amount 832
of a schedule III anabolic steroid. 833

(E) "Unit dose" means an amount or unit of a compound, 834
mixture, or preparation containing a controlled substance that is 835
separately identifiable and ~~is~~ in a form ~~indicating~~ that indicates 836
that it is the amount or unit by which the controlled substance is 837
separately administered to or taken by an individual. 838

(F) "Cultivate" includes planting, watering, fertilizing, or 839
tilling. 840

(G) "Drug abuse offense" means any of the following: 841

(1) A violation of division (A) of section 2913.02 that 842
constitutes theft of drugs, or a violation of section 2925.02, 843
2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 844
2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the 845
Revised Code; 846

(2) A violation of an existing or former law of this or any 847
other state or of the United States that is substantially 848

equivalent to any section listed in division (G)(1) of this section; 849
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(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element; 851
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(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense under division (G)(1), (2), or (3) of this section. 858
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(H) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States. 861
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(I) "Harmful intoxicant" does not include beer or intoxicating liquor but means any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following: 864
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(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent; 871
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(2) Any aerosol propellant; 875

(3) Any fluorocarbon refrigerant; 876

(4) Any anesthetic gas. 877

(J) "Manufacture" means to plant, cultivate, harvest, 878

process, make, prepare, or otherwise engage in any part of the 879
production of a drug, by propagation, extraction, chemical 880
synthesis, or compounding, or any combination of the same, and 881
includes packaging, repackaging, labeling, and other activities 882
incident to production. 883

(K) "Possess" or "possession" means having control over a 884
thing or substance, but may not be inferred solely from mere 885
access to the thing or substance through ownership or occupation 886
of the premises upon which the thing or substance is found. 887

(L) "Sample drug" means a drug or pharmaceutical preparation 888
that would be hazardous to health or safety if used without the 889
supervision of a ~~practitioner~~ licensed health professional 890
authorized to prescribe drugs, or a drug of abuse, and that, at 891
one time, had been placed in a container plainly marked as a 892
sample by a manufacturer. 893

(M) "Standard pharmaceutical reference manual" means the 894
current edition, with cumulative changes if any, of any of the 895
following reference works: 896

(1) "The National Formulary"; 897

(2) "The United States Pharmacopeia," prepared by authority 898
of the United States Pharmacopeial Convention, Inc.; 899

(3) Other standard references that are approved by the state 900
board of pharmacy. 901

(N) "Juvenile" means a person under eighteen years of age. 902

(O) "Counterfeit controlled substance" means any of the 903
following: 904

(1) Any drug that bears, or whose container or label bears, a 905
trademark, trade name, or other identifying mark used without 906
authorization of the owner of rights to that trademark, trade 907
name, or identifying mark; 908

(2) Any unmarked or unlabeled substance that is represented 909
to be a controlled substance manufactured, processed, packed, or 910
distributed by a person other than the person that manufactured, 911
processed, packed, or distributed it; 912

(3) Any substance that is represented to be a controlled 913
substance but is not a controlled substance or is a different 914
controlled substance; 915

(4) Any substance other than a controlled substance that a 916
reasonable person would believe to be a controlled substance 917
because of its similarity in shape, size, and color, or its 918
markings, labeling, packaging, distribution, or the price for 919
which it is sold or offered for sale. 920

(P) An offense is "committed in the vicinity of a school" if 921
the offender commits the offense on school premises, in a school 922
building, or within one thousand feet of the boundaries of any 923
school premises. 924

(Q) "School" means any school operated by a board of 925
education or any school for which the state board of education 926
prescribes minimum standards under section 3301.07 of the Revised 927
Code, whether or not any instruction, extracurricular activities, 928
or training provided by the school is being conducted at the time 929
a criminal offense is committed. 930

(R) "School premises" means either of the following: 931

(1) The parcel of real property on which any school is 932
situated, whether or not any instruction, extracurricular 933
activities, or training provided by the school is being conducted 934
on the premises at the time a criminal offense is committed; 935

(2) Any other parcel of real property that is owned or leased 936
by a board of education of a school or the governing body of a 937
school for which the state board of education prescribes minimum 938

standards under section 3301.07 of the Revised Code and on which 939
some of the instruction, extracurricular activities, or training 940
of the school is conducted, whether or not any instruction, 941
extracurricular activities, or training provided by the school is 942
being conducted on the parcel of real property at the time a 943
criminal offense is committed. 944

(S) "School building" means any building in which any of the 945
instruction, extracurricular activities, or training provided by a 946
school is conducted, whether or not any instruction, 947
extracurricular activities, or training provided by the school is 948
being conducted in the school building at the time a criminal 949
offense is committed. 950

(T) "Disciplinary counsel" means the disciplinary counsel 951
appointed by the board of commissioners on grievances and 952
discipline of the supreme court under the Rules for the Government 953
of the Bar of Ohio. 954

(U) "Certified grievance committee" means a duly constituted 955
and organized committee of the Ohio state bar association or of 956
one or more local bar associations of the state of Ohio that 957
complies with the criteria set forth in Rule V, section 6 of the 958
Rules for the Government of the Bar of Ohio. 959

(V) "Professional license" means any license, permit, 960
certificate, registration, qualification, admission, temporary 961
license, temporary permit, temporary certificate, or temporary 962
registration that is described in divisions (W)(1) to (35) of this 963
section and that qualifies a person as a professionally licensed 964
person. 965

(W) "Professionally licensed person" means any of the 966
following: 967

(1) A person who has obtained a license as a manufacturer of 968
controlled substances or a wholesaler of controlled substances 969

under Chapter 3719. of the Revised Code;	970
(2) A person who has received a certificate or temporary	971
certificate as a certified public accountant or who has registered	972
as a public accountant under Chapter 4701. of the Revised Code and	973
who holds a live permit issued under that chapter;	974
(3) A person who holds a certificate of qualification to	975
practice architecture issued or renewed and registered under	976
Chapter 4703. of the Revised Code;	977
(4) A person who is registered as a landscape architect under	978
Chapter 4703. of the Revised Code or who holds a permit as a	979
landscape architect issued under that chapter;	980
(5) A person licensed as an auctioneer or apprentice	981
auctioneer or licensed to operate an auction company under Chapter	982
4707. of the Revised Code;	983
(6) A person who has been issued a certificate of	984
registration as a registered barber under Chapter 4709. of the	985
Revised Code;	986
(7) A person licensed and regulated to engage in the business	987
of a debt pooling company by a legislative authority, under	988
authority of Chapter 4710. of the Revised Code;	989
(8) A person who has been issued a cosmetologist's license,	990
manicurist's license, esthetician's license, managing	991
cosmetologist's license, managing manicurist's license, managing	992
esthetician's license, cosmetology instructor's license,	993
manicurist instructor's license, esthetician instructor's license,	994
or tanning facility permit under Chapter 4713. of the Revised	995
Code;	996
(9) A person who has been issued a license to practice	997
dentistry, a general anesthesia permit, a conscious intravenous	998
sedation permit, a limited resident's license, a limited teaching	999

license, a dental hygienist's license, or a dental hygienist's	1000
teacher's certificate under Chapter 4715. of the Revised Code;	1001
(10) A person who has been issued an embalmer's license, a	1002
funeral director's license, or a funeral home license, or who has	1003
been registered for a funeral director's apprenticeship under	1004
Chapter 4717. of the Revised Code;	1005
(11) A person who has been licensed as a registered nurse or	1006
practical nurse, or who has been issued a certificate for the	1007
practice of nurse-midwifery under Chapter 4723. of the Revised	1008
Code;	1009
(12) A person who has been licensed to practice optometry or	1010
to engage in optical dispensing under Chapter 4725. of the Revised	1011
Code;	1012
(13) A person licensed to act as a pawnbroker under Chapter	1013
4727. of the Revised Code;	1014
(14) A person licensed to act as a precious metals dealer	1015
under Chapter 4728. of the Revised Code;	1016
(15) A person registered <u>licensed</u> as a pharmacist, a pharmacy	1017
<u>pharmacist</u> intern, a wholesale distributor of dangerous drugs, or	1018
a terminal distributor of dangerous drugs under Chapter 4729. of	1019
the Revised Code;	1020
(16) A person who is authorized to practice as a physician	1021
assistant under Chapter 4730. of the Revised Code;	1022
(17) A person who has been issued a certificate to practice	1023
medicine and surgery, osteopathic medicine and surgery, a limited	1024
branch of medicine or surgery, or podiatry under Chapter 4731. of	1025
the Revised Code;	1026
(18) A person licensed as a psychologist or school	1027
psychologist under Chapter 4732. of the Revised Code;	1028
(19) A person registered to practice the profession of	1029

engineering or surveying under Chapter 4733. of the Revised Code;	1030
(20) A person who has been issued a certificate to practice	1031
chiropractic under Chapter 4734. of the Revised Code;	1032
(21) A person licensed to act as a real estate broker, real	1033
estate salesman, limited real estate broker, or limited real	1034
estate salesman under Chapter 4735. of the Revised Code;	1035
(22) A person registered as a registered sanitarian under	1036
Chapter 4736. of the Revised Code;	1037
(23) A person licensed to operate or maintain a junkyard	1038
under Chapter 4737. of the Revised Code;	1039
(24) A person who has been issued a motor vehicle salvage	1040
dealer's license under Chapter 4738. of the Revised Code;	1041
(25) A person who has been licensed to act as a steam	1042
engineer under Chapter 4739. of the Revised Code;	1043
(26) A person who has been issued a license or temporary	1044
permit to practice veterinary medicine or any of its branches, or	1045
who is registered as a graduate animal technician under Chapter	1046
4741. of the Revised Code;	1047
(27) A person who has been issued a hearing aid dealer's or	1048
fitter's license or trainee permit under Chapter 4747. of the	1049
Revised Code;	1050
(28) A person who has been issued a class A, class B, or	1051
class C license or who has been registered as an investigator or	1052
security guard employee under Chapter 4749. of the Revised Code;	1053
(29) A person licensed and registered to practice as a	1054
nursing home administrator under Chapter 4751. of the Revised	1055
Code;	1056
(30) A person licensed to practice as a speech pathologist or	1057
audiologist under Chapter 4753. of the Revised Code;	1058

(31) A person issued a license as an occupational therapist	1059
or physical therapist under Chapter 4755. of the Revised Code;	1060
(32) A person who is licensed as a professional clinical	1061
counselor or professional counselor, licensed as a social worker	1062
or independent social worker, or registered as a social work	1063
assistant under Chapter 4757. of the Revised Code;	1064
(33) A person issued a license to practice dietetics under	1065
Chapter 4759. of the Revised Code;	1066
(34) A person who has been issued a license or temporary	1067
permit to practice respiratory therapy under Chapter 4761. of the	1068
Revised Code;	1069
(35) A person who has been issued a real estate appraiser	1070
certificate under Chapter 4763. of the Revised Code.	1071
(X) "Cocaine" means any of the following:	1072
(1) A cocaine salt, isomer, or derivative, a salt of a	1073
cocaine isomer or derivative, or the base form of cocaine;	1074
(2) Coca leaves or a salt, compound, derivative, or	1075
preparation of coca leaves, including ecgonine, a salt, isomer, or	1076
derivative of ecgonine, or a salt of an isomer or derivative of	1077
ecgonine;	1078
(3) A salt, compound, derivative, or preparation of a	1079
substance identified in division (X)(1) or (2) of this section	1080
that is chemically equivalent to or identical with any of those	1081
substances, except that the substances shall not include	1082
decocainized coca leaves or extraction of coca leaves if the	1083
extractions do not contain cocaine or ecgonine.	1084
(Y) "L.S.D." means lysergic acid diethylamide.	1085
(Z) "Hashish" means the resin or a preparation of the resin	1086
contained in marihuana, whether in solid form or in a liquid	1087
concentrate, liquid extract, or liquid distillate form.	1088

(AA) "Marihuana" has the same meaning as in section 3719.01 1089
of the Revised Code, except that it does not include hashish. 1090

(BB) An offense is "committed in the vicinity of a juvenile" 1091
if the offender commits the offense within one hundred feet of a 1092
juvenile or within the view of a juvenile, regardless of whether 1093
the offender knows the age of the juvenile, whether the offender 1094
knows the offense is being committed within one hundred feet of or 1095
within view of the juvenile, or whether the juvenile actually 1096
views the commission of the offense. 1097

(CC) "Presumption for a prison term" or "presumption that a 1098
prison term shall be imposed" means a presumption, as described in 1099
division (D) of section 2929.13 of the Revised Code, that a prison 1100
term is a necessary sanction for a felony in order to comply with 1101
the purposes and principles of sentencing under section 2929.11 of 1102
the Revised Code. 1103

(DD) "Major drug offender" has the same meaning as in section 1104
2929.01 of the Revised Code. 1105

(EE) "Minor drug possession offense" means either of the 1106
following: 1107

(1) A violation of section 2925.11 of the Revised Code as it 1108
existed prior to July 1, 1996; 1109

(2) A violation of section 2925.11 of the Revised Code as it 1110
exists on and after July 1, 1996, ~~this~~ that is a misdemeanor or a 1111
felony of the fifth degree. 1112

(FF) "Mandatory prison term" has the same meaning as in 1113
section 2929.01 of the Revised Code. 1114

(GG) "Crack cocaine" means a compound, mixture, preparation, 1115
or substance that is or contains any amount of cocaine that is 1116
analytically identified as the base form of cocaine or that is in 1117
a form that resembles rocks or pebbles generally intended for 1118

individual use. 1119

Sec. 2925.02. (A) No person shall knowingly do any of the 1120
following: 1121

(1) By force, threat, or deception, administer to another or 1122
induce or cause another to use a controlled substance; 1123

(2) By any means, administer or furnish to another or induce 1124
or cause another to use a controlled substance with purpose to 1125
cause serious physical harm to the other person, or with purpose 1126
to cause the other person to become drug dependent; 1127

(3) By any means, administer or furnish to another or induce 1128
or cause another to use a controlled substance, and thereby cause 1129
serious physical harm to the other person, or cause the other 1130
person to become drug dependent; 1131

(4) By any means, do any of the following: 1132

(a) Furnish or administer a controlled substance to a 1133
juvenile who is at least two years the offender's junior, when the 1134
offender knows the age of the juvenile or is reckless in that 1135
regard; 1136

(b) Induce or cause a juvenile who is at least two years the 1137
offender's junior to use a controlled substance, when the offender 1138
knows the age of the juvenile or is reckless in that regard; 1139

(c) Induce or cause a juvenile who is at least two years the 1140
offender's junior to commit a felony drug abuse offense, when the 1141
offender knows the age of the juvenile or is reckless in that 1142
regard; 1143

(d) Use a juvenile, whether or not the offender knows the age 1144
of the juvenile, to perform any surveillance activity that is 1145
intended to prevent the detection of the offender or any other 1146
person in the commission of a felony drug abuse offense or to 1147

prevent the arrest of the offender or any other person for the 1148
commission of a felony drug abuse offense. 1149

(B) Division (A)(1), (3), or (4) of this section does not 1150
apply to manufacturers, wholesalers, ~~practitioners~~ licensed health 1151
professionals authorized to prescribe drugs, pharmacists, owners 1152
of pharmacies, and other persons whose conduct is in accordance 1153
with Chapters 3719., 4715., 4729., 4731., and 4741. of the Revised 1154
Code or section 4723.56 of the Revised Code. 1155

(C) Whoever violates this section is guilty of corrupting 1156
another with drugs. The penalty for the offense shall be 1157
determined as follows: 1158

(1) Except as otherwise provided in this division, if the 1159
drug involved is any compound, mixture, preparation, or substance 1160
included in schedule I or II, with the exception of marihuana, 1161
corrupting another with drugs is a felony of the second degree, 1162
and, subject to division (E) of this section, the court shall 1163
impose as a mandatory prison term one of the prison terms 1164
prescribed for a felony of the second degree. If the drug involved 1165
is any compound, mixture, preparation, or substance included in 1166
schedule I or II, with the exception of marihuana, and if the 1167
offense was committed in the vicinity of a school, corrupting 1168
another with drugs is a felony of the first degree, and, subject 1169
to division (E) of this section, the court shall impose as a 1170
mandatory prison term one of the prison terms prescribed for a 1171
felony of the first degree. 1172

(2) Except as otherwise provided in this division, if the 1173
drug involved is any compound, mixture, preparation, or substance 1174
included in schedule III, IV, or V, corrupting another with drugs 1175
is a felony of the second degree, and there is a presumption for a 1176
prison term for the offense. If the drug involved is any compound, 1177
mixture, preparation, or substance included in schedule III, IV, 1178

or V and if the offense was committed in the vicinity of a school, 1179
corrupting another with drugs is a felony of the second degree, 1180
and the court shall impose as a mandatory prison term one of the 1181
prison terms prescribed for a felony of the second degree. 1182

(3) Except as otherwise provided in this division, if the 1183
drug involved is marihuana, corrupting another with drugs is a 1184
felony of the fourth degree, and division (C) of section 2929.13 1185
of the Revised Code applies in determining whether to impose a 1186
prison term on the offender. If the drug involved ~~is~~ is marihuana 1187
and if the offense was committed in the vicinity of a school, 1188
corrupting another with drugs is a felony of the third degree, and 1189
division (C) of section 2929.13 of the Revised Code applies in 1190
determining whether to impose a prison term on the offender. 1191

(D) In addition to any prison term authorized or required by 1192
division (C) or (E) of this section and sections 2929.13 and 1193
2929.14 of the Revised Code and in addition to any other sanction 1194
imposed for the offense under this section or sections 2929.11 to 1195
2929.18 of the Revised Code, the court that sentences an offender 1196
who is convicted of or pleads guilty to a violation of division 1197
(A) of this section or the clerk of that court shall do all of the 1198
following that are applicable regarding the offender: 1199

(1)(a) If the violation is a felony of the first, second, or 1200
third degree, the court shall impose upon the offender the 1201
mandatory fine specified for the offense under division (B)(1) of 1202
section 2929.18 of the Revised Code unless, as specified in that 1203
division, the court determines that the offender is indigent. 1204

(b) Notwithstanding any contrary provision of section 3719.21 1205
of the Revised Code, any mandatory fine imposed pursuant to 1206
division (D)(1)(a) of this section and any fine imposed for a 1207
violation of this section pursuant to division (A) of section 1208
2929.18 of the Revised Code shall be paid by the clerk of the 1209

court in accordance with and subject to the requirements of, and 1210
shall be used as specified in, division (F) of section 2925.03 of 1211
the Revised Code. 1212

(c) If a person is charged with any violation of this section 1213
that is a felony of the first, second, or third degree, posts 1214
bail, and forfeits the bail, the forfeited bail shall be paid by 1215
the clerk of the court pursuant to division (D)(1)(b) of this 1216
section as if it were a fine imposed for a violation of this 1217
section. 1218

(2) The court either shall revoke or, if it does not revoke, 1219
shall suspend for not less than six months or more than five 1220
years, the driver's or commercial driver's license or permit of 1221
any person who is convicted of or pleads guilty to a violation of 1222
this section that is a felony of the first degree and shall 1223
suspend for not less than six months nor more than five years the 1224
driver's or commercial driver's license or permit of any person 1225
who is convicted of or pleads guilty to any other violation of 1226
this section. If an offender's driver's or commercial driver's 1227
license or permit is revoked pursuant to this division, the 1228
offender, at any time after the expiration of two years from the 1229
day on which the offender's sentence was imposed or from the day 1230
on which the offender finally was released from a prison term 1231
under the sentence, whichever is later, may file a motion with the 1232
sentencing court requesting termination of the revocation. Upon 1233
the filing of the motion and the court's finding of good cause for 1234
the termination, the court may terminate the revocation. 1235

(3) If the offender is a professionally licensed person or a 1236
person who has been admitted to the bar by order of the supreme 1237
court in compliance with its prescribed and published rules, in 1238
addition to any other sanction imposed for a violation of this 1239
section, the court forthwith shall comply with section 2925.38 of 1240
the Revised Code. 1241

(E) Notwithstanding the prison term otherwise authorized or 1242
required for the offense under division (C) of this section and 1243
sections 2929.13 and 2929.14 of the Revised Code, if the violation 1244
of division (A) of this section involves the sale, offer to sell, 1245
or possession of a schedule I or II controlled substance, with the 1246
exception of marihuana, and if the offender, as a result of the 1247
violation, is a major drug offender, the court, in lieu of the 1248
prison term that otherwise is authorized or required, shall impose 1249
upon the offender the mandatory prison term specified in division 1250
(D)(3)(a) of section 2929.14 of the Revised Code and may impose an 1251
additional prison term under division (D)(3)(b) of that section. 1252

Sec. 2925.03. (A) No person shall knowingly sell or offer to 1253
sell a controlled substance. 1254

(B) This section does not apply to any of the following: 1255

(1) Manufacturers, ~~practitioners~~ licensed health 1256
professionals authorized to prescribe drugs, pharmacists, owners 1257
of pharmacies, and other persons whose conduct is in accordance 1258
with Chapters 3719., 4715., 4729., 4731., and 4741. or section 1259
4723.56 of the Revised Code; 1260

(2) If the offense involves an anabolic steroid, any person 1261
who is conducting or participating in a research project involving 1262
the use of an anabolic steroid if the project has been approved by 1263
the United States food and drug administration; 1264

(3) Any person who sells, offers for sale, prescribes, 1265
dispenses, or administers for livestock or other nonhuman species 1266
an anabolic steroid that is expressly intended for administration 1267
through implants to livestock or other nonhuman species and 1268
approved for that purpose under the "Federal Food, Drug, and 1269
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 1270
and is sold, offered for sale, prescribed, dispensed, or 1271

administered for that purpose in accordance with that act. 1272

(C) Whoever violates division (A) of this section is guilty 1273
of one of the following: 1274

(1) If the drug involved in the violation is any compound, 1275
mixture, preparation, or substance included in schedule I or 1276
schedule II, with the exception of marihuana, cocaine, L.S.D., 1277
heroin, and hashish, whoever violates division (A) of this section 1278
is guilty of aggravated trafficking in drugs. The penalty for the 1279
offense shall be determined as follows: 1280

(a) Except as otherwise provided in division (C)(1)(b), (c), 1281
(d), (e), or (f) of this section, aggravated trafficking in drugs 1282
is a felony of the fourth degree, and division (C) of section 1283
2929.13 of the Revised Code applies in determining whether to 1284
impose a prison term on the offender. 1285

(b) Except as otherwise provided in division (C)(1)(c), (d), 1286
(e), or (f) of this section, if the offense was committed in the 1287
vicinity of a school or in the vicinity of a juvenile, aggravated 1288
trafficking in drugs is a felony of the third degree, and division 1289
(C) of section 2929.13 of the Revised Code applies in determining 1290
whether to impose a prison term on the offender. 1291

(c) Except as otherwise provided in this division, if the 1292
amount of the drug involved exceeds the bulk amount but does not 1293
exceed five times the bulk amount, aggravated trafficking in drugs 1294
is a felony of the third degree, and the court shall impose as a 1295
mandatory prison term one of the prison terms prescribed for a 1296
felony of the third degree. If the amount of the drug involved is 1297
within that range and if the offense was committed in the vicinity 1298
of a school or in the vicinity of a juvenile, aggravated 1299
trafficking in drugs is a felony of the second degree, and the 1300
court shall impose as a mandatory prison term one of the prison 1301
terms prescribed for a felony of the second degree. 1302

(d) Except as otherwise provided in this division, if the amount of the drug involved exceeds five times the bulk amount but does not exceed fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved exceeds fifty times the bulk amount but does not exceed one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved exceeds one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

(2) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates division (A) of this section is guilty of trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b), (c), 1335
(d), or (e) of this section, trafficking in drugs is a felony of 1336
the fifth degree, and division (C) of section 2929.13 of the 1337
Revised Code applies in determining whether to impose a prison 1338
term on the offender. 1339

(b) Except as otherwise provided in division (C)(2)(c), (d), 1340
or (e) of this section, if the offense was committed in the 1341
vicinity of a school or in the vicinity of a juvenile, trafficking 1342
in drugs is a felony of the fourth degree, and division (C) of 1343
section 2929.13 of the Revised Code applies in determining whether 1344
to impose a prison term on the offender. 1345

(c) Except as otherwise provided in this division, if the 1346
amount of the drug involved exceeds the bulk amount but does not 1347
exceed five times the bulk amount, trafficking in drugs is a 1348
felony of the fourth degree, and there is a presumption for a 1349
prison term for the offense. If the amount of the drug involved is 1350
within that range and if the offense was committed in the vicinity 1351
of a school or in the vicinity of a juvenile, trafficking in drugs 1352
is a felony of the third degree, and there is a presumption for a 1353
prison term for the offense. 1354

(d) Except as otherwise provided in this division, if the 1355
amount of the drug involved exceeds five times the bulk amount but 1356
does not exceed fifty times the bulk amount, trafficking in drugs 1357
is a felony of the third degree, and there is a presumption for a 1358
prison term for the offense. If the amount of the drug involved is 1359
within that range and if the offense was committed in the vicinity 1360
of a school or in the vicinity of a juvenile, trafficking in drugs 1361
is a felony of the second degree, and there is a presumption for a 1362
prison term for the offense. 1363

(e) Except as otherwise provided in this division, if the 1364
amount of the drug involved exceeds fifty times the bulk amount, 1365

trafficking in drugs is a felony of the second degree, and the
court shall impose as a mandatory prison term one of the prison
terms prescribed for a felony of the second degree. If the amount
of the drug involved exceeds fifty times the bulk amount and if
the offense was committed in the vicinity of a school or in the
vicinity of a juvenile, trafficking in drugs is a felony of the
first degree, and the court shall impose as a mandatory prison
term one of the prison terms prescribed for a felony of the first
degree.

(3) If the drug involved in the violation is marihuana or a
compound, mixture, preparation, or substance containing marihuana
other than hashish, whoever violates division (A) of this section
is guilty of trafficking in marihuana. The penalty for the offense
shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c),
(d), (e), (f), or (g) of this section, trafficking in marihuana is
a felony of the fifth degree, and division (C) of section 2929.13
of the Revised Code applies in determining whether to impose a
prison term on the offender.

(b) Except as otherwise provided in division (C)(3)(c), (d),
(e), (f), or (g) of this section, if the offense was committed in
the vicinity of a school or in the vicinity of a juvenile,
trafficking in marihuana is a felony of the fourth degree, and
division (C) of section 2929.13 of the Revised Code applies in
determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the
amount of the drug involved exceeds two hundred grams but does not
exceed one thousand grams, trafficking in marihuana is a felony of
the fourth degree, and division (C) of section 2929.13 of the
Revised Code applies in determining whether to impose a prison
term on the offender. If the amount of the drug involved is within

that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved exceeds one thousand grams but does not exceed five thousand grams, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved exceeds five thousand grams but does not exceed twenty thousand grams, trafficking in marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved exceeds twenty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved exceeds twenty thousand grams and if the offense was committed in the vicinity of a school or in the

vicinity of a juvenile, trafficking in marihuana is a felony of 1429
the first degree, and the court shall impose as a mandatory prison 1430
term the maximum prison term prescribed for a felony of the first 1431
degree. 1432

(g) Except as otherwise provided in this division, if the 1433
offense involves a gift of twenty grams or less of marihuana, 1434
trafficking in marihuana is a minor misdemeanor upon a first 1435
offense and a misdemeanor of the third degree upon a subsequent 1436
offense. If the offense involves a gift of twenty grams or less of 1437
marihuana and if the offense was committed in the vicinity of a 1438
school or in the vicinity of a juvenile, trafficking in marihuana 1439
is a misdemeanor of the third degree. 1440

(4) If the drug involved in the violation is cocaine or a 1441
compound, mixture, preparation, or substance containing cocaine, 1442
whoever violates division (A) of this section is guilty of 1443
trafficking in cocaine. The penalty for the offense shall be 1444
determined as follows: 1445

(a) Except as otherwise provided in division (C)(4)(b), (c), 1446
(d), (e), (f), or (g) of this section, trafficking in cocaine is a 1447
felony of the fifth degree, and division (C) of section 2929.13 of 1448
the Revised Code applies in determining whether to impose a prison 1449
term on the offender. 1450

(b) Except as otherwise provided in division (C)(4)(c), (d), 1451
(e), (f), or (g) of this section, if the offense was committed in 1452
the vicinity of a school or in the vicinity of a juvenile, 1453
trafficking in cocaine is a felony of the fourth degree, and 1454
division (C) of section 2929.13 of the Revised Code applies in 1455
determining whether to impose a prison term on the offender. 1456

(c) Except as otherwise provided in this division, if the 1457
amount of the drug involved exceeds five grams but does not exceed 1458
ten grams of cocaine that is not crack cocaine or exceeds one gram 1459

but does not exceed five grams of crack cocaine, trafficking in 1460
cocaine is a felony of the fourth degree, and there is a 1461
presumption for a prison term for the offense. If the amount of 1462
the drug involved is within one of those ranges and if the offense 1463
was committed in the vicinity of a school or in the vicinity of a 1464
juvenile, trafficking in cocaine is a felony of the third degree, 1465
and there is a presumption for a prison term for the offense. 1466

(d) Except as otherwise provided in this division, if the 1467
amount of the drug involved exceeds ten grams but does not exceed 1468
one hundred grams of cocaine that is not crack cocaine or exceeds 1469
five grams but does not exceed ten grams of crack cocaine, 1470
trafficking in cocaine is a felony of the third degree, and the 1471
court shall impose as a mandatory prison term one of the prison 1472
terms prescribed for a felony of the third degree. If the amount 1473
of the drug involved is within one of those ranges and if the 1474
offense was committed in the vicinity of a school or in the 1475
vicinity of a juvenile, trafficking in cocaine is a felony of the 1476
second degree, and the court shall impose as a mandatory prison 1477
term one of the prison terms prescribed for a felony of the second 1478
degree. 1479

(e) Except as otherwise provided in this division, if the 1480
amount of the drug involved exceeds one hundred grams but does not 1481
exceed five hundred grams of cocaine that is not crack cocaine or 1482
exceeds ten grams but does not exceed twenty-five grams of crack 1483
cocaine, trafficking in cocaine is a felony of the second degree, 1484
and the court shall impose as a mandatory prison term one of the 1485
prison terms prescribed for a felony of the second degree. If the 1486
amount of the drug involved is within one of those ranges and if 1487
the offense was committed in the vicinity of a school or in the 1488
vicinity of a juvenile, trafficking in cocaine is a felony of the 1489
first degree, and the court shall impose as a mandatory prison 1490
term one of the prison terms prescribed for a felony of the first 1491

degree. 1492

(f) If the amount of the drug involved exceeds five hundred 1493
grams but does not exceed one thousand grams of cocaine that is 1494
not crack cocaine or exceeds twenty-five grams but does not exceed 1495
one hundred grams of crack cocaine and regardless of whether the 1496
offense was committed in the vicinity of a school or in the 1497
vicinity of a juvenile, trafficking in cocaine is a felony of the 1498
first degree, and the court shall impose as a mandatory prison 1499
term one of the prison terms prescribed for a felony of the first 1500
degree. 1501

(g) If the amount of the drug involved exceeds one thousand 1502
grams of cocaine that is not crack cocaine or exceeds one hundred 1503
grams of crack cocaine and regardless of whether the offense was 1504
committed in the vicinity of a school or in the vicinity of a 1505
juvenile, trafficking in cocaine is a felony of the first degree, 1506
and the court shall impose as a mandatory prison term the maximum 1507
prison term prescribed for a felony of the first degree and may 1508
impose an additional mandatory prison term prescribed for a major 1509
drug offender under division (D)(3)(b) of section 2929.14 of the 1510
Revised Code. 1511

(5) If the drug involved in the violation is L.S.D. or a 1512
compound, mixture, preparation, or substance containing L.S.D., 1513
whoever violates division (A) of this section is guilty of 1514
trafficking in L.S.D. The penalty for the offense shall be 1515
determined as follows: 1516

(a) Except as otherwise provided in division (C)(5)(b), (c), 1517
(d), (e), (f), or (g) of this section, trafficking in L.S.D. is a 1518
felony of the fifth degree, and division (C) of section 2929.13 of 1519
the Revised Code applies in determining whether to impose a prison 1520
term on the offender. 1521

(b) Except as otherwise provided in division (C)(5)(c), (d), 1522

(e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved exceeds ten unit doses but does not exceed fifty unit doses of L.S.D. in a solid form or exceeds one gram but does not exceed five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the fourth degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved exceeds fifty unit doses but does not exceed two hundred fifty unit doses of L.S.D. in a solid form or exceeds five grams but does not exceed twenty-five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the third degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the amount of the drug involved exceeds two hundred fifty unit doses

but does not exceed one thousand unit doses of L.S.D. in a solid
form or exceeds twenty-five grams but does not exceed one hundred
grams of L.S.D. in a liquid concentrate, liquid extract, or liquid
distillate form, trafficking in L.S.D. is a felony of the second
degree, and the court shall impose as a mandatory prison term one
of the prison terms prescribed for a felony of the second degree.
If the amount of the drug involved is within that range and if the
offense was committed in the vicinity of a school or in the
vicinity of a juvenile, trafficking in L.S.D. is a felony of the
first degree, and the court shall impose as a mandatory prison
term one of the prison terms prescribed for a felony of the first
degree.

(f) If the amount of the drug involved exceeds one thousand
unit doses but does not exceed five thousand unit doses of L.S.D.
in a solid form or exceeds one hundred grams but does not exceed
five hundred grams of L.S.D. in a liquid concentrate, liquid
extract, or liquid distillate form and regardless of whether the
offense was committed in the vicinity of a school or in the
vicinity of a juvenile, trafficking in L.S.D. is a felony of the
first degree, and the court shall impose as a mandatory prison
term one of the prison terms prescribed for a felony of the first
degree.

(g) If the amount of the drug involved exceeds five thousand
unit doses of L.S.D. in a solid form or exceeds five hundred grams
of L.S.D. in a liquid concentrate, liquid extract, or liquid
distillate form and regardless of whether the offense was
committed in the vicinity of a school or in the vicinity of a
juvenile, trafficking in L.S.D. is a felony of the first degree,
and the court shall impose as a mandatory prison term the maximum
prison term prescribed for a felony of the first degree and may
impose an additional mandatory prison term prescribed for a major
drug offender under division (D)(3)(b) of section 2929.14 of the

Revised Code. 1587

(6) If the drug involved in the violation is heroin or a 1588
compound, mixture, preparation, or substance containing heroin, 1589
whoever violates division (A) of this section is guilty of 1590
trafficking in heroin. The penalty for the offense shall be 1591
determined as follows: 1592

(a) Except as otherwise provided in division (C)(6)(b), (c), 1593
(d), (e), (f), or (g) of this section, trafficking in heroin is a 1594
felony of the fifth degree, and division (C) of section 2929.13 of 1595
the Revised Code applies in determining whether to impose a prison 1596
term on the offender. 1597

(b) Except as otherwise provided in division (C)(6)(c), (d), 1598
(e), (f), or (g) of this section, if the offense was committed in 1599
the vicinity of a school or in the vicinity of a juvenile, 1600
trafficking in heroin is a felony of the fourth degree, and 1601
division (C) of section 2929.13 of the Revised Code applies in 1602
determining whether to impose a prison term on the offender. 1603

(c) Except as otherwise provided in this division, if the 1604
amount of the drug involved exceeds one gram but does not exceed 1605
five grams, trafficking in heroin is a felony of the fourth 1606
degree, and there is a presumption for a prison term for the 1607
offense. If the amount of the drug involved is within that range 1608
and if the offense was committed in the vicinity of a school or in 1609
the vicinity of a juvenile, trafficking in heroin is a felony of 1610
the third degree, and there is a presumption for a prison term for 1611
the offense. 1612

(d) Except as otherwise provided in this division, if the 1613
amount of the drug involved exceeds five grams but does not exceed 1614
ten grams, trafficking in heroin is a felony of the third degree, 1615
and there is a presumption for a prison term for the offense. If 1616
the amount of the drug involved is within that range and if the 1617

offense was committed in the vicinity of a school or in the 1618
vicinity of a juvenile, trafficking in heroin is a felony of the 1619
second degree, and there is a presumption for a prison term for 1620
the offense. 1621

(e) Except as otherwise provided in this division, if the 1622
amount of the drug involved exceeds ten grams but does not exceed 1623
fifty grams, trafficking in heroin is a felony of the second 1624
degree, and the court shall impose as a mandatory prison term one 1625
of the prison terms prescribed for a felony of the second degree. 1626
If the amount of the drug involved is within that range and if the 1627
offense was committed in the vicinity of a school or in the 1628
vicinity of a juvenile, trafficking in heroin is a felony of the 1629
first degree, and the court shall impose as a mandatory prison 1630
term one of the prison terms prescribed for a felony of the first 1631
degree. 1632

(f) If the amount of the drug involved exceeds fifty grams 1633
but does not exceed two hundred fifty grams and regardless of 1634
whether the offense was committed in the vicinity of a school or 1635
in the vicinity of a juvenile, trafficking in heroin is a felony 1636
of the first degree, and the court shall impose as a mandatory 1637
prison term one of the prison terms prescribed for a felony of the 1638
first degree. 1639

(g) If the amount of the drug involved exceeds two hundred 1640
fifty grams and regardless of whether the offense was committed in 1641
the vicinity of a school or in the vicinity of a juvenile, 1642
trafficking in heroin is a felony of the first degree, and the 1643
court shall impose as a mandatory prison term the maximum prison 1644
term prescribed for a felony of the first degree and may impose an 1645
additional mandatory prison term prescribed for a major drug 1646
offender under division (D)(3)(b) of section 2929.14 of the 1647
Revised Code. 1648

(7) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (A) of this section is guilty of trafficking in hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(7)(b), (c), (d), (e), or (f) of this section, trafficking in hashish is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(7)(c), (d), (e), or (f) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved exceeds ten grams but does not exceed fifty grams of hashish in a solid form or exceeds two grams but does not exceed ten grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved exceeds fifty grams but does not

exceed two hundred fifty grams of hashish in a solid form or
exceeds ten grams but does not exceed fifty grams of hashish in a
liquid concentrate, liquid extract, or liquid distillate form,
trafficking in hashish is a felony of the third degree, and
division (C) of section 2929.13 of the Revised Code applies in
determining whether to impose a prison term on the offender. If
the amount of the drug involved is within that range and if the
offense was committed in the vicinity of a school or in the
vicinity of a juvenile, trafficking in hashish is a felony of the
second degree, and there is a presumption that a prison term shall
be imposed for the offense.

(e) Except as otherwise provided in this division, if the
amount of the drug involved exceeds two hundred fifty grams but
does not exceed one thousand grams of hashish in a solid form or
exceeds fifty grams but does not exceed two hundred grams of
hashish in a liquid concentrate, liquid extract, or liquid
distillate form, trafficking in hashish is a felony of the third
degree, and there is a presumption that a prison term shall be
imposed for the offense. If the amount of the drug involved is
within that range and if the offense was committed in the vicinity
of a school or in the vicinity of a juvenile, trafficking in
hashish is a felony of the second degree, and there is a
presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the
amount of the drug involved exceeds one thousand grams of hashish
in a solid form or exceeds two hundred grams of hashish in a
liquid concentrate, liquid extract, or liquid distillate form,
trafficking in hashish is a felony of the second degree, and the
court shall impose as a mandatory prison term the maximum prison
term prescribed for a felony of the second degree. If the amount
of the drug involved exceeds one thousand grams of hashish in a
solid form or exceeds two hundred grams of hashish in a liquid

concentrate, liquid extract, or liquid distillate form and if the
offense was committed in the vicinity of a school or in the
vicinity of a juvenile, trafficking in hashish is a felony of the
first degree, and the court shall impose as a mandatory prison
term the maximum prison term prescribed for a felony of the first
degree.

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

(1) If the violation of division (A) of this section is a
felony of the first, second, or third degree, the court shall
impose upon the offender the mandatory fine specified for the
offense under division (B)(1) of section 2929.18 of the Revised
Code unless, as specified in that division, the court determines
that the offender is indigent. Except as otherwise provided in
division (H)(1) of this section, a mandatory fine or any other
fine imposed for a violation of this section is subject to
division (F) of this section. If a person is charged with a
violation of this section that is a felony of the first, second,
or third degree, posts bail, and forfeits the bail, the clerk of
the court shall pay the forfeited bail pursuant to divisions
(D)(1) and (F) of this section, as if the forfeited bail was a
fine imposed for a violation of this section. If any amount of the
forfeited bail remains after that payment and if a fine is imposed
under division (H)(1) of this section, the clerk of the court
shall pay the remaining amount of the forfeited bail pursuant to
divisions (H)(2) and (3) of this section, as if that remaining

amount was a fine imposed under division (H)(1) of this section. 1744
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(2) The court shall revoke or suspend the driver's or 1746
commercial driver's license or permit of the offender in 1747
accordance with division (G) of this section. 1748

(3) If the offender is a professionally licensed person or a 1749
person who has been admitted to the bar by order of the supreme 1750
court in compliance with its prescribed and published rules, the 1751
court forthwith shall comply with section 2925.38 of the Revised 1752
Code. 1753

(E) When a person is charged with the sale of or offer to 1754
sell a bulk amount or a multiple of a bulk amount of a controlled 1755
substance, the jury, or the court trying the accused, shall 1756
determine the amount of the controlled substance involved at the 1757
time of the offense and, if a guilty verdict is returned, shall 1758
return the findings as part of the verdict. In any such case, it 1759
is unnecessary to find and return the exact amount of the 1760
controlled substance involved, and it is sufficient if the finding 1761
and return is to the effect that the amount of the controlled 1762
substance involved is the requisite amount, or that the amount of 1763
the controlled substance involved is less than the requisite 1764
amount. 1765

(F)(1) Notwithstanding any contrary provision of section 1766
3719.21 of the Revised Code and except as provided in division (H) 1767
of this section, the clerk of the court shall pay any mandatory 1768
fine imposed pursuant to division (D)(1) of this section and any 1769
fine other than a mandatory fine that is imposed for a violation 1770
of this section pursuant to division (A) or (B)(5) of section 1771
2929.18 of the Revised Code to the county, township, municipal 1772
corporation, park district, as created pursuant to section 511.18 1773
or 1545.04 of the Revised Code, or state law enforcement agencies 1774
in this state that primarily were responsible for or involved in 1775

making the arrest of, and in prosecuting, the offender. However, 1776
the clerk shall not pay a mandatory fine so imposed to a law 1777
enforcement agency unless the agency has adopted a written 1778
internal control policy under division (F)(2) of this section that 1779
addresses the use of the fine moneys that it receives. Each agency 1780
shall use the mandatory fines so paid to subsidize the agency's 1781
law enforcement efforts that pertain to drug offenses, in 1782
accordance with the written internal control policy adopted by the 1783
recipient agency under division (F)(2) of this section. 1784

(2)(a) Prior to receiving any fine moneys under division 1785
(F)(1) of this section or division (B)(5) of section 2925.42 of 1786
the Revised Code, a law enforcement agency shall adopt a written 1787
internal control policy that addresses the agency's use and 1788
disposition of all fine moneys so received and that provides for 1789
the keeping of detailed financial records of the receipts of those 1790
fine moneys, the general types of expenditures made out of those 1791
fine moneys, and the specific amount of each general type of 1792
expenditure. The policy shall not provide for or permit the 1793
identification of any specific expenditure that is made in an 1794
ongoing investigation. All financial records of the receipts of 1795
those fine moneys, the general types of expenditures made out of 1796
those fine moneys, and the specific amount of each general type of 1797
expenditure by an agency are public records open for inspection 1798
under section 149.43 of the Revised Code. Additionally, a written 1799
internal control policy adopted under this division is such a 1800
public record, and the agency that adopted it shall comply with 1801
it. 1802

(b) Each law enforcement agency that receives in any calendar 1803
year any fine moneys under division (F)(1) of this section or 1804
division (B)(5) of section 2925.42 of the Revised Code shall 1805
prepare a report covering the calendar year that cumulates all of 1806
the information contained in all of the public financial records 1807

kept by the agency pursuant to division (F)(2)(a) of this section 1808
for that calendar year, and shall send a copy of the cumulative 1809
report, no later than the first day of March in the calendar year 1810
following the calendar year covered by the report, to the attorney 1811
general. Each report received by the attorney general is a public 1812
record open for inspection under section 149.43 of the Revised 1813
Code. The attorney general shall make copies of each report 1814
received, and, no later than the fifteenth day of April in the 1815
calendar year in which the report is received, shall send a copy 1816
of it to the president of the senate and the speaker of the house 1817
of representatives. 1818

(3) As used in division (F) of this section: 1819

(a) "Law enforcement agencies" includes, but is not limited 1820
to, the state board of pharmacy and the office of a prosecutor. 1821

(b) "Prosecutor" has the same meaning as in section 2935.01 1822
of the Revised Code. 1823

(G) When required under division (D)(2) of this section, the 1824
court either shall revoke or, if it does not revoke, shall suspend 1825
for not less than six months or more than five years, the driver's 1826
or commercial driver's license or permit of any person who is 1827
convicted of or pleads guilty to a violation of this section that 1828
is a felony of the first degree and shall suspend for not less 1829
than six months or more than five years the driver's or commercial 1830
driver's license or permit of any person who is convicted of or 1831
pleads guilty to any other violation of this section. If an 1832
offender's driver's or commercial driver's license or permit is 1833
revoked pursuant to this division, the offender, at any time after 1834
the expiration of two years from the day on which the offender's 1835
sentence was imposed or from the day on which the offender finally 1836
was released from a prison term under the sentence, whichever is 1837
later, may file a motion with the sentencing court requesting 1838

termination of the revocation; upon the filing of such a motion 1839
and the court's finding of good cause for the termination, the 1840
court may terminate the revocation. 1841

(H)(1) In addition to any prison term authorized or required 1842
by division (C) of this section and sections 2929.13 and 2929.14 1843
of the Revised Code, in addition to any other penalty or sanction 1844
imposed for the offense under this section or sections 2929.11 to 1845
2929.181 of the Revised Code, and in addition to the forfeiture of 1846
property in connection with the offense as prescribed in sections 1847
2925.42 to 2925.45 of the Revised Code, the court that sentences 1848
an offender who is convicted of or pleads guilty to a violation of 1849
division (A) of this section may impose upon the offender an 1850
additional fine specified for the offense in division (B)(4) of 1851
section 2929.18 of the Revised Code. A fine imposed under division 1852
(H)(1) of this section is not subject to division (F) of this 1853
section and shall be used solely for the support of one or more 1854
eligible alcohol and drug addiction programs in accordance with 1855
divisions (H)(2) and (3) of this section. 1856

(2) The court that imposes a fine under division (H)(1) of 1857
this section shall specify in the judgment that imposes the fine 1858
one or more eligible alcohol and drug addiction programs for the 1859
support of which the fine money is to be used. No alcohol and drug 1860
addiction program shall receive or use money paid or collected in 1861
satisfaction of a fine imposed under division (H)(1) of this 1862
section unless the program is specified in the judgment that 1863
imposes the fine. No alcohol and drug addiction program shall be 1864
specified in the judgment unless the program is an eligible 1865
alcohol and drug addiction program and, except as otherwise 1866
provided in division (H)(2) of this section, unless the program is 1867
located in the county in which the court that imposes the fine is 1868
located or in a county that is immediately contiguous to the 1869
county in which that court is located. If no eligible alcohol and 1870

drug addiction program is located in any of those counties, the 1871
judgment may specify an eligible alcohol and drug addiction 1872
program that is located anywhere within this state. 1873

(3) Notwithstanding any contrary provision of section 3719.21 1874
of the Revised Code, the clerk of the court shall pay any fine 1875
imposed under division (H)(1) of this section to the eligible 1876
alcohol and drug addiction program specified pursuant to division 1877
(H)(2) of this section in the judgment. The eligible alcohol and 1878
drug addiction program that receives the fine moneys shall use the 1879
moneys only for the alcohol and drug addiction services identified 1880
in the application for certification under section 3793.06 of the 1881
Revised Code or in the application for a license under section 1882
3793.11 of the Revised Code filed with the department of alcohol 1883
and drug addiction services by the alcohol and drug addiction 1884
program specified in the judgment. 1885

(4) Each alcohol and drug addiction program that receives in 1886
a calendar year any fine moneys under division (H)(3) of this 1887
section shall file an annual report covering that calendar year 1888
with the court of common pleas and the board of county 1889
commissioners of the county in which the program is located, with 1890
the court of common pleas and the board of county commissioners of 1891
each county from which the program received the moneys if that 1892
county is different from the county in which the program is 1893
located, and with the attorney general. The alcohol and drug 1894
addiction program shall file the report no later than the first 1895
day of March in the calendar year following the calendar year in 1896
which the program received the fine moneys. The report shall 1897
include statistics on the number of persons served by the alcohol 1898
and drug addiction program, identify the types of alcohol and drug 1899
addiction services provided to those persons, and include a 1900
specific accounting of the purposes for which the fine moneys 1901
received were used. No information contained in the report shall 1902

identify, or enable a person to determine the identity of, any person served by the alcohol and drug addiction program. Each report received by a court of common pleas, a board of county commissioners, or the attorney general is a public record open for inspection under section 149.43 of the Revised Code.

(5) As used in divisions (H)(1) to (5) of this section:

(a) "Alcohol and drug addiction program" and "alcohol and drug addiction services" have the same meanings as in section 3793.01 of the Revised Code.

(b) "Eligible alcohol and drug addiction program" means an alcohol and drug addiction program that is certified under section 3793.06 of the Revised Code or licensed under section 3793.11 of the Revised Code by the department of alcohol and drug addiction services.

Sec. 2925.09. (A) No person shall administer, dispense, distribute, manufacture, possess, sell, or use any drug, other than a controlled substance, that is not approved by the United States food and drug administration, or the United States department of agriculture, unless one of the following applies:

(1) The United States food and drug administration has approved an application for investigational use in accordance with the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the drug is used only for the approved investigational use;

(2) The United States department of agriculture has approved an application for investigational use in accordance with the federal "Virus-Serum-Toxin Act," 37 Stat. 832 (1913), 21 U.S.C.A. ~~as amended,~~ 151, as amended, and the drug is used only for the approved investigational use;

(3) A ~~practitioner~~ licensed health professional authorized to

prescribe drugs, other than a veterinarian, prescribes or combines
two or more drugs as a single product for medical purposes;

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(4) A pharmacist, pursuant to a prescription, compounds and
dispenses two or more drugs as a single product for medical
purposes.

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(B)(1) As used in this division, "dangerous drug,"
"prescription," "sale at retail," "wholesale distributor of
dangerous drugs," and "terminal distributor of dangerous drugs,"
have the same meanings ~~set forth~~ as in section ~~4729.02~~ 4729.01 of
the Revised Code.

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(2) Except as provided in division (B)(3) of this section, no
person shall administer, dispense, distribute, manufacture,
possess, sell, or use any dangerous drug to or for livestock or
any animal that is generally used for food or in the production of
food, unless the drug is prescribed by a licensed veterinarian by
prescription or other written order and the drug is used in
accordance with the veterinarian's order or direction.

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(3) Division (B)(2) of this section does not apply to a
registered wholesale distributor of dangerous drugs, a licensed
terminal distributor of dangerous drugs, or a person who
possesses, possesses for sale, or sells, at retail, a drug in
accordance with Chapters 3719., 4729., or 4741. of the Revised
Code.

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(C) Whoever violates division (A) or (B)(2) of this section
is guilty of a felony of the fifth degree on a first offense and
of a felony of the fourth degree on each subsequent offense.

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Sec. 2925.11. (A) No person shall knowingly obtain, possess,
or use a controlled substance.

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(B) This section does not apply to any of the following:

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(1) Manufacturers, ~~practitioners~~ licensed health 1963
professionals authorized to prescribe drugs, pharmacists, owners 1964
of pharmacies, and other persons whose conduct was in accordance 1965
with Chapters 3719., 4715., 4729., 4731., and 4741. or section 1966
4723.56 of the Revised Code; 1967

(2) If the offense involves an anabolic steroid, any person 1968
who is conducting or participating in a research project involving 1969
the use of an anabolic steroid if the project has been approved by 1970
the United States food and drug administration; 1971

(3) Any person who sells, offers for sale, prescribes, 1972
dispenses, or administers for livestock or other nonhuman species 1973
an anabolic steroid that is expressly intended for administration 1974
through implants to livestock or other nonhuman species and 1975
approved for that purpose under the "Federal Food, Drug, and 1976
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 1977
and is sold, offered for sale, prescribed, dispensed, or 1978
administered for that purpose in accordance with that act; 1979

(4) Any person who obtained the controlled substance pursuant 1980
to a prescription issued by a ~~practitioner~~ licensed health 1981
professionals authorized to prescribe drugs, where the drug is in 1982
the original container in which it was dispensed to such person. 1983

(C) Whoever violates division (A) of this section is guilty 1985
of one of the following: 1986

(1) If the drug involved in the violation is a compound, 1987
mixture, preparation, or substance included in schedule I or II, 1988
with the exception of marihuana, cocaine, L.S.D., heroin, and 1989
hashish, whoever violates division (A) of this section is guilty 1990
of aggravated possession of drugs. The penalty for the offense 1991
shall be determined as follows: 1992

(a) Except as otherwise provided in division (C)(1)(b), (c), 1993

(d), or (e) of this section, aggravated possession of drugs is a
felony of the fifth degree, and division (B) of section 2929.13 of
the Revised Code applies in determining whether to impose a prison
term on the offender.

(b) If the amount of the drug involved exceeds the bulk
amount but does not exceed five times the bulk amount, aggravated
possession of drugs is a felony of the third degree, and there is
a presumption for a prison term for the offense.

(c) If the amount of the drug involved exceeds five times the
bulk amount but does not exceed fifty times the bulk amount,
aggravated possession of drugs is a felony of the second degree,
and the court shall impose as a mandatory prison term one of the
prison terms prescribed for a felony of the second degree.

(d) If the amount of the drug involved exceeds fifty times
the bulk amount but does not exceed one hundred times the bulk
amount, aggravated possession of drugs is a felony of the first
degree, and the court shall impose as a mandatory prison term one
of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved exceeds one hundred
times the bulk amount, aggravated possession of drugs is a felony
of the first degree, and the court shall impose as a mandatory
prison term the maximum prison term prescribed for a felony of the
first degree and may impose an additional mandatory prison term
prescribed for a major drug offender under division (D)(3)(b) of
section 2929.14 of the Revised Code.

(2) If the drug involved in the violation is a compound,
mixture, preparation, or substance included in schedule III, IV,
or V, whoever violates division (A) of this section is guilty of
possession of drugs. The penalty for the offense shall be
determined as follows:

(a) Except as otherwise provided in division (C)(2)(b), (c),

or (d) of this section, possession of drugs is a misdemeanor of 2025
the third degree or, if the offender previously has been convicted 2026
of a drug abuse offense, a misdemeanor of the second degree. If 2027
the drug involved in the violation is an anabolic steroid included 2028
in schedule III and if the offense is a misdemeanor of the third 2029
degree under this division, in lieu of sentencing the offender to 2030
a term of imprisonment in a detention facility, the court may 2031
place the offender on conditional probation pursuant to division 2032
(F) of section 2951.02 of the Revised Code. 2033

(b) If the amount of the drug involved exceeds the bulk 2034
amount but does not exceed five times the bulk amount, possession 2035
of drugs is a felony of the fourth degree, and division (C) of 2036
section 2929.13 of the Revised Code applies in determining whether 2037
to impose a prison term on the offender. 2038

(c) If the amount of the drug involved exceeds five times the 2039
bulk amount but does not exceed fifty times the bulk amount, 2040
possession of drugs is a felony of the third degree, and there is 2041
a presumption for a prison term for the offense. 2042

(d) If the amount of the drug involved exceeds fifty times 2043
the bulk amount, possession of drugs is a felony of the second 2044
degree, and the court shall impose upon the offender as a 2045
mandatory prison term one of the prison terms prescribed for a 2046
felony of the second degree. 2047

(3) If the drug involved in the violation is marihuana or a 2048
compound, mixture, preparation, or substance containing marihuana 2049
other than hashish, whoever violates division (A) of this section 2050
is guilty of possession of marihuana. The penalty for the offense 2051
shall be determined as follows: 2052

(a) Except as otherwise provided in division (C)(3)(b), (c), 2053
(d), (e), or (f) of this section, possession of marihuana is a 2054
minor misdemeanor. 2055

(b) If the amount of the drug involved equals or exceeds one hundred grams but does not exceed two hundred grams, possession of marihuana is a misdemeanor of the fourth degree.

(c) If the amount of the drug involved exceeds two hundred grams but does not exceed one thousand grams, possession of marihuana is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) If the amount of the drug involved exceeds one thousand grams but does not exceed five thousand grams, possession of marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(e) If the amount of the drug involved exceeds five thousand grams but does not exceed twenty thousand grams, possession of marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) If the amount of the drug involved exceeds twenty thousand grams, possession of marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree.

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of possession of cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), or (f) of this section, possession of cocaine is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) If the amount of the drug involved exceeds five grams but does not exceed twenty-five grams of cocaine that is not crack cocaine or exceeds one gram but does not exceed five grams of crack cocaine, possession of cocaine is a felony of the fourth degree, and there is a presumption for a prison term for the offense.

(c) If the amount of the drug involved exceeds twenty-five grams but does not exceed one hundred grams of cocaine that is not crack cocaine or exceeds five grams but does not exceed ten grams of crack cocaine, possession of cocaine is a felony of the third degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree.

(d) If the amount of the drug involved exceeds one hundred grams but does not exceed five hundred grams of cocaine that is not crack cocaine or exceeds ten grams but does not exceed twenty-five grams of crack cocaine, possession of cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) If the amount of the drug involved exceeds five hundred grams but does not exceed one thousand grams of cocaine that is not crack cocaine or exceeds twenty-five grams but does not exceed one hundred grams of crack cocaine, possession of cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved exceeds one thousand grams of cocaine that is not crack cocaine or exceeds one hundred grams of crack cocaine, possession of cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first

degree and may impose an additional mandatory prison term 2118
prescribed for a major drug offender under division (D)(3)(b) of 2119
section 2929.14 of the Revised Code. 2120

(5) If the drug involved in the violation is L.S.D., whoever 2121
violates division (A) of this section is guilty of possession of 2122
L.S.D. The penalty for the offense shall be determined as follows: 2123
2124

(a) Except as otherwise provided in division (C)(5)(b), (c), 2125
(d), (e), or (f) of this section, possession of L.S.D. is a felony 2126
of the fifth degree, and division (B) of section 2929.13 of the 2127
Revised Code applies in determining whether to impose a prison 2128
term on the offender. 2129

(b) If the amount of L.S.D. involved exceeds ten unit doses 2130
but does not exceed fifty unit doses of L.S.D. in a solid form or 2131
exceeds one gram but does not exceed five grams of L.S.D. in a 2132
liquid concentrate, liquid extract, or liquid distillate form, 2133
possession of L.S.D. is a felony of the fourth degree, and 2134
division (C) of section 2929.13 of the Revised Code applies in 2135
determining whether to impose a prison term on the offender. 2136

(c) If the amount of L.S.D. involved exceeds fifty unit 2137
doses, but does not exceed two hundred fifty unit doses of L.S.D. 2138
in a solid form or exceeds five grams but does not exceed 2139
twenty-five grams of L.S.D. in a liquid concentrate, liquid 2140
extract, or liquid distillate form, possession of L.S.D. is a 2141
felony of the third degree, and there is a presumption for a 2142
prison term for the offense. 2143

(d) If the amount of L.S.D. involved exceeds two hundred 2144
fifty unit doses but does not exceed one thousand unit doses of 2145
L.S.D. in a solid form or exceeds twenty-five grams but does not 2146
exceed one hundred grams of L.S.D. in a liquid concentrate, liquid 2147
extract, or liquid distillate form, possession of L.S.D. is a 2148

felony of the second degree, and the court shall impose as a 2149
mandatory prison term one of the prison terms prescribed for a 2150
felony of the second degree. 2151

(e) If the amount of L.S.D. involved exceeds one thousand 2152
unit doses but does not exceed five thousand unit doses of L.S.D. 2153
in a solid form or exceeds one hundred grams but does not exceed 2154
five hundred grams of L.S.D. in a liquid concentrate, liquid 2155
extract, or liquid distillate form, possession of L.S.D. is a 2156
felony of the first degree, and the court shall impose as a 2157
mandatory prison term one of the prison terms prescribed for a 2158
felony of the first degree. 2159

(f) If the amount of L.S.D. involved exceeds five thousand 2160
unit doses of L.S.D. in a solid form or exceeds five hundred grams 2161
of L.S.D. in a liquid concentrate, liquid extract, or liquid 2162
distillate form, possession of L.S.D. is a felony of the first 2163
degree, and the court shall impose as a mandatory prison term the 2164
maximum prison term prescribed for a felony of the first degree 2165
and may impose an additional mandatory prison term prescribed for 2166
a major drug offender under division (D)(3)(b) of section 2929.14 2167
of the Revised Code. 2168

(6) If the drug involved in the violation is heroin or a 2169
compound, mixture, preparation, or substance containing heroin, 2170
whoever violates division (A) of this section is guilty of 2171
possession of heroin. The penalty for the offense shall be 2172
determined as follows: 2173

(a) Except as otherwise provided in division (C)(6)(b), (c), 2174
(d), (e), or (f) of this section, possession of heroin is a felony 2175
of the fifth degree, and division (B) of section 2929.13 of the 2176
Revised Code applies in determining whether to impose a prison 2177
term on the offender. 2178

(b) If the amount of the drug involved exceeds one gram but 2179

does not exceed five grams, possession of heroin is a felony of 2180
the fourth degree, and division (C) of section 2929.13 of the 2181
Revised Code applies in determining whether to impose a prison 2182
term on the offender. 2183

(c) If the amount of the drug involved exceeds five grams but 2184
does not exceed ten grams, possession of heroin is a felony of the 2185
third degree, and there is a presumption for a prison term for the 2186
offense. 2187

(d) If the amount of the drug involved exceeds ten grams but 2188
does not exceed fifty grams, possession of heroin is a felony of 2189
the second degree, and the court shall impose as a mandatory 2190
prison term one of the prison terms prescribed for a felony of the 2191
second degree. 2192

(e) If the amount of the drug involved exceeds fifty grams 2193
but does not exceed two hundred fifty grams, possession of heroin 2194
is a felony of the first degree, and the court shall impose as a 2195
mandatory prison term one of the prison terms prescribed for a 2196
felony of the first degree. 2197

(f) If the amount of the drug involved exceeds two hundred 2198
fifty grams, possession of heroin is a felony of the first degree, 2199
and the court shall impose as a mandatory prison term the maximum 2200
prison term prescribed for a felony of the first degree and may 2201
impose an additional mandatory prison term prescribed for a major 2202
drug offender under division (D)(3)(b) of section 2929.14 of the 2203
Revised Code. 2204

(7) If the drug involved in the violation is hashish or a 2205
compound, mixture, preparation, or substance containing hashish, 2206
whoever violates division (A) of this section is guilty of 2207
possession of hashish. The penalty for the offense shall be 2208
determined as follows: 2209

(a) Except as otherwise provided in division (C)(7)(b), (c), 2210

(d), (e), or (f) of this section, possession of hashish is a minor
misdemeanor. 2211
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(b) If the amount of the drug involved equals or exceeds five
grams but does not exceed ten grams of hashish in a solid form or
equals or exceeds one gram but does not exceed two grams of
hashish in a liquid concentrate, liquid extract, or liquid
distillate form, possession of hashish is a misdemeanor of the
fourth degree. 2213
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(c) If the amount of the drug involved exceeds ten grams but
does not exceed fifty grams of hashish in a solid form or exceeds
two grams but does not exceed ten grams of hashish in a liquid
concentrate, liquid extract, or liquid distillate form, possession
of hashish is a felony of the fifth degree, and division (B) of
section 2929.13 of the Revised Code applies in determining whether
to impose a prison term on the offender. 2219
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(d) If the amount of the drug involved exceeds fifty grams
but does not exceed two hundred fifty grams of hashish in a solid
form or exceeds ten grams but does not exceed fifty grams of
hashish in a liquid concentrate, liquid extract, or liquid
distillate form, possession of hashish is a felony of the third
degree, and division (C) of section 2929.13 of the Revised Code
applies in determining whether to impose a prison term on the
offender. 2226
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(e) If the amount of the drug involved exceeds two hundred
fifty grams but does not exceed one thousand grams of hashish in a
solid form or exceeds fifty grams but does not exceed two hundred
grams of hashish in a liquid concentrate, liquid extract, or
liquid distillate form, possession of hashish is a felony of the
third degree, and there is a presumption that a prison term shall
be imposed for the offense. 2234
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(f) If the amount of the drug involved exceeds one thousand 2241

grams of hashish in a solid form or exceeds two hundred grams of 2242
hashish in a liquid concentrate, liquid extract, or liquid 2243
distillate form, possession of hashish is a felony of the second 2244
degree, and the court shall impose as a mandatory prison term the 2245
maximum prison term prescribed for a felony of the second degree. 2246

(D) Arrest or conviction for a minor misdemeanor violation of 2247
this section does not constitute a criminal record and need not be 2248
reported by the person so arrested or convicted in response to any 2249
inquiries about the person's criminal record, including any 2250
inquiries contained in any application for employment, license, or 2251
other right or privilege, or made in connection with the person's 2252
appearance as a witness. 2253

(E) In addition to any prison term authorized or required by 2254
division (C) of this section and sections 2929.13 and 2929.14 of 2255
the Revised Code and in addition to any other sanction that is 2256
imposed for the offense under this section or sections 2929.11 to 2257
2929.18 of the Revised Code, the court that sentences an offender 2258
who is convicted of or pleads guilty to a violation of division 2259
(A) of this section shall do all of the following that are 2260
applicable regarding the offender: 2261

(1)(a) If the violation is a felony of the first, second, or 2262
third degree, the court shall impose upon the offender the 2263
mandatory fine specified for the offense under division (B)(1) of 2264
section 2929.18 of the Revised Code unless, as specified in that 2265
division, the court determines that the offender is indigent. 2266

(b) Notwithstanding any contrary provision of section 3719.21 2267
of the Revised Code, the clerk of the court shall pay a mandatory 2268
fine or other fine imposed for a violation of this section 2269
pursuant to division (A) of section 2929.18 of the Revised Code in 2270
accordance with and subject to the requirements of division (F) of 2271
section 2925.03 of the Revised Code. The agency that receives the 2272

fine shall use the fine as specified in division (F) of section 2273
2925.03 of the Revised Code. 2274

(c) If a person is charged with a violation of this section 2275
that is a felony of the first, second, or third degree, posts 2276
bail, and forfeits the bail, the clerk shall pay the forfeited 2277
bail pursuant to division (E)(1)(b) of this section as if it were 2278
a mandatory fine imposed under division (E)(1)(a) of this section. 2279

(2) The court shall suspend for not less than six months or 2280
more than five years the driver's or commercial driver's license 2281
or permit of any person who is convicted of or has pleaded guilty 2282
to a violation of this section. 2283

(3) If the offender is a professionally licensed person or a 2284
person who has been admitted to the bar by order of the supreme 2285
court in compliance with its prescribed and published rules, in 2286
addition to any other sanction imposed for a violation of this 2287
section, the court forthwith shall comply with section 2925.38 of 2288
the Revised Code. 2289

(F) It is an affirmative defense, as provided in section 2290
2901.05 of the Revised Code, to a charge of a fourth degree felony 2291
violation under this section that the controlled substance that 2292
gave rise to the charge is in an amount, is in a form, is 2293
prepared, compounded, or mixed with substances that are not 2294
controlled substances in a manner, or is possessed under any other 2295
circumstances, that indicate that the substance was possessed 2296
solely for personal use. Notwithstanding any contrary provision of 2297
this section, if, in accordance with section 2901.05 of the 2298
Revised Code, an accused who is charged with a fourth degree 2299
felony violation of division (C)(2), (4), (5), or (6) of this 2300
section sustains the burden of going forward with evidence of and 2301
establishes by a preponderance of the evidence the affirmative 2302
defense described in this division, the accused may be prosecuted 2303

for and may plead guilty to or be convicted of a misdemeanor 2304
violation of division (C)(2) of this section or a fifth degree 2305
felony violation of division (C)(4), (5), or (6) of this section 2306
respectively. 2307

(G) When a person is charged with possessing a bulk amount or 2308
multiple of a bulk amount, division (E) of section 2925.03 of the 2309
Revised Code applies regarding the determination of the amount of 2310
the controlled substance involved at the time of the offense. 2311

Sec. 2925.12. (A) No person shall knowingly make, obtain, 2312
possess, or use any instrument, article, or thing the customary 2313
and primary purpose of which is for the administration or use of a 2314
dangerous drug, other than marihuana, when the instrument involved 2315
is a hypodermic or syringe, whether or not of crude or 2316
extemporized manufacture or assembly, and the instrument, article, 2317
or thing involved has been used by the offender to unlawfully 2318
administer or use a dangerous drug, other than marihuana, or to 2319
prepare a dangerous drug, other than marihuana, for unlawful 2320
administration or use. 2321

(B) This section does not apply to manufacturers, 2322
~~practitioners~~ licensed health professionals authorized to 2323
prescribe drugs, pharmacists, owners of pharmacies, and other 2324
persons whose conduct was in accordance with Chapters 3719., 2325
4715., 4729., 4731., and 4741. or section 4723.56 of the Revised 2326
Code. 2327

(C) Whoever violates this section is guilty of possessing 2328
drug abuse instruments, a misdemeanor of the second degree. If the 2329
offender previously has been convicted of a drug abuse offense, a 2330
violation of this section is a misdemeanor of the first degree. 2331

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(D) In addition to any other sanction imposed for a violation 2333

of this section, the court shall suspend for not less than six 2334
months or more than five years the driver's or commercial driver's 2335
license or permit of any person who is convicted of or has pleaded 2336
guilty to a violation of this section. If the offender is a 2337
professionally licensed person or a person who has been admitted 2338
to the bar by order of the supreme court in compliance with its 2339
prescribed and published rules, in addition to any other sanction 2340
imposed for a violation of this section, the court forthwith shall 2341
comply with section 2925.38 of the Revised Code. 2342

Sec. 2925.14. (A) As used in this section, "drug 2344
paraphernalia" means any equipment, product, or material of any 2345
kind that is used by the offender, intended by the offender for 2346
use, or designed for use, in propagating, cultivating, growing, 2347
harvesting, manufacturing, compounding, converting, producing, 2348
processing, preparing, testing, analyzing, packaging, repackaging, 2349
storing, containing, concealing, injecting, ingesting, inhaling, 2350
or otherwise introducing into the human body, a controlled 2351
substance in violation of this chapter. "Drug paraphernalia" 2352
includes, but is not limited to, any of the following equipment, 2353
products, or materials that are used by the offender, intended by 2354
the offender for use, or designed by the offender for use, in any 2355
of the following manners: 2356

(1) A kit for propagating, cultivating, growing, or 2357
harvesting any species of a plant that is a controlled substance 2358
or from which a controlled substance can be derived; 2359

(2) A kit for manufacturing, compounding, converting, 2360
producing, processing, or preparing a controlled substance; 2361

(3) An isomerization device for increasing the potency of any 2362
species of a plant that is a controlled substance; 2363

(4) Testing equipment for identifying, or analyzing the 2364

strength, effectiveness, or purity of, a controlled substance;	2365
(5) A scale or balance for weighing or measuring a controlled substance;	2366 2367
(6) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance;	2368 2369 2370
(7) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;	2371 2372
(8) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance;	2373 2374
(9) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance;	2375 2376
(10) A container or device for storing or concealing a controlled substance;	2377 2378
(11) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body;	2379 2380
(12) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.	2381 2382 2383 2384 2385 2386 2387 2388 2389 2390 2391
(B) In determining if an object is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:	2392 2393 2394

(1) Any statement by the owner, or by anyone in control, of the object, concerning its use;	2395 2396
(2) The proximity in time or space of the object, or of the act relating to the object, to a violation of any provision of this chapter;	2397 2398 2399
(3) The proximity of the object to any controlled substance;	2400
(4) The existence of any residue of a controlled substance on the object;	2401 2402
(5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the object, to deliver it to any person whom the owner or person in control of the object knows intends to use the object to facilitate a violation of any provision of this chapter. A finding that the owner, or anyone in control, of the object, is not guilty of a violation of any other provision of this chapter does not prevent a finding that the object was intended or designed by the offender for use as drug paraphernalia.	2403 2404 2405 2406 2407 2408 2409 2410 2411
(6) Any oral or written instruction provided with the object concerning its use;	2412 2413
(7) Any descriptive material accompanying the object and explaining or depicting its use;	2414 2415
(8) National or local advertising concerning the use of the object;	2416 2417
(9) The manner and circumstances in which the object is displayed for sale;	2418 2419
(10) Direct or circumstantial evidence of the ratio of the sales of the object to the total sales of the business enterprise;	2420 2421
(11) The existence and scope of legitimate uses of the object in the community;	2422 2423

(12) Expert testimony concerning the use of the object.	2424
(C)(1) No person shall knowingly use, or possess with purpose to use, drug paraphernalia.	2425 2426
(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.	2427 2428 2429 2430
(3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this state, if the person knows that the purpose of the advertisement is to promote the illegal sale in this state of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.	2431 2432 2433 2434 2435 2436 2437
(D) This section does not apply to manufacturers, practitioners <u>licensed health professionals authorized to prescribe drugs</u> , pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4729., 4731., and 4741. or section 4723.56 of the Revised Code. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by section 3719.172 of the Revised Code.	2438 2439 2440 2441 2442 2443 2444 2445
(E) Notwithstanding sections 2933.42 and 2933.43 of the Revised Code, any drug paraphernalia that was used, possessed, sold, or manufactured in a violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to division (D)(8) of section 2933.41 of the Revised Code.	2446 2447 2448 2449 2450 2451
(F)(1) Whoever violates division (C)(1) of this section is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.	2452 2453 2454

(2) Except as provided in division (F)(3) of this section, 2455
whoever violates division (C)(2) of this section is guilty of 2456
dealing in drug paraphernalia, a misdemeanor of the second degree. 2457

(3) Whoever violates division (C)(2) of this section by 2458
selling drug paraphernalia to a juvenile is guilty of selling drug 2459
paraphernalia to juveniles, a misdemeanor of the first degree. 2460

(4) Whoever violates division (C)(3) of this section is 2461
guilty of illegal advertising of drug paraphernalia, a misdemeanor 2462
of the second degree. 2463

(G) In addition to any other sanction imposed for a violation 2464
of this section, the court shall suspend for not less than six 2465
months or more than five years the driver's or commercial driver's 2466
license or permit of any person who is convicted of or has pleaded 2467
guilty to a violation of this section. If the offender is a 2468
professionally licensed person or a person who has been admitted 2469
to the bar by order of the supreme court in compliance with its 2470
prescribed and published rules, in addition to any other sanction 2471
imposed for a violation of this section, the court forthwith shall 2472
comply with section 2925.38 of the Revised Code. 2473
2474

Sec. 2925.23. (A) No person shall knowingly make a false 2475
statement in any prescription, order, report, or record required 2476
by Chapter 3719. or 4729. of the Revised Code. 2477

(B) No person shall intentionally make, utter, or sell, or 2478
knowingly possess a false or forged: 2479

(1) Prescription; 2480

(2) Uncompleted preprinted prescription blank used for 2481
writing a prescription; 2482

(3) Official written order; 2483

(4) License for a terminal distributor of dangerous drugs as required in section 4729.60 of the Revised Code;	2484 2485
(5) Registration certificate for a wholesale distributor of dangerous drugs as required in section 4729.60 of the Revised Code.	2486 2487 2488
(C) No person, by theft as defined in section 2913.02 of the Revised Code, shall acquire any of the following:	2489 2490
(1) A prescription;	2491
(2) An uncompleted preprinted prescription blank used for writing a prescription;	2492 2493
(3) An official written order;	2494
(4) A blank official written order;	2495
(5) A license or blank license for a terminal distributor of dangerous drugs as required in section 4729.60 of the Revised Code;	2496 2497 2498
(6) A registration certificate or blank registration certificate for a wholesale distributor of dangerous drugs as required in section 4729.60 of the Revised Code.	2499 2500 2501
(D) No person shall knowingly make or affix any false or forged label to a package or receptacle containing any dangerous drugs.	2502 2503 2504
(E) Divisions (A) and (D) of this section do not apply to practitioners <u>licensed health professionals authorized to prescribe drugs</u> , pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4725., 4729., 4731., and 4741. of the Revised Code or section 4723.56 of the Revised Code.	2505 2506 2507 2508 2509 2510
(F) Whoever violates this section is guilty of illegal processing of drug documents. The penalty for the offense shall be	2511 2512

determined as follows: 2513

(1) If the drug involved is a compound, mixture, preparation, 2514
or substance included in schedule I or II, with the exception of 2515
marihuana, illegal processing of drug documents is a felony of the 2516
fourth degree, and division (C) of section 2929.13 of the Revised 2517
Code applies in determining whether to impose a prison term on the 2518
offender. 2519

(2) If the drug involved is a dangerous drug or a compound, 2520
mixture, preparation, or substance included in schedule III, IV, 2521
or V or is marihuana, illegal processing of drug documents is a 2522
felony of the fifth degree, and division (C) of section 2929.13 of 2523
the Revised Code applies in determining whether to impose a prison 2524
term on the offender. 2525

(G) In addition to any prison term authorized or required by 2526
division (F) of this section and sections 2929.13 and 2929.14 of 2527
the Revised Code and in addition to any other sanction imposed for 2528
the offense under this section or sections 2929.11 to 2929.18 of 2529
the Revised Code, the court that sentences an offender who is 2530
convicted of or pleads guilty to any violation of divisions (A) to 2531
(D) of this section shall do both of the following: 2532

(1) The court shall suspend for not less than six months or 2533
more than five years the driver's or commercial driver's license 2534
or permit of any person who is convicted of or has pleaded guilty 2535
to a violation of this section. 2536

(2) If the offender is a professionally licensed person or a 2537
person who has been admitted to the bar by order of the supreme 2538
court in compliance with its prescribed and published rules, in 2539
addition to any other sanction imposed for a violation of this 2540
section, the court forthwith shall comply with section 2925.38 of 2541
the Revised Code. 2542

(H) Notwithstanding any contrary provision of section 3719.21 2543

of the Revised Code, the clerk of court shall pay a fine imposed 2544
for a violation of this section pursuant to division (A) of 2545
section 2929.18 of the Revised Code in accordance with and subject 2546
to the requirements of division (F) of section 2925.03 of the 2547
Revised Code. The agency that receives the fine shall use the fine 2548
as specified in division (F) of section 2925.03 of the Revised 2549
Code. 2550

Sec. 2925.50. If a violation of this chapter is a violation 2551
of the federal narcotic drug abuse control laws, as defined in 2552
section 3719.01 of the Revised Code, a conviction or acquittal 2553
under the federal narcotic drug abuse control laws for the same 2554
act is a bar to prosecution in this state. 2555

Sec. 2927.24. (A) As used in this section, ~~"poison" and~~ 2556
~~"drug" have the same meanings:~~ 2557

(1) "Poison" has the same meaning as in section 3719.01 Of 2558
the Revised Code. 2559

(2) "Drug" has the same meaning as in section 4729.02 4729.01 2560
of the Revised Code. 2561

(B) Except as provided in division (D) of this section, no 2562
person shall knowingly mingle a poison or other harmful substance 2563
with a food, drink, nonprescription drug, prescription drug, or 2564
pharmaceutical product, or knowingly place a poison or other 2565
harmful substance in a spring, well, reservoir, or public water 2566
supply, if the person knows or has reason to know that the food, 2567
drink, nonprescription drug, prescription drug, pharmaceutical 2568
product, or water may be ingested or used by another person. For 2569
purposes of this division, a person does not know or have reason 2570
to know that water may be ingested or used by another person if it 2571
is disposed of as waste into a household drain including the drain 2572
of a toilet, sink, tub, or floor. 2573

(C) No person shall inform another person that a poison or other harmful substance has been or will be placed in a food, drink, nonprescription drug, prescription drug, or other pharmaceutical product, spring, well, reservoir, or public water supply, if the placement of the poison or other harmful substance would be a violation of division (B) of this section, and the person knows both that the information is false and that the information likely will be disseminated to the public.

(D)(1) A person may mingle a drug with a food or drink for the purpose of causing the drug to be ingested or used in the quantity described by its labeling or prescription.

(2) A person may place a poison or other harmful substance in a spring, well, reservoir, or public water supply in such quantity as is necessary to treat the spring, well, reservoir, or water supply to make it safe for human consumption and use.

(3) The provisions of division (A) of this section shall not be applied in a manner that conflicts with any other state or federal law or rule relating to substances permitted to be applied to or present in any food, raw or processed, any milk or milk product, any meat or meat product, any type of crop, water, or alcoholic or nonalcoholic beverage.

(E)(1) Whoever violates division (B) of this section is guilty of contaminating a substance for human consumption or use, a felony of the first degree. If the offense involved an amount of poison or other harmful substance sufficient to cause death if ingested or used by a person or if the offense resulted in serious physical harm to another person, whoever violates division (B) of this section is guilty of an aggravated felony of the first degree and shall be imprisoned for life.

(2) Whoever violates division (C) of this section is guilty of spreading a false report of contamination, a felony of the

fourth degree. 2605

Sec. 3313.713. (A) As used in this section: 2606

(1) "Drug prescribed by a physician" means a drug described 2607
in section ~~4729.02~~ 4729.01 of the Revised Code that is to be 2608
administered pursuant to the instructions of the prescribing 2609
physician, whether or not required by law to be sold only upon a 2610
prescription. 2611

(2) "Federal law" means the "Education For All Handicapped 2612
Children Act of 1975," 89 Stat. 775, 20 U.S.C. 1401, as amended. 2613

(B) The board of education of each city, local, exempted 2614
village, and joint vocational school district, shall not later 2615
than one hundred twenty days after the effective date of this 2616
section, adopt a policy on the authority of its employees, when 2617
acting in situations other than those governed by sections 2618
2305.23, 2305.231, and 3313.712 of the Revised Code, to administer 2619
drugs prescribed by physicians to students enrolled in the schools 2620
of the district. The policy shall provide either that: 2621

(1) Except as otherwise required by federal law, no person 2622
employed by the board shall, in the course of such employment, 2623
administer any drug prescribed by a physician to any student 2624
enrolled in the schools of the district. 2625

(2) Designated persons employed by the board are authorized 2626
to administer to a student a drug prescribed by a physician for 2627
the student. Except as otherwise provided by federal law, the 2628
board's policy may provide that certain drugs or types of drugs 2629
shall not be administered or that no employee, or no employee 2630
without appropriate training, shall use certain procedures, such 2631
as injection, to administer a drug to a student. 2632

(C) No drug prescribed by a physician for a student shall be 2633
administered pursuant to federal law or a policy adopted under 2634

division (B) of this section until the following occur:	2635
(1) The board, or a person designated by the board, receives	2636
a written request, signed by the parent, guardian, or other person	2637
having care or charge of the student, that the drug be	2638
administered to the student.	2639
(2) The board, or a person designated by the board, receives	2640
a statement, signed by the physician who prescribed the drug, that	2641
includes all of the following information:	2642
(a) The name and address of the student;	2643
(b) The school and class in which the student is enrolled;	2644
(c) The name of the drug and the dosage to be administered;	2645
(d) The times or intervals at which each dosage of the drug	2646
is to be administered;	2647
(e) The date the administration of the drug is to begin;	2648
(f) The date the administration of the drug is to cease;	2649
(g) Any severe adverse reactions that should be reported to	2650
the physician and one or more phone numbers at which the physician	2651
can be reached in an emergency;	2652
(h) Special instructions for administration of the drug,	2653
including sterile conditions and storage.	2654
(3) The parent, guardian, or other person having care or	2655
charge of the student agrees to submit a revised statement signed	2656
by the physician who prescribed the drug to the board or a person	2657
designated by the board if any of the information provided by the	2658
physician pursuant to division (C)(2) of this section changes.	2659
(4) The person authorized by the board to administer the drug	2660
receives a copy of the statement required by division (C)(2) or	2661
(3) of this section.	2662
(5) The drug is received by the person authorized to	2663

administer the drug to the student for whom the drug is prescribed 2664
~~it~~ in the container in which it was dispensed by the prescribing 2665
physician or a licensed pharmacist. 2666

(6) Any other procedures required by the board are followed. 2667

(D) If a drug prescribed by a physician is administered to a 2668
student, the board of education shall acquire and retain copies of 2669
the written requests required by division (C)(1) and the 2670
statements required by divisions (C)(2) and (3) of this section 2671
and shall ensure that by the next school day following the receipt 2672
of any such statement a copy is given to the person authorized to 2673
administer drugs to the student for whom the statement has been 2674
received. The board, or a person designated by the board, shall 2675
establish a location in each school building for the storage of 2676
drugs to be administered under this section and federal law. All 2677
such drugs shall be stored in that location in a locked storage 2678
place, except that drugs that require refrigeration may be kept in 2679
a refrigerator in a place not commonly used by students. 2680

(E) No person who has been authorized by a board of education 2681
to administer a drug and has a copy of the most recent statement 2682
required by division (C)(2) or (3) of this section given to ~~him~~ 2683
the person in accordance with division (D) of this section prior 2684
to administering the drug is liable in civil damages for 2685
administering or failing to administer the drug, unless such 2686
person acts in a manner that constitutes gross negligence or 2687
wanton or reckless misconduct. 2688

(F) Whenever a board of education is required to designate a 2689
person or persons to perform any function or functions in 2690
connection with a drug policy adopted under this section, the 2691
board may designate such persons either by name or by position, 2692
training, qualifications, or similar distinguishing factors. 2693

Nothing in this section shall be construed to require a 2694

person employed by a board of education to administer a drug to a student unless the board's policy adopted in compliance with this section establishes such a requirement. A board shall not require an employee to administer a drug to a student if the employee objects, on the basis of religious convictions, to administering the drug.

A policy adopted by a board of education pursuant to this section may be changed, modified, or revised by action of the board.

Nothing in this section affects the application of section 2305.23, 2305.231, or 3313.712 of the Revised Code to the administration of emergency care or treatment to a student.

Sec. 3701.33. The public health council shall consist of the following seven members to be appointed by the governor:

(A) Three physicians who are licensed to practice medicine in the state;

(B) A pharmacist who ~~has been granted a certificate~~ is licensed to practice pharmacy in the state;

(C) A registered nurse who is licensed to practice nursing as a registered nurse in the state;

(D) A sanitarian who holds a valid certificate of registration as a sanitarian issued under section 4736.11 of the Revised Code;

(E) A member of the public who is not associated with or financially interested in the practice of medicine, nursing, pharmacy, or environmental health and is at least sixty years of age.

Terms of office shall be for seven years, commencing on the first day of July and ending on the thirtieth day of June. Each

member shall hold office from the date of appointment until the
end of the term for which the member was appointed. Any member
appointed to fill a vacancy occurring prior to the expiration of
the term for which the member's predecessor was appointed shall
hold office for the remainder of such term. Any member shall
continue in office subsequent to the expiration date of the
member's term until a the member's successor takes office, or
until a period of sixty days has elapsed, whichever occurs first.

The council shall meet four times each year and may meet at
such other times as the business of the council requires. The time
and place for holding regular meetings shall be fixed in the
bylaws of the council. Special meetings may be called upon the
request of any four members of the council or upon request of the
director of health, and may be held at any place considered
advisable by the council or director. Four members of the council
constitute a quorum for the transaction of business. The council,
on or before the first day of July of each year, shall designate
the member who shall act as its ~~chairman~~ chairperson for the
ensuing year. The director, upon request of the council, shall
detail an officer or employee of the department of health to act
as secretary of the council, and shall detail such other employees
as the council requires.

The members of the council shall be paid the rate established
pursuant to division (J) of section 124.15 of the Revised Code
while in conference and shall be reimbursed their necessary and
reasonable traveling and other expenses incurred in the
performance of their regular duties.

Sec. 3709.161. (A) The board of health of a city or general
health district may procure a policy or policies of insurance
insuring the members of the board, the health commissioner, and
the employees of the board against liability on account of damage

or injury to persons and property resulting from any act or 2755
omission that occurs in the individual's official capacity as a 2756
member or employee of the board or resulting solely out of such 2757
membership or employment. 2758

(B)(1) As used in this division, "health care professional" 2759
means all of the following: 2760

(a) A dentist or dental hygienist licensed under Chapter 2761
4715. of the Revised Code; 2762

(b) A registered nurse or licensed practical nurse licensed 2763
under Chapter 4723. of the Revised Code; 2764

(c) A person ~~authorized~~ licensed under Chapter 4729. of the 2765
Revised Code to practice as a pharmacist; 2766

(d) A person authorized under Chapter 4730. of the Revised 2767
Code to practice as a physician assistant; 2768

(e) A person authorized under Chapter 4731. of the Revised 2769
Code to practice medicine and surgery, osteopathic medicine and 2770
surgery, or podiatry; 2771

(f) A psychologist licensed under Chapter 4732. of the 2772
Revised Code; 2773

(g) A veterinarian licensed under Chapter 4741. of the 2774
Revised Code; 2775

(h) A speech-language pathologist or audiologist licensed 2776
under Chapter 4753. of the Revised Code; 2777

(i) An occupational therapist, physical therapist, physical 2778
therapist assistant, or athletic trainer licensed under Chapter 2779
4755. of the Revised Code; 2780

(j) A professional clinical counselor, professional 2781
counselor, independent social worker, or social worker licensed 2782
under Chapter 4757. of the Revised Code; 2783

(k) A dietician licensed under Chapter 4759. of the Revised Code.	2784 2785
(2) The board of health of a city or general health district may purchase liability insurance for a health care professional with whom the board contracts for the provision of health care services against liability on account of damage or injury to persons and property arising from the health care professional's performance of services under the contract. The policy shall be purchased from an insurance company licensed to do business in this state, if such a policy is available from such a company. The board of health of a city or general health district shall report the cost of the liability insurance policy and subsequent increases in the cost to the director of health on a form prescribed by the director.	2786 2787 2788 2789 2790 2791 2792 2793 2794 2795 2796 2797
Sec. 3715.01. (A) As used in sections 3715.01 to 3715.72 of the Revised Code <u>this chapter</u> :	2798 2799
(1) "Director" means the director of agriculture.	2800
(2) "Board of pharmacy" means the board of pharmacy as defined in and established by section 4729.01 of the Revised Code.	2801 2802
(3) "Public health council" means the public health council as defined in and established by section 3701.33 of the Revised Code.	2803 2804 2805
(4)(2) "Person" means an individual, partnership, corporation, or association.	2806 2807
(5)(3) "Food" means:	2808
(a) Articles used for food or drink for humans or animals;	2809
(b) Chewing gum;	2810
(c) Articles used for components of any such articles.	2811
(6)(4) "Drug" means:	2812

(a) Articles recognized in the official United States pharmacopoeia, <u>and national formulary, or any supplement to them;</u>	2813 2814
(b) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	2815 2816 2817
(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals;	2818 2819
(d) Articles intended for use as a component of any such of the foregoing articles but does not include, other than devices or their components, parts, or accessories.	2820 2821 2822
(7)(5) "Device," except when used in division (B)(1) of this section and in division (B)(A) (10) of section 3715.52, division (F) of section 3715.60, division (A)(5) of section 3715.64, and division (C) of section 3715.67 of the Revised Code, means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is any of the following:	2823 2824 2825 2826 2827 2828 2829
(a) Recognized in an official compendium <u>the United States pharmacopoeia and national formulary, or any supplement to them;</u>	2830 2831
(b) Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease in humans or other animals;	2832 2833 2834
(c) Intended to affect the structure or any function of the body of humans or animals, and that does not achieve any of its principal intended purposes through chemical action within or on the body of humans or animals and is not dependent upon being metabolized for the achievement of any of its principal intended purposes.	2835 2836 2837 2838 2839 2840
(8)(6) "Cosmetic" means:	2841
(a) Articles intended to be rubbed, poured, sprinkled, or	2842

sprayed on, introduced into, or otherwise applied to the human
body or any part thereof for cleansing, beautifying, promoting
attractiveness, or altering the appearance;

(b) Articles intended for use as a component of any such
article, except that ~~such term~~ "cosmetic" does not include soap.

~~(9) "Official compendium" means the official United States
pharmacopoeia, national formulary, or any supplement.~~

~~(10)~~(7) "Label" means a display of written, printed, or
graphic matter upon the immediate container, exclusive of package
liners, of any ~~articles~~ article.

Any word, statement, or other information required by
~~sections 3715.01 to 3715.72 of the Revised Code~~ this chapter to
appear on the label must appear on the outside container or
wrapper, if any, of the retail package of ~~such~~ the article, or
~~such~~ the label must be easily legible through the outside
container or wrapper.

~~(11)~~(8) "Labeling" means all labels and other written,
printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers;

(b) Accompanying such article.

~~(12)~~(9) "Advertisement" means all representations
disseminated in any manner or by any means, other than by
labeling, for the purpose of inducing, or ~~which~~ that are likely to
induce, directly or indirectly, the purchase of food, drugs,
devices, or cosmetics.

~~(13)~~(10) "New drug" means:

(a) Any drug the composition of which is such that ~~such~~ the
drug is not generally recognized among experts qualified by
scientific training and experience to evaluate the safety of
drugs, as safe for use under the conditions prescribed,

recommended, or suggested in the labeling thereof; 2873

(b) Any drug the composition of which is such that ~~such the~~ 2874
drug, as a result of investigation to determine its safety for use 2875
under such conditions, has become so recognized, but ~~which that~~ 2876
has not, ~~otherwise other~~ than in ~~such investigations an~~ 2877
investigation, been used to a material extent or for a material 2878
time under such conditions. 2879

~~(14)~~(11) "Contaminated with filth" applies to any food, drug, 2880
device, or cosmetic that has not been protected as far as may be 2881
necessary by all reasonable means from dust, dirt, and all foreign 2882
or injurious substances. 2883

~~(15)~~ "Federal act" means the "Federal Food, Drug and Cosmetic 2884
Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended. 2885

~~(16)~~(12) "Honey" means the nectar and saccharine exudation of 2886
plants that has been gathered, modified, and stored in a honeycomb 2887
by honeybees. 2888

~~(17)~~(13) "Finished dosage form" means the form of a drug that 2889
is, or is intended to be, dispensed or administered to humans or 2890
animals and requires no further manufacturing or processing other 2891
than packaging, reconstituting, or labeling. 2892

~~(18)~~(14)(a) "Manufacture" means the planting, cultivating, 2893
harvesting, processing, making, preparing, or otherwise engaging 2894
in any part of the production of a ~~dangerous~~ drug by propagating, 2895
compounding, converting, or processing, either directly or 2896
indirectly by extracting from substances of natural origin, or 2897
independently by means of chemical synthesis, or by a combination 2898
of extraction and chemical synthesis, and includes ~~any the~~ 2899
following: 2900

(i) Any packaging or repackaging of the drug or labeling or 2901
relabeling of its container, the promotion and marketing of the 2902
drug, and other activities incident to production, ~~except that~~ 2903

~~this term;~~ 2904

(ii) The preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, licensed health professionals authorized to prescribe drugs, or other persons. 2905
2906
2907
2908

(b) "Manufacture" does not include the preparation, 2909
compounding, packaging, or labeling of a ~~dangerous~~ drug by a 2910
pharmacist as an incident to ~~dispensing~~ either of the following: 2911

(i) Dispensing a ~~dangerous~~ drug in the usual course of professional practice; 2912
2913

(ii) Providing a licensed health professional authorized to prescribe drugs with a drug for the purpose of administering to patients or for using the drug in treating patients in the professional's office. 2914
2915
2916
2917

~~(19)~~(15) "Dangerous drug" has the same meaning ~~given~~ as in 2918
~~division (D) of section 4729.02~~ 4729.01 of the Revised Code. 2919

~~(20)~~(16) "Generically equivalent drug" means a drug that 2920
contains identical amounts of the identical active ingredients ~~in~~ 2921
~~the identical dosage forms~~, but not necessarily containing the 2922
same inactive ingredients, that meets the identical compendial or 2923
other applicable standard of identity, strength, quality, and 2924
purity, including potency, and where applicable, content 2925
uniformity, disintegration times, or dissolution rates, as the 2926
prescribed brand name drug and the manufacturer or distributor 2927
holds, if applicable, either an approved new drug application or 2928
an approved abbreviated new drug application unless other approval 2929
by law or from the federal food and drug administration is 2930
required. 2931

No drug shall be considered a generically equivalent drug for 2932
the purposes of ~~sections 3715.01 to 3715.72 of the Revised Code~~ 2933
this chapter if it has been listed by the federal food and drug 2934

administration as having proven bioequivalence problems. 2935

(17) "Licensed health professional authorized to prescribe 2936
drugs" has the same meaning as in section 4729.02 Of the Revised 2937
Code. 2938

(B) For the purposes of sections 3715.52 to 3715.72 of the 2939
Revised Code: 2940

(1) If an article is alleged to be misbranded because the 2941
labeling is misleading, or if an advertisement is alleged to be 2942
false because it is misleading, then in determining whether the 2943
labeling or advertisement is misleading, there shall be taken into 2944
account, among other things, not only representations made or 2945
suggested by statement, word, design, device, sound, or in any 2946
combination thereof, but also the extent to which the labeling or 2947
advertisement fails to reveal facts material in the light of such 2948
representations or material with respect to consequence which may 2949
result from the use of the article to which the labeling or 2950
advertisement relates under the conditions of use prescribed in 2951
the labeling or advertisement thereof or under such conditions of 2952
use as are customary or usual. 2953

(2) The provisions regarding the selling of food, drugs, 2954
devices, or cosmetics include the manufacture, production, 2955
processing, packing, exposure, offer, possession, and holding of 2956
any such article for sale; and the sale, dispensing, and giving of 2957
any such article, and the supplying or applying of any such 2958
articles in the conduct of any food, drug, or cosmetic 2959
establishment, ~~but. The provisions do not prohibit the~~ 2960
~~administering or dispensing of a drug or device by a member of the~~ 2961
~~medical, dental, or veterinary profession in good faith in the~~ 2962
~~course of professional practice only a licensed health~~ 2963
professional authorized to prescribe drugs from administering or 2964
personally furnishing a drug or device to a patient. 2965

(3) The representation of a drug, in its labeling or advertisement, as an antiseptic is a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or ~~such~~ other use ~~as~~ that involves prolonged contact with the body.

(4) Whenever jurisdiction is vested in the director of agriculture or the state board of pharmacy, the jurisdiction of the board ~~of pharmacy~~ shall be limited to the sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the wholesale and retail levels or to the consumer and shall be exclusive in the case of such sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the wholesale and retail levels or to the consumer in any place where prescriptions are dispensed or compounded.

~~(C)~~(5) To assist in effectuating the provisions of those sections ~~3715.52 to 3715.72 of the Revised Code~~, the director of agriculture or state board of pharmacy may request assistance or data from any government or private agency or individual.

Sec. 3715.03. The director of agriculture, ~~in the performance of his performing~~ duties under this chapter, may enter a creamery, factory, store salesroom, ~~drugstore~~ pharmacy, laboratory, or other place where ~~he~~ the director believes or has reason to believe drugs, food, or drink is made, prepared, dispensed, sold, or offered for sale; examine the books therein; and open a cask, tub, jar, bottle, or other package containing or supposed to contain a drug or an article of food or drink and examine the contents or cause them to be examined and analyzed ~~the contents thereof~~.

Sec. 3715.52. (A) ~~As used in sections 3715.52 to 3715.72 of~~

the Revised Code, "practitioner" has the same meaning as in	2996
section 4729.02 of the Revised Code.	2997
(B) The following acts and causing them are prohibited:	2998
(1) The manufacture, sale, or delivery, holding or offering	2999
for sale of any food, drug, device, or cosmetic that is	3000
adulterated or misbranded;	3001
(2) The adulteration or misbranding of any food, drug,	3002
device, or cosmetic;	3003
(3) The receipt in commerce of any food, drug, device, or	3004
cosmetic that is adulterated or misbranded, and the delivery or	3005
proffered delivery thereof for pay or otherwise;	3006
(4) The sale, delivery for sale, holding for sale, or	3007
offering for sale of any article in violation of section 3715.61	3008
or 3715.65 of the Revised Code;	3009
(5) The dissemination of any false advertisement;	3010
(6) The refusal to permit entry or inspection, or to permit	3011
the taking of a sample, as authorized by section 3715.70 of the	3012
Revised Code;	3013
(7) The giving of a guaranty or undertaking which guaranty or	3014
undertaking <u>that</u> is false, except by a person who relied on a	3015
guaranty or undertaking to the same effect signed by, and	3016
containing the name and address of the person residing in this	3017
state from whom the person received in good faith the food, drug,	3018
device, or cosmetic;	3019
(8) The removal or disposal of a detained or embargoed	3020
article in violation of section 3715.55 of the Revised Code;	3021
(9) The alteration, mutilation, destruction, obliteration, or	3022
removal of the whole or any part of the labeling of, or the doing	3023
of any other act with respect to a food, drug, device, or	3024

cosmetic, if ~~such~~ the act is done while ~~such~~ the article is held 3025
for sale and results in ~~such~~ the article being misbranded; 3026

(10) Forging, counterfeiting, simulating, or falsely 3027
representing, or without proper authority using any mark, stamp, 3028
tag, label, or other identification device authorized or required 3029
by ~~regulations promulgated under~~ rules adopted pursuant to 3030
sections 3715.52 to 3715.72 of the Revised Code; 3031

(11) The using, on the labeling of any drug or in any 3032
advertisement relating to ~~such~~ a drug, of any representation or 3033
suggestion that any application with respect to ~~such~~ the drug is 3034
effective under section 3715.65 of the Revised Code or that ~~such~~ 3035
the drug complies with the provisions of ~~such~~ that section; 3036

~~(12) The sale, offering for sale, giving away, or delivery at 3037
retail or to the consumer without a prescription from a 3038
practitioner of any drug which under federal or Ohio law can be 3039
sold only on prescription; 3040~~

~~(13)~~ The using by any person to the person's own advantage, 3041
or revealing, other than to the director of agriculture or to the 3042
courts when relevant in any judicial proceeding under sections 3043
3715.52 to 3715.72 of the Revised Code, any information acquired 3044
under authority of sections 3715.01 and 3715.52 to 3715.72 of the 3045
Revised Code, concerning any information ~~which~~ that as a trade 3046
secret is entitled to protection; 3047

~~(14)~~(13) The issuance by the manufacturer, packer, or 3048
distributor of a dangerous drug of any advertisements, catalogues, 3049
or price lists, except those lists specifically designed for 3050
disseminating price change information, that do not contain in 3051
clearly legible form the name and place of business of the 3052
manufacturer who mixed the final ingredients and if different, the 3053
manufacturer who produced the drug in its finished dosage form 3054
and, if different, the packer or distributor. 3055

~~(C)~~(B)(1) No person at a flea market shall sell, offer for sale, or knowingly permit the sale of any of the following products:

(a) Baby food, infant formula, or similar products;

(b) Any drug, cosmetic, or device;

(c) Any product on which is printed or stamped an expiration date or a date recommended by the manufacturer as either the last day on which the product should be offered for sale or the last day on which the product should be used.

(2) Division ~~(C)~~(B)(1) of this section does not apply to a person who keeps available for public inspection an identification card identifying the person as an authorized representative of the manufacturer or distributor of any drug, cosmetic, or device, as long as the card is not false, fraudulent, or fraudulently obtained.

(3) Division ~~(C)~~(B)(1)(c) of this section does not apply to a person or governmental entity that is licensed as a food service operation under Chapter 3732. of the Revised Code or is listed in division (A)(9) or (12) of section 3732.01 of the Revised Code.

(4) As used in division ~~(C)~~(B)(1) of this section, "flea market" means any location, other than a permanent retail store, at which space is rented or otherwise made available to others for the conduct of business as transient or limited vendors as defined in section 5739.17 of the Revised Code.

Sec. 3715.53. In addition to the remedies provided and irrespective of whether or not there exists an adequate remedy at law, the director of agriculture or the state board of pharmacy is hereby authorized to apply to the court of common pleas in the county wherein any of the provisions of section 3715.52 of the Revised Code are being violated for a temporary or permanent

injunction restraining any person from ~~such~~ committing the 3086
violation. 3087

Sec. 3715.54. (A) No person shall be subject to the penalties 3088
prescribed in section 3715.99 of the Revised Code for violating 3089
division ~~(B)~~(A)(1) or (3) of section 3715.52 of the Revised Code 3090
if ~~he~~ the person established a guaranty or undertaking signed by, 3091
and containing the name and address of, the person residing in 3092
this state from whom ~~he~~ the person received in good faith the 3093
article, to the effect that ~~such~~ the article is not adulterated or 3094
misbranded within the meaning of sections 3715.01 and 3715.52 to 3095
3715.72 of the Revised Code. 3096

(B) No publisher, radio-broadcast licensee, or agency or 3097
medium for the dissemination of an advertisement, except the 3098
manufacturer, packer, distributor, or seller of the article to 3099
which a false advertisement relates, shall be liable under this 3100
section by reason of the dissemination ~~by him~~ of ~~such~~ a false 3101
advertisement. 3102

Sec. 3715.55. (A) As used in this section, "expired" means: 3103

(1) In the case of a drug, that the expiration date required 3104
by 21 C.F.R. 211.137 has passed; 3105

(2) In the case of infant formula, the "use by" date required 3106
by 21 C.F.R. 107.20 has passed; 3107

(3) In the case of baby food, that any expiration date, "use 3108
by" date, or sale date established by state or federal law or 3109
marked on the container by the manufacturer, processor, or 3110
packager has passed. 3111

(B) Whenever the director of agriculture or the state board 3112
of pharmacy finds or has cause to believe, that any food, drug, 3113
device, or cosmetic is adulterated, or so misbranded as to be 3114

dangerous or fraudulent, within the meaning of sections 3715.01 3115
and 3715.52 to 3715.72 of the Revised Code, or that a drug, infant 3116
formula, or baby food is expired, the director or board shall 3117
affix to ~~such~~ the article a tag or other appropriate marking, 3118
giving notice that ~~such~~ the article is, or is suspected of being, 3119
adulterated, misbranded, or expired and has been detained or 3120
embargoed, and warning all persons not to remove or dispose of 3121
~~such~~ the article by sale or otherwise until permission for removal 3122
or disposal is given by the director or the board or the court. No 3123
person may remove or dispose of ~~such~~ a detained or embargoed 3124
article by sale or otherwise without such permission. 3125

(C) When an article detained or embargoed has been found by 3126
the director or ~~the board of pharmacy~~ to be adulterated, 3127
misbranded, or expired, the director or board shall petition the 3128
municipal or county court in whose jurisdiction the article is 3129
detained or embargoed for an order for condemnation of ~~such~~ the 3130
article. When the director or the board has not found within ten 3131
days that an article so detained or embargoed is adulterated, 3132
misbranded, or expired, the director or board shall remove the tag 3133
or other marking. 3134

(D) If the court finds that a detained or embargoed article 3135
is adulterated, misbranded, or expired, ~~such~~ the article shall, 3136
after entry of the decree, be destroyed at the expense of the 3137
claimant thereof, under the supervision of the director or the 3138
board, and all court costs, fees, storage, and other proper 3139
expenses shall be taxed against the claimant of ~~such~~ the article 3140
or the claimant's agent; provided, that when the adulteration or 3141
misbranding can be corrected by proper labeling or processing of 3142
the article, the court, after entry of the decree and after such 3143
costs, fees, and expenses have been paid and a good and sufficient 3144
bond, conditioned that ~~such~~ the article shall be so labeled or 3145
processed, has been executed, may by order direct that ~~such~~ the 3146

article be delivered to the claimant thereof for ~~such~~ labeling or 3147
processing under the supervision of the director or the board. The 3148
expense of ~~such~~ supervision shall be paid by the claimant. ~~Such~~ 3149
The bond shall be returned to the claimant of the article on 3150
representation to the court by the director or the board that the 3151
article is no longer in violation of sections 3715.01 and 3715.52 3152
to 3715.72 of the Revised Code, and that the expenses of ~~such~~ 3153
supervision have been paid. 3154

(E) Whenever the director finds in any room, building, 3155
vehicle of transportation, or other structure, any meat, sea food, 3156
poultry, vegetable, fruit, or other perishable articles ~~which~~ that 3157
are unsound, or contain any filthy, decomposed, or putrid 3158
substance, or ~~which~~ that may be poisonous or deleterious to health 3159
or otherwise unsafe, ~~such~~ the articles are declared to be a 3160
nuisance, and the director shall forthwith condemn or destroy the 3161
~~same~~ articles, or in any other manner render the ~~same~~ articles 3162
unsalable as human food. 3163

Sec. 3715.56. The attorney general, prosecuting attorney, or 3164
city director of law to whom the director of agriculture or the 3165
state board of pharmacy reports any violation of sections 3715.01 3166
and 3715.52 to 3715.72 of the Revised Code, shall cause 3167
appropriate proceedings to be instituted in the proper court 3168
without delay and to be prosecuted in the manner required by law. 3169
~~Before~~ The director of agriculture, before reporting any violation 3170
of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, ~~is~~ 3171
~~reported~~ to any such attorney for the institution of a criminal 3172
proceeding, shall give the person against whom the proceeding is 3173
contemplated ~~shall be given~~ appropriate notice and an opportunity 3174
to present ~~his views~~ testimony before the director ~~or the board of~~ 3175
~~pharmacy~~, either orally or in writing, in person, or by attorney, 3176
with regard to the contemplated proceeding. 3177

Sec. 3715.57. Nothing in sections 3715.01 and 3715.52 to 3178
3715.72, ~~inclusive,~~ of the Revised Code, shall be construed as 3179
requiring the director of agriculture or the state board of 3180
pharmacy to report minor violations for the institution of 3181
proceedings under sections 3715.01 and 3715.52 to 3715.72, 3182
~~inclusive,~~ of the Revised Code, whenever the director or ~~the~~ board 3183
~~of pharmacy~~ believes that the public interest will be adequately 3184
served in the circumstances by a suitable written notice or 3185
warning. 3186

Sec. 3715.59. Food is adulterated within the meaning of 3187
sections 3715.01, 3715.02, and 3715.52 to 3715.72 of the Revised 3188
Code, if any of the following apply: 3189

(A) It bears or contains any poisonous or deleterious 3190
substance ~~which~~ that may render it injurious to health; but in 3191
case the substance is not an added substance, ~~such~~ the food shall 3192
not be considered adulterated if the quantity of ~~such~~ the 3193
substance in ~~such~~ the food does not ordinarily render it injurious 3194
to health. 3195

(B) It bears or contains any added poisonous or added 3196
deleterious substance ~~which~~ that is unsafe within the meaning of 3197
section 3715.62 of the Revised Code. 3198

(C) It consists in whole or in part of a diseased, 3199
contaminated, filthy, putrid, or decomposed substance, or if it is 3200
otherwise unfit for food. 3201

(D) It has been produced, processed, prepared, packed, or 3202
held under ~~insanitary~~ unsanitary conditions whereby it may have 3203
become contaminated with filth, or whereby it may have been 3204
rendered diseased, unwholesome, or injurious to health. 3205

(E) It is the product of a diseased animal or an animal ~~which~~ 3206
that has died otherwise than by slaughter, or an animal that has 3207

been fed upon the uncooked offal from a slaughterhouse. 3208

(F) Its container is composed, in whole or in part, of any 3209
poisonous or deleterious substance ~~which~~ that may render the 3210
contents injurious to health. 3211

(G) Any valuable constituent has been, in whole or in part, 3212
omitted or abstracted ~~therefrom~~ from the food. 3213

(H) Any substance has been substituted wholly or in part 3214
~~therefor~~ for the food. 3215

(I) Damage or inferiority has been concealed in any manner. 3216

(J) Any substance has been added ~~thereto~~ to or mixed or 3217
packed ~~therewith~~ with the food so as to increase its bulk or 3218
weight, ~~or~~ reduce its quality or strength, or make it appear 3219
better or of greater value than it is. 3220

(K) It is confectionery, and it bears or contains any alcohol 3221
or nonnutritive article or substance ~~except~~ other than harmless 3222
coloring, harmless flavoring, harmless resinous glaze not in 3223
excess of four-tenths of one per cent, harmless natural wax not in 3224
excess of four-tenths of one per cent, harmless natural gum, ~~and~~ 3225
or pectin; provided, except that this division shall not apply to 3226
any confectionery by reason of its containing less than one-half 3227
of one per cent by volume of alcohol derived solely from the use 3228
of flavoring extracts, or to any chewing gum by reason of its 3229
containing harmless nonnutritive masticatory substances. 3230

(L) It bears or contains a coal-tar color other than one from 3231
a batch ~~which has been~~ certified under authority of the "Federal 3232
Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 3233
301, as amended. 3234

Sec. 3715.63. A drug or device is adulterated within the 3235
meaning of sections 3715.01 and 3715.52 to 3715.72, ~~inclusive,~~ of 3236
the Revised Code, if any of the following apply: 3237

(A) It consists, in whole or in part, of any filthy, putrid, 3238
or decomposed substance. 3239

(B) It has been produced, processed, prepared, packed, or 3240
held under ~~insanitary~~ unsanitary conditions whereby it may have 3241
been contaminated with filth, or whereby it may have been rendered 3242
injurious to health. 3243

(C) It is a drug and its container is composed, in whole or 3244
in part, of any poisonous or deleterious substance ~~which~~ that may 3245
render the contents injurious to health. 3246

(D) It is a drug and it bears or contains, for purposes of 3247
coloring only, a coal-tar color other than one from a batch 3248
certified under ~~the~~ authority of the "Federal Food, ~~drug~~ Drug, and 3249
Cosmetic Act-," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended. 3250

(E) It purports to be or is represented as a drug the name of 3251
which is recognized in ~~an official compendium~~ the United States 3252
pharmacopoeia and national formulary, or any supplement to them, 3253
and its strength differs from, or its quality or purity falls 3254
below the standard set forth in ~~such compendium~~ those compendiums. 3255
~~Such~~ A determination as to strength, quality, or purity shall be 3256
made in accordance with the tests or methods of assay set forth in 3257
~~such compendium~~ the compendiums, or in the absence or inadequacy 3258
of such tests or methods of assay, those prescribed under the 3259
authority of the ~~federal act. No~~ "Federal Food, Drug, and Cosmetic 3260
Act." A drug ~~defined~~ recognized in ~~an official compendium~~ the 3261
compendiums is not adulterated under this division because it 3262
differs from the standard of strength, quality, or purity ~~therefor~~ 3263
set forth for that drug in ~~such compendium~~ the compendiums, if ~~its~~ 3264
the difference in strength, quality, or purity ~~from such standard~~ 3265
is plainly stated on its label. Whenever a drug is recognized in 3266
both the ~~United States pharmacopoeia and the~~ homoeopathic 3267
pharmacopoeia of the United States and in the United States 3268

pharmacopoeia and national formulary, including their supplements, 3269
it shall be subject to the requirements of the United States 3270
pharmacopoeia and national formulary unless it is labeled and 3271
offered for sale as a homoeopathic drug, in which case it shall be 3272
subject to the provisions of the homoeopathic pharmacopoeia of the 3273
United States and not to those of the United States pharmacopoeia 3274
and national formulary. 3275

(F) It is not subject to the provisions of division (E) of 3276
this section, and its strength differs from⁷ or its purity or 3277
quality falls below that which it purports or is represented to 3278
possess. 3279

(G) It is a drug and any substance has been: 3280

(1) Mixed or packed ~~therewith~~ with the drug so as to reduce 3281
~~its~~ the drug's quality or strength; 3282

(2) Substituted wholly or in part ~~therefor~~ for the drug. 3283

Sec. 3715.64. (A) A drug or device is misbranded within the 3284
meaning of sections 3715.01 and 3715.52 to 3715.72 of the Revised 3285
Code, if: 3286

(1) Its labeling is false or misleading in any particular. 3287

(2) It is in package form and does not bear a label 3288
containing both of the following: 3289

(a) In clearly legible form, the name and place of business 3290
of the manufacturer, packer, or distributor; 3291

(b) An accurate statement of the quantity of the contents in 3292
terms of weight, measure, or numerical count; but reasonable 3293
variations shall be permitted, and exemptions as to small packages 3294
shall ~~be~~ apply as established by ~~regulations prescribed~~ rules 3295
adopted by the director of agriculture or state board of pharmacy. 3296

(3) It is a dangerous drug and does not bear a label 3297

containing in clearly legible form the name and place of business 3298
of the manufacturer of the finished dosage form and, if different, 3299
the packer or distributor. 3300

(4) It is a dangerous drug in finished solid oral dosage 3301
form, ~~unless~~ and it ~~has~~ does not have clearly and prominently 3302
marked or imprinted on it an individual symbol, company name, 3303
national drug code number or other number, words, letters, or any 3304
combination thereof, identifying the drug and its manufacturer or 3305
distributor. This requirement does not apply to drugs that are 3306
compounded by a ~~registered~~ licensed pharmacist. The manufacturer 3307
or distributor of each such drug shall make available to the state 3308
board of pharmacy descriptive material identifying the mark or 3309
imprint used by the manufacturer or distributor. The board ~~of~~ 3310
~~pharmacy~~ shall provide this information to all poison control 3311
centers in ~~the~~ this state. Upon application by a manufacturer or 3312
distributor, the board may exempt a drug from the requirements of 3313
this division on the grounds that marking or imprinting ~~such drugs~~ 3314
the drug is not feasible because of its size, texture, or other 3315
unique characteristic. 3316

(5) Any word, statement, or other information that is 3317
required by or under authority of sections 3715.01 and 3715.52 to 3318
3715.72 of the Revised Code, ~~to appear on the label or labeling is~~ 3319
not prominently placed ~~thereon with such conspicuousness~~ on the 3320
label or labeling in a conspicuous manner, as compared with other 3321
words, statements, designs, or devices, ~~in~~ on the label or 3322
labeling, and in ~~such terms as to~~ that render it likely to be read 3323
and understood by the ordinary individual under customary 3324
conditions of purchase and use. 3325

(6) ~~It is for use by man and contains any quantity of the~~ 3326
~~narcotic or hypnotic substance alpha-eucaine, barbituric acid,~~ 3327
~~beta-eucaine, bromal, cannabis, cabromal, chloral, coca, cocaine,~~ 3328
~~codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote,~~ 3329

~~or sulphonmethane, or any chemical derivative of such substance, 3330
which derivative has been found by the director to be, and by 3331
regulations proposed by the director and adopted by the public 3332
health council designated as, habit forming, unless its label 3333
bears the name and quantity or proportion of such substance or 3334
derivative and in juxtaposition therewith the statement "Warning 3335
— May be habit forming." 3336~~

~~(7) It is a drug and it is not designated solely by a name 3337
recognized in an official compendium the United States 3338
pharmacopoeia and national formulary, or any supplement to them, 3339
unless its label bears: 3340~~

~~(a) The common or usual name of the drug, if any; 3341~~

~~(b) In case it is fabricated from two or more ingredients, 3342
the common or usual name of each active ingredient the drug 3343
contains, including the kind and quantity or proportion of any 3344
alcohol, and also including whether active or not, the name and 3345
quantity or proportion of any bromides, ether, chloroform, 3346
acetanalid, acetophenetidin, aminopyrine, atropine, hyoscine, 3347
hyoscyamine, arsenic, digitalis, digitalis glycosides, mercury, 3348
ouabain, strophanthin, strychnine, thyroid, or any derivative or 3349
preparation of any such substances, ~~contained therein;~~ but to the 3350
extent that compliance with these requirements is impracticable, 3351
exemptions shall be apply as established by ~~regulations proposed 3352
by the director and rules~~ adopted by the ~~public health council 3353
director of agriculture or state board of pharmacy.~~ 3354~~

~~(8)(7) Its labeling does not bear the following: 3355~~

~~(a) Adequate directions for use of the drug or device, except 3356
that when compliance with this requirement is not necessary for a 3357
particular drug or device to protect the public health, the 3358
director shall adopt rules exempting the drug or device from the 3359
requirement; 3360~~

(b) ~~Such adequate~~ Adequate warnings against use in those 3361
pathological conditions or by children ~~where~~ when its use may be 3362
dangerous to health, or against unsafe dosage or methods or 3363
duration of administration or application, presented in such a 3364
manner and form, ~~as are~~ necessary for the protection of users, 3365

~~(c) Where compliance with any requirements of division 3366
(A)(8)(a) of this section, as applied to any drug or device, is 3367
not necessary for the protection of the public health, the 3368
director shall propose and the public health council shall adopt 3369
regulations exempting such drug or device from such requirements. 3370~~

~~(9)(8) It purports to be a drug the name of which is 3371
recognized in an official compendium, unless the United States 3372
pharmacopoeia and national formulary, or any supplement to them, 3373
and it is not packaged and labeled as prescribed ~~therein, but in 3374
those compendiums, except that~~ the method of packing may be 3375
modified with the consent of the director of agriculture. Whenever 3376
a drug is recognized in both ~~the United States pharmacopoeia and 3377
the homoeopathic pharmacopoeia of the United States~~ and in the 3378
United States pharmacopoeia and national formulary, including 3379
their supplements, it shall be subject to the requirements of the 3380
United States pharmacopoeia and national formulary with respect to 3381
packaging and labeling unless it is labeled and offered for sale 3382
as a homoeopathic drug, in which case it shall be subject to the 3383
provisions of the homoeopathic pharmacopoeia of the United States, 3384
and not to those of the United States pharmacopoeia and national 3385
formulary. 3386~~

~~(10)(9) It has been found by the director of agriculture to 3387
be a drug liable to deterioration, unless it is packaged in ~~such 3388
the form and manner, and its label bears a statement of ~~such 3389
precautions, as required by regulations proposed by the director 3390
and rules adopted by the public health council~~ director as 3391
necessary for the protection of public health. No ~~such regulation 3392~~~~~~

rule shall be established for any drug recognized in ~~an official~~ 3393
~~compendium~~ the United States pharmacopoeia and national formulary, 3394
or any supplements to them, until the director has informed the 3395
appropriate ~~body~~ bodies charged with the revision of ~~such~~ 3396
~~compendium~~ those compendiums of the need for ~~such~~ packaging or 3397
labeling requirements and ~~such body has~~ those bodies have failed 3398
within a reasonable time to prescribe such requirements. 3399

~~(11)~~(10)(a) It is a drug and its container is so made, 3400
formed, or filled as to be misleading. 3401

(b) It is an imitation of another drug. 3402

(c) It is offered for sale under the name of another drug. 3403

(d) The drug sold or dispensed is not the brand or drug 3404
specifically prescribed or ordered or, when dispensed by a 3405
pharmacist upon prescription, is neither the brand or drug 3406
prescribed nor a generically equivalent drug. 3407

~~(12)~~(11) It is dangerous to health when used in the dosage, 3408
or with the frequency or duration prescribed, recommended, or 3409
suggested in ~~the~~ its labeling ~~thereof~~. 3410

~~(13)~~(12) It is a drug intended for human use ~~by man~~ to which 3411
the following apply: 3412

(a) Because of its toxicity or other potentiality for harmful 3413
effect, ~~or~~ the method of its use, or the collateral measures 3414
necessary to its use, the drug is not safe for use except under 3415
the supervision of a ~~practitioner, or person licensed to prescribe~~ 3416
~~any drug which, under the federal act, federal narcotic law, as~~ 3417
~~defined in section 4729.02 of the Revised Code, and under sections~~ 3418
~~3715.01 to 3715.75, or Chapter 3719. of the Revised Code, may be~~ 3419
~~dispensed only upon a prescription~~ licensed health professional 3420
authorized to prescribe drugs; 3421

(b) ~~Is~~ The drug is limited by an effective application under 3422

section 505 of the "Federal Food, Drug, and Cosmetic Act," 52 3423
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, to use under 3424
professional supervision by a ~~practitioner~~ licensed health 3425
professional authorized to prescribe drugs, unless it is dispensed 3426
only: 3427

(i) Upon a written or electronic prescription ~~of a~~ 3428
~~practitioner;~~ 3429

(ii) Upon ~~the~~ an oral prescription ~~of a practitioner,~~ which 3430
is reduced promptly to writing by the pharmacist; 3431

(iii) By refilling ~~any such written or oral~~ a prescription if 3432
~~such~~ refilling is authorized by the prescriber either in the 3433
original prescription or by oral order, which is promptly reduced 3434
to writing by the pharmacist. 3435

(B) Any drug dispensed ~~by filling or refilling pursuant to a~~ 3436
~~written, electronic, or oral prescription of a practitioner, or~~ 3437
~~person licensed to prescribe any drug which, under the federal~~ 3438
~~act, federal narcotic law, as defined in section 4729.02 of the~~ 3439
~~Revised Code, or under sections 3715.01 to 3715.75, or Chapter~~ 3440
~~3719. of the Revised Code, may be dispensed only upon a~~ 3441
prescription licensed health professional authorized to prescribe 3442
drugs shall be exempt from the requirements of division (A) of 3443
this section, except divisions (A)(1) and ~~(11)~~(10) of this 3444
section, if the drug bears a label containing the name and address 3445
of the dispenser, the serial number and the date ~~of~~ the 3446
prescription ~~or its filling is dispensed,~~ the name of the 3447
prescriber, and, ~~if stated in the prescription,~~ the name of the 3448
patient, and, ~~if stated in the prescription,~~ the directions for 3449
use and cautionary statements, ~~if any, contained in the~~ 3450
~~prescription.~~ Unless the prescription directions prohibit 3451
labeling, the label shall include the brand name of the drug 3452
dispensed. If the drug dispensed has no brand name, the generic 3453
name and the distributor of the finished dosage form shall be 3454

included. ~~This exemption shall not apply to any drug dispensed in~~ 3455
~~the course of the conduct of a business of dispensing drugs~~ 3456
~~pursuant to diagnosis by mail.~~ 3457

Sec. 3715.65. (A) No person shall sell, deliver, offer for 3458
sale, hold for sale, or give away any new drug unless: 3459

(1) An application with respect ~~thereto~~ to the drug has 3460
become effective under section 505 of the "Federal Food, Drug, and 3461
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended. 3462

(2) ~~When such~~ If the drug is not subject to the ~~federal act~~ 3463
~~unless it~~ "Federal Food, Drug, and Cosmetic Act," the drug has 3464
been tested and ~~has been~~ found to be safe for use under the 3465
conditions prescribed, recommended, or suggested in ~~the~~ its 3466
labeling ~~thereof~~, and, prior to selling the drug or offering it 3467
for sale ~~such drug~~, there has been filed with the director of 3468
agriculture an application setting forth all of the following: 3469

(a) Full reports of investigations ~~which~~ that have been made 3470
to show whether or not ~~such~~ the drug is safe for use; 3471

(b) A full list of the articles used as components of ~~such~~ 3472
the drug; 3473

(c) A full statement of the drug's composition ~~of such drug;~~ 3474

(d) A full description of the methods used in, and the 3475
facilities and controls used for, the manufacture, processing, and 3476
packing of ~~such~~ the drug; 3477

(e) ~~Such samples of such~~ Samples, as the director may 3478
require, of the drug and ~~of~~ the articles used as components 3479
~~thereof as the director may require~~ of the drug; 3480

(f) Specimens of the labeling proposed to be used for ~~such~~ 3481
the drug. 3482

(B) An application provided for in division (A)(2) of this 3483

section shall become effective sixty days after ~~the filing thereof~~ 3484
it is filed, except that if the director finds after due notice to 3485
the applicant and after giving ~~him~~ the applicant an opportunity 3486
for a hearing, that the drug is not safe for use under the 3487
conditions prescribed, recommended, or suggested in the drug's 3488
proposed labeling ~~thereof~~, ~~he~~ the director shall, prior to the 3489
effective date of the application, issue an order refusing to 3490
permit the application to become effective. The order may be 3491
revoked by the director. 3492

(C) This section does not apply to the following: 3493

(1) A drug intended solely for investigational use by experts 3494
qualified by scientific training and experience to investigate the 3495
safety ~~in~~ of drugs provided that the drug is plainly labeled "For 3496
investigational use only"; 3497

(2) A drug sold in this state at any time prior to the 3498
enactment of sections 3715.01 and 3715.52 to 3715.72, ~~inclusive,~~ 3499
of the Revised Code, or introduced into interstate commerce at any 3500
time prior to the enactment of the ~~federal act~~ "Federal Food, 3501
Drug, and Cosmetic Act"; 3502

(3) Any drug ~~which~~ that is licensed under the "Public Health 3503
Service Act," ~~of July 1, 1944 (42 U.S.C. Supp. V 201) 58 stat. 682~~ 3504
(1944), 42 U.S.C.A. 301, as amended, or under the "~~Animal~~ 3505
Virus-Serum-Toxin ~~Law~~ Act," ~~of March 4, 1913 (21 U.S.C. 151) 37~~ 3506
Stat. 832 (1913), 21 U.S.C.A. 151, as amended. 3507

~~(D) An order refusing to permit an application under this~~ 3508
~~section to become effective may be revoked by the director.~~ 3509

Sec. 3715.66. (A) A cosmetic is adulterated within the 3510
meaning of sections 3715.01 and 3715.52 to 3715.72, ~~inclusive,~~ of 3511
the Revised Code, if: 3512

~~(A)~~(1) It bears or contains any poisonous or deleterious 3513

substance ~~which~~ that may render it injurious to users under the 3514
conditions of use prescribed in the labeling or advertisement 3515
~~thereof of the cosmetic~~, or under ~~such~~ conditions of use ~~as~~ that 3516
are customary or usual; ~~provided~~, except that this provision does 3517
not apply to coal-tar hair dye, ~~the~~ if both of the following 3518
conditions are met: 3519

(a) The label ~~of which~~ bears the following legend 3520
conspicuously displayed thereon: "Caution-This product contains 3521
ingredients which may cause skin irritation on certain individuals 3522
and a preliminary test according to accompanying directions should 3523
first be made. This product must not be used for dyeing the 3524
eyelashes or eyebrows; to do so may cause blindness," ~~and the~~ 3525

(b) The labeling ~~of which~~ bears adequate directions for ~~such~~ 3526
preliminary testing. ~~For the purpose of this division and division~~ 3527
~~(E) of this section the term "hair dye" does not include eyelash~~ 3528
~~dyes or eyebrows dyes.~~ 3529

~~(B)~~ (2) It contains, in whole or in part, any filthy, putrid 3530
or decomposed substance. 3531

~~(C)~~ (3) It has been produced, processed, prepared, packed, or 3532
held under ~~insanitary~~ unsanitary conditions whereby it may have 3533
become contaminated with filth, or whereby it may have been 3534
rendered injurious to health. 3535

~~(D)~~ (4) Its container is composed, in whole or in part, of any 3536
poisonous or deleterious substance ~~which~~ that may render the 3537
contents injurious to health. 3538

~~(E)~~ (5) It is not a hair dye and it bears or contains a 3539
coal-tar color other than one from a batch ~~which has been~~ 3540
certified under authority of the "Federal Food, Drug, and Cosmetic 3541
Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended. 3542

(B) For purposes of divisions (A)(1) and (5) of this section, 3543
"hair dye" does not include eyelash dye or eyebrow dye. 3544

Sec. 3715.69. The authority to adopt rules for the 3545
enforcement of section 3715.02, divisions (E), (G), (H), and (I) 3546
of section 3715.60, division (A)(2) of section 3715.64, and 3547
section 3715.67 of the Revised Code is vested in the director of 3548
agriculture. The authority to adopt rules for the enforcement of 3549
sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, 3550
excluding divisions (E), (G), (H), and (I) of section 3715.60, 3551
division (A)(2) of section 3715.64, and section 3715.67 of the 3552
Revised Code, is vested in ~~the public health council, provided~~ 3553
~~that the rules are first proposed for adoption by~~ the director of of 3554
agriculture or the state board of pharmacy. The rules adopted in 3555
so far as practicable shall conform with ~~those~~ the regulations 3556
promulgated under the "Federal Food, Drug, and Cosmetic Act," 52 3557
Stat. 1040 (1938), 21 U.S.C.A. ~~301-395 (1996)~~ 301, as amended. 3558

Sec. 3715.70. (A) The director of agriculture or the state 3559
board of pharmacy shall have free access at all reasonable hours 3560
to any factory, warehouse, or establishment in which foods, drugs, 3561
devices, or cosmetics are manufactured, processed, packed, or held 3562
for introduction into commerce, or to enter any vehicle being used 3563
to transport or hold ~~such~~ foods, drugs, devices, or cosmetics in 3564
commerce, for the ~~purpose~~ following purposes: 3565

~~(A) Of inspecting such~~ (1) To inspect the factory, warehouse, 3566
establishment, or vehicle to determine if any of the provisions of 3567
sections 3715.01 or 3715.52 to 3715.72, ~~inclusive,~~ of the Revised 3568
Code, are being violated; 3569

~~(B)(2)~~ (2) To secure samples of specimens of any food, drug, 3570
device, or cosmetic ~~after paying or offering to pay for such~~ 3571
~~sample.~~ 3572

(B) The director or the board ~~of pharmacy~~ shall make or cause 3573
to be made examinations of samples secured under the provisions of 3574

this section to determine whether or not any provisions of 3575
sections 3715.01 and 3715.52 to 3715.72, ~~inclusive,~~ of the Revised 3576
Code, are being violated. 3577

Sec. 3715.71. ~~(A)~~ The director of agriculture or the state 3578
board of pharmacy may cause to be published from time to time 3579
reports summarizing all judgments, decrees, and court orders ~~which~~ 3580
that have been rendered under sections 3715.01 and 3715.52 to 3581
3715.72, ~~inclusive,~~ of the Revised Code, including the nature of 3582
the charge and the disposition thereof. 3583

~~(B)~~ The director or ~~the board of pharmacy~~ may also cause to 3584
be disseminated ~~such~~ any information regarding food, drugs, 3585
devices, and cosmetics ~~as~~ that the director or ~~the board of~~ 3586
~~pharmacy~~ deems necessary in the interest of public health and the 3587
protection of the consumer against fraud. ~~Nothing~~ 3588

Nothing in this section shall be construed to prohibit the 3589
director or ~~the board of pharmacy~~ from collecting, reporting, and 3590
illustrating the results of ~~the~~ investigations ~~of~~ conducted by the 3591
director or ~~the board of pharmacy~~. 3592

Sec. 3715.73. (A) All fines or forfeited bonds assessed and 3593
collected under prosecution by the director of agriculture or 3594
prosecution commenced by the director in enforcement of ~~sections~~ 3595
~~3715.01 to 3715.72, inclusive, of the Revised Code,~~ this chapter 3596
shall, within thirty days, be paid to the director and by ~~him~~ the 3597
director paid into the state treasury. 3598

(B) All fines or forfeited bonds assessed and collected under 3599
prosecution by the state board of pharmacy or prosecution 3600
commenced by the board in enforcement of ~~sections 3715.01 to~~ 3601
~~3715.72, inclusive, of the Revised Code,~~ this chapter shall, 3602
within thirty days, be paid to the ~~secretary~~ executive director of 3603
the board and by ~~him~~ the executive director paid into the state 3604

treasury. 3605

Sec. 3719.01. As used in this chapter: 3606

(A) "Administer" means the direct application of a drug, 3607
whether by injection, inhalation, ingestion, or any other means to 3608
a person or an animal. 3609

~~(B) "Board" means the state board of pharmacy established by~~ 3610
~~section 4729.01 of the Revised Code.~~ 3611

~~(C)~~ "Drug enforcement administration" means the drug 3612
enforcement administration of the United States department of 3613
justice or its successor agency. 3614

~~(D)~~(C) "Controlled substance" means a drug, compound, 3615
mixture, preparation, or substance included in schedule I, II, 3616
III, IV, or V. 3617

~~(E)~~(D) "Dangerous drug" has the same meaning as in section 3618
~~4729.02~~ 4729.01 of the Revised Code. 3619

~~(F)~~(E) "Dispense" means to sell, leave with, give away, 3620
dispose of, or deliver. 3621

~~(G)~~(F) "Distribute" means to deal in, ship, transport, or 3622
deliver but does not include administering or dispensing a drug. 3623

~~(H)~~(G) "Drug" has the same meaning as in section ~~4729.02~~ 3624
4729.01 of the Revised Code. 3625

~~(I)~~(H) "Drug abuse offense," "felony drug abuse offense," 3626
"cocaine," and "hashish" have the same meanings as in section 3627
2925.01 of the Revised Code. 3628

~~(J)~~(I) "Federal drug abuse control laws" means the 3629
"Comprehensive Drug Abuse Prevention and Control Act of 1970," 84 3630
Stat. 1242, 21 U.S.C. 801, as amended. 3631

~~(K)~~(J) "Hospital" means an institution for the care and 3632
treatment of the sick and injured that is certified by the 3633

department of health and approved by the state board of pharmacy 3634
as proper to be entrusted with the custody of controlled 3635
substances and the professional use of controlled substances ~~under~~ 3636
~~the direction of a practitioner or pharmacist.~~ 3637

~~(L)~~(K) "Hypodermic" means a hypodermic syringe or needle, or 3638
other instrument or device for the injection of medication. 3639

~~(M)~~(L) "Isomer", " except as otherwise expressly stated, means 3640
the ~~optial~~ optical isomer. 3641

~~(N)~~(M) "Laboratory" means a laboratory approved by the state 3642
board of pharmacy as proper to be entrusted with the custody of 3643
controlled substances and the use of controlled substances for 3644
scientific and clinical purposes and for purposes of instruction. 3645

~~(O)~~(N) "Manufacturer" means a person who ~~plants, cultivates,~~ 3646
~~harvests, processes, makes, prepares, or otherwise engages in any~~ 3647
~~part of the production of~~ manufactures a controlled substance by 3648
~~propagation, compounding, conversion, or processing, either~~ 3649
~~directly or indirectly by extraction from substances of natural~~ 3650
~~origin, or independently by means of chemical synthesis, or by a~~ 3651
~~combination of extraction and chemical synthesis, and includes any~~ 3652
~~packaging or repackaging of the substance or labeling or~~ 3653
~~relabeling of its container and other activities incident to~~ 3654
~~production, except that a "manufacturer" does not include a~~ 3655
~~pharmacist who prepares, compounds, packages, or labels a~~ 3656
~~controlled substance as an incident to dispensing a controlled~~ 3657
~~substance in accordance with a prescription and in the usual~~ 3658
~~course of professional practice, as "manufacture" is defined in~~ 3659
section 3715.01 Of the Revised Code. 3660

~~(P)~~(O) "Marihuana" means all parts of a plant of the genus 3661
cannabis, whether growing or not; the seeds of a plant of that 3662
type; the resin extracted from a part of a plant of that type; and 3663
every compound, manufacture, salt, derivative, mixture, or 3664

preparation of a plant of that type or of its seeds or resin. 3665
"Marihuana" does not include the mature stalks of the plant, fiber 3666
produced from the stalks, oils or cake made from the seeds of the 3667
plant, or any other compound, manufacture, salt, derivative, 3668
mixture, or preparation of the mature stalks, except the resin 3669
extracted from the mature stalks, fiber, oil or cake, or the 3670
sterilized seed of the plant that is incapable of germination. 3671

~~(Q)~~(P) "Narcotic drugs" means coca leaves, opium, 3672
isonipecaïne, amidone, isoamidone, ketobemidone, as defined in 3673
this division, and every substance not chemically distinguished 3674
from them and every drug, other than cannabis, that may be 3675
included in the meaning of "narcotic drug" under the federal drug 3676
abuse control laws. ~~Coca~~ As used in this division: 3677

(1) "Coca leaves" includes cocaine and any compound, 3678
manufacture, salt, derivative, mixture, or preparation of coca 3679
leaves, except derivatives of coca leaves, that ~~do~~ does not 3680
contain cocaine, ecgonine, or substances from which cocaine or 3681
ecgonine may be synthesized or made. ~~Isonipecaïne~~ 3682

(2) "Isonipecaïne" means any substance identified chemically 3683
as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or 3684
any salt thereof, by whatever trade name designated. ~~Amidone~~ 3685

(3) "Amidone" means any substance identified chemically as 3686
4-4-diphenyl-6-dimethylamino-heptanone-3, or any salt thereof, by 3687
whatever trade name designated. ~~Isoamidone~~ 3688

(4) "Isoamidone" means any substance identified chemically as 3689
4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3, or any salt 3690
thereof, by whatever trade name designated. ~~Ketobemidone~~ 3691

(5) "Ketobemidone" means any substance identified chemically 3692
as 4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone 3693
hydrochloride, or any salt thereof, by whatever trade name 3694
designated. 3695

~~(R)~~ of that nature of that nature "Nurse" means a person 3696
licensed to engage in the practice of nursing in this state. 3697

~~(S)~~(Q) "Official written order" means an order written on a 3698
form provided for that purpose by the director of the United 3699
States drug enforcement administration, under any laws of the 3700
United States making provision for the order, if the order forms 3701
are authorized and required by federal law. 3702

~~(T)~~(R) "Opiate" means any substance having an 3703
addiction-forming or addiction-sustaining liability similar to 3704
morphine or being capable of conversion into a drug having 3705
addiction-forming or addiction-sustaining liability. "Opiate" does 3706
not include, unless specifically designated as controlled under 3707
section 3719.41 of the Revised Code, the dextrorotatory isomer of 3708
~~3-methoxy-N-methylmorphinan~~ 3-methoxy-N-methylmorphinan and its 3709
salts (dextro-methorphan). "Opiate" does include its racemic and 3710
levoratory forms. 3711

~~(U)~~(S) "Opium poppy" means the plant of the species papaver 3712
somniferum L., except its seeds. 3713

~~(V)~~(T) "Person" means any individual, corporation, 3714
government, governmental subdivision or agency, business trust, 3715
estate, trust, partnership, association, or other legal entity. 3716

~~(W)~~(U) "Pharmacist" means a person ~~registered with the board~~ 3717
~~as a compounder and dispenser of drugs~~ licensed under Chapter 3718
4729. Of the Revised Code to engage in the practice of pharmacy. 3719

~~(X)~~(V) "Pharmacy" ~~means any area, room, rooms, place of~~ 3720
~~business, department, or portion of any of the foregoing, where~~ 3721
~~prescriptions are filled or where drugs, dangerous drugs, or~~ 3722
~~poisons are compounded, sold, offered, or displayed for sale,~~ 3723
~~dispensed, or distributed to the public~~ has the same meaning as in 3724
section 4729.02 Of the Revised Code. 3725

(W) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less. 3726
3727
3728

~~(Y)~~(X) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing. 3729
3730

~~(Z)~~ "Practitioner" means the following: 3731

~~(1) A person who is licensed pursuant to Chapter 4715., 4731., or 4741. of the Revised Code and authorized by law to write prescriptions for drugs or dangerous drugs;~~ 3732
3733
3734

~~(2) An advanced practice nurse authorized under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices.~~ 3735
3736
3737

~~(AA) "Prescription" means a written or oral order for a controlled substance for the use of a particular person or a particular animal given by a practitioner in the course of professional practice and in accordance with the regulations promulgated by the director of the United States drug enforcement administration pursuant to the federal drug abuse control laws.~~ 3738
3739
3740
3741
3742
3743

~~(BB)~~(Y) "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in section 4729.01 Of the Revised Code. 3744
3745
3746

(Z) "Registry number" means the number assigned to each person registered under the federal drug abuse control laws. 3747
3748

~~(CC)~~(AA) "Sale" includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant, or employee. 3749
3750
3751
3752

~~(DD)~~(BB) "Schedule I," "schedule II," "schedule III," "schedule IV," and "schedule V" mean controlled substance schedules I, II, III, IV, and V, respectively, established 3753
3754
3755

pursuant to section 3719.41 of the Revised Code, as amended 3756
pursuant to section 3719.43 or 3719.44 of the Revised Code. 3757

~~(EE)~~(CC) "Wholesaler" means a person who, on official written 3758
orders other than prescriptions, supplies controlled substances 3759
that the person has not manufactured, produced, or prepared 3760
personally and includes a "wholesale distributor of dangerous 3761
drugs" as defined in section ~~4729.02~~ 4729.01 of the Revised Code. 3762
3763

~~(FF)~~(DD) "Animal shelter" means a facility operated by a 3764
humane society or any society organized under Chapter 1717. of the 3765
Revised Code or a dog pound operated pursuant to Chapter 955. of 3766
the Revised Code. 3767

~~(GG)~~(EE) "Terminal distributor of dangerous drugs" has the 3768
same meaning as in section ~~4729.02~~ 4729.01 of the Revised Code. 3769

~~(HH)~~(FF) "Category III license" means a license issued to a 3770
terminal distributor of dangerous drugs as set forth in section 3771
4729.54 of the Revised Code. 3772

~~(II)~~(JJ)(GG) "Prosecutor" has the same meaning as in section 3773
2935.01 of the Revised Code. 3774

Sec. 3719.011. As used in the Revised Code: 3775

(A) "Drug of abuse" means any controlled substance as defined 3776
in section 3719.01 of the Revised Code, any harmful intoxicant as 3777
defined in section 2925.01 of the Revised Code, and any dangerous 3778
drug as defined in section ~~4729.02~~ 4729.01 of the Revised Code. 3779
3780

(B) "Drug dependent person" means any person who, by reason 3781
of the use of any drug of abuse, is physically, psychologically, 3782
or physically and psychologically dependent upon the use of such 3783
drug, to the detriment of ~~his~~ the person's health or welfare. 3784

(C) "Person in danger of becoming a drug dependent person" 3785

means any person who, by reason of ~~his~~ the person's habitual or
incontinent use of any drug of abuse, is in imminent danger of
becoming a drug dependent person.

Sec. 3719.05. (A) ~~As used in this section and section 3719.06~~
~~of the Revised Code:~~

~~(1) "Dentist" means a person licensed under Chapter 4715. of~~
~~the Revised Code to practice dentistry.~~

~~(2) "Physician" means a person holding a valid certificate~~
~~issued under Chapter 4731. of the Revised Code authorizing him to~~
~~practice medicine and surgery, osteopathic medicine and surgery,~~
~~or podiatry.~~

~~(3) "Veterinarian" means a person licensed under Chapter~~
~~4741. of the Revised Code to practice veterinary medicine.~~

~~(B) A pharmacist may dispense schedule II controlled~~
~~substances to any person upon a written prescription given by a~~
~~dentist, physician, or veterinarian and schedule III or IV~~
~~controlled substances to any person upon a written or oral~~
~~prescription given by a practitioner. Each written prescription~~
~~shall be properly executed, dated, and signed by the person~~
~~prescribing on the day when issued and bearing the full name and~~
~~address of the patient for whom, or of the owner of the animal for~~
~~which, the schedule II controlled substance is dispensed, and the~~
~~full name, address, and registry number under the federal drug~~
~~abuse control laws of the person prescribing. If the prescription~~
~~is for an animal, it shall state the species of animal for which~~
~~the drug is prescribed~~ issued in accordance with section 3719.06
Of the Revised Code. The When dispensing controlled substances, a
pharmacist shall act in accordance with rules adopted by the state
board of pharmacy and in accordance with the following:

(1) The prescription shall be retained on file by the owner

of the pharmacy in which it is filled for a period of ~~two~~ three 3816
years, so as to be readily accessible for inspection by any public 3817
officer or employee engaged in the enforcement of Chapter 2925., 3818
3719., or ~~4719.~~ 4729. of the Revised Code. ~~Each~~ 3819

(2) ~~Each~~ oral prescription shall be recorded by the 3820
pharmacist and ~~such~~ the record shall show the name and address of 3821
the patient for whom, or of the owner of the animal for which the 3822
~~schedule III or IV~~ controlled substance is dispensed, the full 3823
name, address, and registry number under the federal drug abuse 3824
control laws of the ~~practitioner prescribing~~ prescriber, the name 3825
of the ~~schedule III or IV~~ controlled substance dispensed, the 3826
amount dispensed, and the date when dispensed. ~~Such~~ The record 3827
shall be retained on file by the owner of the pharmacy in which it 3828
is filled for a period of ~~two~~ three years. ~~No~~ 3829

(3) A schedule II controlled substance shall be dispensed 3830
only upon a written prescription, except that it may be dispensed 3831
upon an oral prescription in emergency situations as provided in 3832
the federal drug abuse control laws. 3833

(4) A prescription for a schedule II controlled substance 3834
shall not be refilled. ~~Prescriptions~~ 3835

(5) Prescriptions for schedule III and IV controlled 3836
substances may be refilled not more than five times in a six-month 3837
period from the date the prescription is given by a ~~practitioner~~ 3838
prescriber. 3839

~~(C)~~ (B) The legal owner of any stock of schedule II controlled 3840
substances in a pharmacy, upon discontinuance of dealing in ~~said~~ 3841
those drugs, may sell ~~said~~ the stock to a manufacturer, 3842
wholesaler, or owner of a pharmacy registered under the federal 3843
drug abuse control laws pursuant to an official written order. 3844

~~(D) A pharmacist may dispense, upon an official written order~~ 3845
3846

~~to a practitioner in quantities not exceeding one ounce at any one
time, aqueous or oleaginous solutions of which the content of
narcotic drugs does not exceed a proportion greater than twenty
per cent of the complete solution, to be used for medicinal
purposes.~~

~~(E) Notwithstanding division (B) of this section, schedule II
controlled substances may be dispensed orally and without the
written prescription of a dentist, physician, or veterinarian in
emergency situations as prescribed under the federal drug abuse
control laws.~~

Sec. 3719.06. (A) ~~A dentist or physician licensed to
prescribe, dispense, and administer controlled substances to a
human being~~ licensed health professional authorized to prescribe
drugs, if acting in the course of ~~his~~ professional practice, in
accordance with the laws regulating the professional's practice,
and in accordance with rules adopted by the state board of
pharmacy, may do the following:

(1) ~~Prescribe schedule II controlled substances by a written
prescription;~~

~~(2) Prescribe schedule, III or, IV, and V controlled
substances by a written or oral prescription;~~

~~(3)(2) Administer or dispense personally furnish to patients
schedule II, III, or IV, and V controlled substances;~~

~~(4)(3) Cause schedule II, III, and IV, and V controlled
substances to be administered under his the prescriber's direction
and supervision.~~

~~(B) No dentist or physician~~ licensed health professional
authorized to prescribe drugs shall prescribe, ~~dispense, or
administer, or personally furnish~~ a schedule III anabolic steroid
for the purpose of human muscle building or enhancing human

athletic performance and no pharmacist shall dispense a schedule 3877
III anabolic steroid for either purpose, unless it has been 3878
approved for that purpose under the "Federal Food, Drug, and 3879
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended. 3880
Each 3881

(C) Each written prescription shall be properly executed, 3882
dated, and signed by the ~~dentist or physician prescribing~~ 3883
prescriber on the day when issued and shall bear the full name and 3884
address of the person for whom, or the owner of the animal for 3885
which, the controlled substance is prescribed and the full name, 3886
address, and registry number under the federal drug abuse control 3887
laws of the ~~person prescribing~~ prescriber. If the prescription is 3888
for an animal, it shall state 3889

~~(B) A veterinarian licensed to prescribe, dispense, and~~ 3890
~~administer controlled substances to an animal in the course of his~~ 3891
~~professional practice may do the following:~~ 3892

~~(1) Prescribe schedule II controlled substances by a written~~ 3893
~~prescription;~~ 3894

~~(2) Prescribe schedule III or IV controlled substances by a~~ 3895
~~written or oral prescription;~~ 3896

~~(3) Administer and dispense schedule II, III, or IV~~ 3897
~~controlled substances;~~ 3898

~~(4) Cause schedule II, III, and IV controlled substances to~~ 3899
~~be administered by an assistant or orderly under his direction and~~ 3900
~~supervision.~~ 3901

~~Each written prescription shall be dated and signed by the~~ 3902
~~veterinarian prescribing on the day when issued and shall bear the~~ 3903
~~full name and address of the owner of the animal, the species of~~ 3904
~~the animal for which the controlled substance is prescribed, and~~ 3905
~~the full name, address, and registry number under the federal drug~~ 3906
~~abuse control laws of the veterinarian prescribing.~~ 3907

~~(C) An advanced practice nurse approved under section 4723.56 of the Revised Code to prescribe controlled substances may prescribe by written or oral prescription any schedule III or IV controlled substance that is recommended by the formulary committee for advanced practice nurses and included in the formulary established by rules adopted under section 4723.58 of the Revised Code. No advanced practice nurse shall prescribe a schedule III anabolic steroid for the purpose of human muscle building or enhancing human athletic performance unless it is approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended. Each written prescription shall be dated and signed by the advanced practice nurse issuing the prescription on the day issued and shall bear the full name and address of the person for whom the controlled substance is prescribed and the advanced practice nurse's full name, address, and registry number under the federal drug abuse control laws.~~

~~Any person, who has obtained from a practitioner any controlled substance for administration to a human being or an animal during the absence of such practitioner, shall return to such practitioner any unused portion of such drug, when it is no longer required by such human being or animal.~~

Sec. 3719.07. (A) As used in this section, "description" means the dosage form, strength, and quantity, and the brand name, if any, or the generic name, of a drug or controlled substance.

~~(B)(1) Every practitioner, or other person who is authorized to administer or use controlled substances, licensed health professional authorized to prescribe drugs shall keep a record of all ~~such drugs~~ controlled substances received by him, and a record of all ~~such drugs~~ controlled substances administered, dispensed, or used by him, otherwise other than by prescription. Every other~~

~~person, except a pharmacist, manufacturer, or wholesaler, who is~~ 3939
~~authorized to purchase and use controlled substances shall keep a~~ 3940
~~record of all controlled substances purchased and used other than~~ 3941
~~by prescription. The records shall be kept in accordance with the~~ 3942
~~provisions of division (E)(C)(1) of this section. The keeping of a~~ 3943
~~record of the quantity, character, and potency of solutions or~~ 3944
~~other preparations purchased or made up by a practitioner or other~~ 3945
~~person using small quantities of solutions or other preparations~~ 3946
~~of controlled substances for local application, and of the dates~~ 3947
~~when purchased or made up, without keeping a record of the amount~~ 3948
~~of such solution or other preparation applied by him to individual~~ 3949
~~patients is a sufficient compliance with this division.~~ 3950

~~No record need be kept of schedule V controlled substances~~ 3951
~~administered, dispensed, or used in the treatment of any one~~ 3952
~~person or animal, when the amount administered, dispensed, or used~~ 3953
~~for that purpose does not exceed in any forty eight consecutive~~ 3954
~~hours:~~ 3955

~~(1) One hundred twenty five milligrams of opium;~~ 3956

~~(2) Thirty milligrams of morphine or of any of its salts;~~ 3957

~~(3) Two hundred fifty milligrams of codeine or any of its~~ 3958
~~salts;~~ 3959

~~(4) One hundred twenty five milligrams of dihydrocodeine or~~ 3960
~~any of its salts;~~ 3961

~~(5) Thirty milligrams of ethylmorphine or any of its salts;~~ 3962

~~(6) A quantity of any other schedule V controlled substances~~ 3963
~~or any combination of schedule V controlled substances that does~~ 3964
~~not exceed in pharmacologic potency any one of the drugs named~~ 3965
~~above in the quantity stated.~~ 3966

~~(B)(2) Manufacturers and wholesalers shall keep records of~~ 3967
~~all controlled substances compounded, mixed, cultivated, grown, or~~ 3968

by any other process produced or prepared by them, and of all 3969
controlled substances received or ~~dispensed~~ sold by them⁷. The 3970
records shall be kept in accordance with division ~~(F)~~(C)(2) of 3971
this section. 3972

~~(C)~~(3) Every category III terminal distributor of dangerous 3973
drugs shall keep records of all controlled substances received or 3974
~~dispensed by them~~, sold. The records shall be kept in accordance 3975
with division ~~(G)~~(C)(3) of this section. 3976

~~(D)~~(4) Every person who sells or purchases for resale, ~~or who~~ 3977
~~dispenses~~ schedule V controlled substances exempted by section 3978
3719.15 of the Revised Code shall keep a record showing the 3979
quantities and kinds thereof received, ~~dispensed~~, or ~~disposed of~~ 3980
~~otherwise~~, sold. The records shall be kept in accordance with 3981
divisions ~~(E)~~(C)(1), ~~(F)~~(2), and ~~(G)~~(3) of this section. 3982

~~(E)~~ Every practitioner or other person, ~~except a pharmacist,~~ 3983
~~manufacturer, or wholesaler, authorized to administer or use~~ 3984
~~controlled substances shall keep a record of all controlled~~ 3985
~~substances received, administered, dispensed, or used which (C)(1)~~ 3986
The records required by divisions (B)(1) and (4) of this section 3987
shall contain the following: 3988

~~(1)~~(a) The description of all controlled substances received, 3989
the name and address of the person from whom received, and the 3990
date of receipt; 3991

~~(2)~~(b) The description of controlled substances administered, 3992
dispensed, purchased, sold, or used⁷; the date of administering, 3993
dispensing, purchasing, selling, or using⁷; the name and address 3994
of the person to whom, or for whose use, or the owner and species 3995
of the animal for which the controlled substance was administered, 3996
dispensed, purchased, sold, or used. 3997

~~(F)~~ Every manufacturer and wholesaler shall keep a record of 3998
all controlled substances compounded, mixed, cultivated, grown, or 3999

~~by any other process produced or prepared, received, or dispensed~~ 4000
~~by him which~~ (2) The records required by divisions (B)(2) and (4) 4001
of this section shall contain the following: 4002

~~(1)(a)~~ The description of all ~~drugs~~ controlled substances 4003
produced or prepared, the name and address of the person from whom 4004
received, and the date of receipt; 4005

~~(2)(b)~~ The description of controlled substances ~~dispensed~~ 4006
sold, the name and address of each person to whom a controlled 4007
substance is ~~dispensed~~ sold, the amount of the controlled 4008
substance ~~dispensed~~ sold to each person, and the date it was ~~se~~ 4009
~~dispensed~~ sold. 4010

~~(C) Every category III terminal distributor of dangerous~~ 4011
~~drugs shall keep a record of all controlled substances received or~~ 4012
~~dispensed by him which~~ (3) The records required by divisions 4013
(B)(3) and (4) of this section shall contain the following: 4014

~~(1)(a)~~ The description of controlled substances received, the 4015
name and address of the person from whom controlled substances are 4016
received, and the date of receipt; 4017

~~(2)(b)~~ The name and place of residence of each person to whom 4018
controlled substances, including those otherwise exempted by 4019
section 3719.15 of the Revised Code, are ~~dispensed~~ sold, the 4020
description of ~~such the~~ controlled substances ~~dispensed~~ sold to 4021
each person, the date ~~such the~~ controlled substances are ~~dispensed~~ 4022
sold to each person, ~~and the name and address of the practitioner~~ 4023
~~prescribing drugs to the person to whom they are dispensed.~~ 4024

(D) Every ~~such~~ record required by this section shall be kept 4025
for a period of ~~two~~ three years ~~and the date of the transaction~~ 4026
~~recorded.~~ 4027

The keeping of a record required by or under the federal drug 4028
abuse control laws, containing substantially the same information 4029

as specified in this section, constitutes compliance with this
section.

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Every person who purchases for resale or who sells controlled
substance preparations exempted by section 3719.15 of the Revised
Code shall keep the record required by or under the federal drug
abuse control ~~law~~ laws.

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~~As used in this section, "description" means the dosage form,
strength, and quantity, and the brand name, if any, or the generic
name of a drug or controlled substance.~~

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Sec. 3719.08. (A) Whenever a manufacturer ~~dispenses~~ sells a
controlled substance, and whenever a wholesaler ~~dispenses~~ sells a
controlled substance in a package ~~prepared by him~~ the wholesaler
has prepared, ~~he~~ the manufacturer or wholesaler shall securely
affix to each package in which ~~such~~ the controlled substance is
contained a label showing in legible English the name and address
of the vendor and the quantity, kind, and form of controlled
substance contained therein. No person, except a pharmacist for
the purpose of ~~filling~~ dispensing a controlled substance upon a
prescription under Chapter 3719. of the Revised Code shall alter,
deface, or remove any label so affixed.

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(B) ~~Whenever~~ Except as provided in division (C) of this
section, when a pharmacist dispenses any controlled substance on a
prescription ~~issued by a practitioner, or a practitioner dispenses
any controlled substance in the course of his practice, he~~ for use
by a patient, or supplies a controlled substance to a licensed
health professional for use by the professional in personally
furnishing patients with controlled substances, the pharmacist
shall affix to the container in which ~~such~~ the controlled
substance is dispensed, ~~or supplied~~ a label showing the following:

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(1) ~~His own name and address, or the~~ The name and address of

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the ~~owner of the pharmacy for whom he is acting~~ dispensing or 4060
supplying the controlled substance; 4061

(2) The name of the patient for whom the controlled substance 4062
is prescribed ~~or~~ and, if the patient is an animal, the name of the 4063
owner and the species of the animal; 4064

(3) The name of the ~~practitioner by whom the prescription was~~ 4065
~~written or by whom the drug was dispensed~~ prescriber; 4066

(4) ~~Such~~ All directions ~~as may be~~ for use stated on the 4067
prescription or provided by the ~~practitioner on usage of the drug~~ 4068
prescriber; 4069

(5) The date on which the ~~prescription was filled or~~ 4070
~~refilled, whichever date is later~~ controlled substance was 4071
dispensed or supplied; 4072

(6) The name, quantity, and strength of the controlled 4073
substance and, if applicable, the name of the distributor or 4074
manufacturer. 4075

(C) The requirements of division (B) of this section do not 4076
apply when a controlled substance is prescribed or supplied for 4077
administration to an ultimate user who is institutionalized. 4078

~~(C)~~(D) A licensed health professional authorized to prescribe 4079
drugs who personally furnishes a controlled substance to a patient 4080
shall comply with division (B) of section 4729.29 Of the Revised 4081
Code with respect to labeling and packaging of the controlled 4082
substance. 4083

(E) No person shall alter, deface, or remove any label ~~so~~ 4084
affixed pursuant to this section as long as any of the original 4085
contents remain. 4086

~~(D)~~(F) Every label for a schedule II, III, or IV ~~drug~~ 4087
controlled substance shall contain the following warning: 4088

"Caution: federal law prohibits the transfer of this drug to 4089

any person other than the patient for whom it was prescribed."

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Sec. 3719.09. Possession or control of controlled substances
is authorized in the following instances and subject to the
following conditions:

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(A) Possession of controlled substances in the course of
business by a manufacturer, wholesaler, ~~practitioner~~ licensed
health professional authorized to prescribe drugs, pharmacist,
category III terminal distributor of dangerous drugs, or other
person authorized to ~~administer, dispense, or~~ possess controlled
substances under this chapter or Chapter 3719. or 4729. of the
Revised Code;

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(B) Possession by any person of any schedule V narcotic drug
exempted under section 3719.15 of the Revised Code, where the
quantity of the drug does not exceed ~~two grains~~ one hundred thirty
milligrams of opium, ~~one half grain~~ thirty-two and five-tenths
milligrams of morphine or any of its salts, ~~four grains~~ two
hundred sixty milligrams of codeine or any of its salts, ~~two~~
~~grains~~ one hundred thirty milligrams of dihydrocodeine or any of
its salts, or ~~one half grain~~ thirty-two and five-tenths milligrams
of ethylmorphine or any of its salts, or, in the case of any other
schedule V controlled substance or any combination of narcotic
drugs, where the quantity does not exceed in pharmacologic potency
any one of the drugs named above in the quantity stated;

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(C) Possession by any person of any controlled substance that
the person obtained pursuant to a prescription issued by a
~~practitioner~~ licensed health professional authorized to prescribe
drugs or that was obtained for the person pursuant to a
prescription issued by a ~~practitioner~~ an authorized prescriber,
when the drug is in a container regardless of whether the
container is the original container in which the drug was
dispensed to that person directly or indirectly by a pharmacist or

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personally supplied to that person by the prescriber; 4121

(D) Possession in the course of business of combination drugs 4122
that contain pentobarbital and at least one noncontrolled 4123
substance active ingredient, in a manufactured dosage form, the 4124
only indication of which is for euthanizing animals, or other 4125
substance that the state veterinary medical licensing board and 4126
the state board of pharmacy both approve under division (A) of 4127
section 4729.532 of the Revised Code, by an agent or employee of 4128
an animal shelter who is authorized by the licensure of the animal 4129
shelter with the state board of pharmacy to purchase and possess 4130
the drug solely for use as specified in that section. As used in 4131
this division, "in the course of business" means possession or use 4132
at an establishment described in a license issued under section 4133
4729.54 of the Revised Code, or outside that establishment when 4134
necessary because of a risk to the health or safety of any person, 4135
provided that the substance is in a quantity no greater than 4136
reasonably could be used to alleviate the risk, is in the original 4137
manufacturer's container, and is returned to the establishment as 4138
soon as possible after the risk has passed. 4139

Sec. 3719.12. Unless a report has been made pursuant to 4140
section 2929.24 of the Revised Code, on the conviction of a 4141
manufacturer, wholesaler, ~~practitioner, pharmacist, physician~~ 4142
~~assistant, or nurse~~ terminal distributor of dangerous drugs, 4143
pharmacist, pharmacist intern, dentist, doctor of medicine or 4144
osteopathic medicine, podiatrist, registered nurse, licensed 4145
practical nurse, physician assistant, optometrist, or veterinarian 4146
of the violation of this chapter or Chapter 2925. of the Revised 4147
Code, the prosecutor in the case, ~~on forms provided by the board,~~ 4148
promptly shall report the conviction to the board that licensed, 4149
certified, or registered the ~~manufacturer, wholesaler,~~ 4150
~~practitioner, pharmacist, physician assistant, or nurse~~ person to 4151
practice or to carry on business. The responsible board shall 4152

provide forms to the prosecutor. Within thirty days of the receipt 4153
of this information, the board shall initiate action in accordance 4154
with Chapter 119. of the Revised Code to determine whether to 4155
suspend or revoke the person's license, certificate, or 4156
registration. 4157

Sec. 3719.121. (A) Except as otherwise provided in section 4158
4723.28 or 4731.22 of the Revised Code, the license, certificate, 4159
or registration of any ~~practitioner, nurse, physician assistant,~~ 4160
~~pharmacist, manufacturer, or wholesaler,~~ pharmacist, pharmacy 4161
intern, dentist, doctor of medicine or osteopathic medicine, 4162
podiatrist, registered nurse, licensed practical nurse, physician 4163
assistant, optometrist, or veterinarian who is or becomes addicted 4164
to the use of controlled substances, shall be suspended by the 4165
board that authorized the person's license, certificate, or 4166
registration until the person offers satisfactory proof to the 4167
board that the person no longer is addicted to the use of 4168
controlled substances. 4169

(B) If the board under which a person has been issued a 4170
license, certificate, or evidence of registration determines that 4171
there is clear and convincing evidence that continuation of the 4172
person's professional practice or method of ~~distributing~~ supplying 4173
controlled substances presents a danger of immediate and serious 4174
harm to others, the board may suspend the person's license, 4175
certificate, or registration without a hearing. Except as 4176
otherwise provided in sections 4715.30, 4723.281, 4730.25, and 4177
4731.22 of the Revised Code, the board shall follow the procedure 4178
for suspension without a prior hearing in section 119.07 of the 4179
Revised Code. The suspension shall remain in effect, unless 4180
removed by the board, until the board's final adjudication order 4181
becomes effective, except that if the board does not issue its 4182
final adjudication order within ninety days after the hearing, the 4183

suspension shall be void on the ninety-first day after the 4184
hearing. 4185

(C) On receiving notification pursuant to section 2929.24 or 4186
3719.12 of the Revised Code, the board under which a person has 4187
been issued a license, certificate, or evidence of registration 4188
immediately shall suspend the license, certificate, or 4189
registration of that person on a plea of guilty to, a finding by a 4190
jury or court of the person's guilt of, or conviction of a felony 4191
drug abuse offense; a finding by a court of the person's 4192
eligibility for treatment in lieu of conviction; a plea of guilty 4193
to, or a finding by a jury or court of the person's guilt of, or 4194
the person's conviction of an offense in another jurisdiction that 4195
is essentially the same as a felony drug abuse offense; or a 4196
finding by a court of the person's eligibility for treatment in 4197
lieu of conviction in another jurisdiction. The board shall notify 4198
the holder of the license, certificate, or registration of the 4199
suspension, which shall remain in effect until the board holds an 4200
adjudicatory hearing under Chapter 119. of the Revised Code. 4201

Sec. 3719.15. ~~Except as specifically provided in Chapters~~ 4202
~~This chapter and Chapter 2925. and 3719. of the Revised Code, such~~ 4203
~~chapters shall not apply, except as specifically provided~~ 4204
~~otherwise in those chapters, to the following cases:~~ 4205

(A) Where a ~~practitioner~~ licensed health professional 4206
authorized to prescribe drugs administers or ~~dispenses~~ supplies, 4207
or where a pharmacist ~~or owner of a pharmacy~~ sells at retail, any 4208
medicinal preparation that contains in ~~one fluid ounce~~ thirty 4209
milliliters, or if a solid or semisolid preparation, in ~~one~~ 4210
~~avoirdupois ounce~~ thirty grams, of any of the following: 4211

(1) Not more than ~~two grains~~ one hundred thirty milligrams of 4212
opium; 4213

(2) Not more than ~~one quarter of a grain~~ sixteen and 4214

twenty-five one hundredths milligrams of morphine or of any of its salts; 4215
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(3) Not more than ~~one grain~~ sixty-five milligrams of codeine or of any of its salts; 4217
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(4) Not more than ~~one half grain~~ thirty-two and five-tenths milligrams of dihydrocodeine or any of its salts; 4219
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(5) Not more than ~~one quarter grain~~ sixteen and twenty-five one hundredths milligrams of ethylmorphine or any of its salts. 4221
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Each preparation ~~mentioned~~ specified in divisions (A)(1), (2), (3), (4), and (5) of this section shall in addition contain one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the preparation valuable medicinal qualities other than those possessed by the narcotic drug alone. 4223
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(6) Pharmaceutical preparations in solid form containing not more than two and five-tenths milligrams diphenoxylate and not less than twenty-five micrograms atropine sulfate per dosage unit. 4229
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(B) Where a ~~practitioner~~ prescriber administers or ~~dispenses~~ supplies, or where a pharmacist sells at retail, liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in ~~such a combination as prevent their~~ that prevents the drugs from being readily extracted from ~~such the~~ the liniments, ointments, or preparations, except that ~~such sections~~ this chapter and Chapter 2925. Of the Revised Code shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination. 4232
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The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, supplied, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring 4242
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upon its medicinal qualities other than those possessed by the 4246
narcotic drug alone. ~~Such~~ The preparation shall be prescribed, 4247
administered, compounded, dispensed, supplied, and sold in good 4248
faith as a medicine, and not for the purpose of evading ~~such~~ 4249
~~sections~~ this chapter or Chapter 2925. Of the Revised Code. 4250

Sec. 3719.172. (A) Possession of a hypodermic is authorized 4251
for the following: 4252

(1) ~~Any~~ A manufacturer or distributor of, or dealer in, 4253
hypodermics or medication packaged in hypodermics, and any 4254
authorized agent or employee of ~~such~~ that manufacturer, 4255
distributor, or dealer, in the regular course of business; 4256

(2) ~~A hospital, owner of a pharmacy, or pharmacist~~ terminal 4257
distributor of dangerous drugs, in the regular course of business; 4258

(3) ~~Any practitioner, nurse, or other~~ A person authorized to 4259
administer injections, in the regular course of the person's 4260
profession or employment; 4261

(4) ~~Any~~ A person, when the hypodermic was lawfully obtained 4262
and is kept and used for the purpose of self-administration of 4263
insulin or other drug prescribed ~~by a practitioner~~ for the 4264
treatment of disease by a licensed health professional authorized 4265
to prescribe drugs; 4266

(5) ~~Any~~ A person whose use of a hypodermic is for legal 4267
research, clinical, educational, or medicinal purposes; 4268

(6) ~~Any~~ A farmer, for the lawful administration of a drug to 4269
an animal; 4270

(7) ~~Any~~ A person whose use of a hypodermic is for lawful 4271
professional, mechanical, trade, or craft ~~purpose~~ purposes. 4272

(B) No manufacturer or distributor of, or dealer in, 4273
hypodermics or medication packaged in hypodermics, or their 4274
authorized agents or employees, and no ~~owner of a pharmacy, or~~ 4275

~~pharmacist~~ terminal distributor of dangerous drugs, shall display 4276
any hypodermic for sale. No person authorized to possess a 4277
hypodermic pursuant to division (A) of this section shall 4278
negligently fail to take reasonable precautions to prevent any 4279
hypodermic in the person's possession from theft or acquisition by 4280
any unauthorized person. 4281

(C) No person other than one of the following shall sell or 4282
furnish a hypodermic to another person: 4283

(1) A manufacturer or distributor of, or dealer in, 4284
hypodermics or medication packaged in hypodermics, or their 4285
authorized agents or employees; 4286

(2) A ~~hospital~~ terminal distributor of dangerous drugs; 4287

(3) A ~~pharmacist~~ or person under the direct supervision of a 4288
pharmacist; 4289

(4) A ~~practitioner~~ licensed health professional authorized to 4290
prescribe drugs, acting in the regular course of business and as 4291
permitted by law; 4292

(5) An individual who holds a current license, certificate, 4293
or registration issued under Title 47 of the Revised Code and has 4294
been certified to conduct diabetes education by a national 4295
certifying body specified in rules adopted by the state board of 4296
pharmacy under section 4729.68 of the Revised Code, but only if 4297
diabetes education is within the individual's scope of practice 4298
under statutes and rules regulating the individual's profession. 4299

(D) No person shall sell or furnish a hypodermic to another 4300
whom the person knows or has reasonable cause to believe is not 4301
authorized by division (A) of this section to possess a 4302
hypodermic. 4303

~~(E) A pharmacist or person under the direct supervision of a~~ 4304
~~pharmacist may furnish hypodermics to another without a~~ 4305

~~prescription by a practitioner, but the pharmacist or person being supervised shall require positive identification of each person to whom hypodermics are furnished, and shall keep a written record of each transaction, including the date, the type and quantity of the articles furnished, and the name, address, and signature of the person to whom such articles are furnished. Such record shall be retained in the same manner as the exempt narcotics register. No pharmacist or person under a pharmacist's supervision shall fail to comply with this division in furnishing hypodermics.~~

Sec. 3719.19. No person shall be prosecuted for a violation of ~~Chapter 3719. of the Revised Code,~~ this chapter if ~~such the~~ person has been acquitted or convicted under the federal ~~narcotic drug abuse control~~ laws of the same act or omission which, it is alleged, constitutes a violation of this chapter.

Sec. 3719.30. No person shall leave or deposit ~~poison dangerous drugs, poisons, or a substance~~ substances containing ~~poison dangerous drugs or poisons~~ in a common, street, alley, lane, or thoroughfare, or a yard or enclosure occupied by another.

Whoever violates this section shall be liable to the person injured for all damages sustained ~~thereby~~ as a result of leaving or depositing the dangerous drugs, poisons, or other substances.

Sec. 3719.34. Sections 3719.32 and 3719.33 of the Revised Code do not apply to substances ~~dispensed to~~ sold or delivered upon the order or prescription of ~~persons~~ a person believed by the ~~dispenser~~ seller or deliverer to be ~~lawfully authorized practitioners of medicine or dentistry~~ a licensed health professional authorized to prescribe drugs. ~~The record of sale and delivery mentioned in section 3719.33 of the Revised Code is not required of manufacturers and wholesalers selling any of the substances mentioned in section 3719.32 of the Revised Code at~~

~~wholesale, if the box, bottle, or package containing such~~ 4336
~~substance when sold at wholesale, is labeled with the name of the~~ 4337
~~substance, "Poison," and the name and address of the manufacturer~~ 4338
~~or wholesaler.~~ 4339

Sec. 3719.35. It is not necessary to place a poison label 4340
upon, nor record the delivery of, any of the following: 4341

(A) Preparations containing substances named in section 4342
3719.32 of the Revised Code when a single box, bottle, or other 4343
package of the bulk of ~~one half fluid ounce~~ fifteen milliliters or 4344
the weight of ~~one half avoirdupois ounce~~ fifteen grams does not 4345
contain more than ~~an~~ one adult medicinal dose of ~~such poisonous~~ 4346
~~substance~~ any of those substances; 4347

(B) The sulphide of antimony, the oxide or carbonate of zinc, 4348
or colors ground in oil and intended for use as paints; 4349

(C) ~~Calomel, paregoric, or other preparations of opium~~ 4350
~~containing less than two grains of opium to the fluid ounce;~~ 4351

~~(D)~~ Preparations recommended in good faith for ~~diarrhoea~~ 4352
diarrhea or cholera, when each bottle or package is accompanied by 4353
specific directions for use and a caution against the habitual use 4354
thereof of the preparations; 4355

~~(E)~~(D) Liniments or ointments when plainly labeled "for 4356
external use only"; 4357

~~(F)~~(E) Preparations put up and sold in the form of pills, 4358
tablets, or lozenges and intended for internal use, when the dose 4359
recommended does not contain more than one fourth of an adult 4360
medicinal dose of ~~such poisonous substance~~ any of the substances 4361
named in section 3719.35 Of the Revised Code. 4362

Sec. 3719.36. The state board of pharmacy ~~or anyone acting in~~ 4363
~~its behalf~~ shall enforce sections 3719.30 to 3719.35 of the 4364

Revised Code. If ~~such~~ the board has information that any of ~~such~~ 4365
those sections has been violated, it shall investigate, and upon 4366
probable cause appearing, shall file a complaint and prosecute the 4367
offender. 4368

Fines assessed and collected under prosecutions commenced by 4369
~~such~~ the board shall be paid to the ~~secretary~~ executive director 4370
of the state board of pharmacy, and by ~~him~~ the executive director 4371
paid into the state treasury to the credit of the ~~occupational~~ 4372
~~licensing and regulatory~~ board of pharmacy drug law enforcement 4373
fund created by section 4729.65 Of the Revised Code. 4374

Sec. 3719.42. The state board of pharmacy ~~board~~ shall meet in 4375
Columbus at least once each fiscal year for the purpose of 4376
carrying out its duties ~~pursuant to Chapter 3719. of the Revised~~ 4377
Code under this chapter. 4378

Sec. 3719.44. (A) Pursuant to this section, and by rule 4379
adopted ~~pursuant to~~ in accordance with Chapter 119. of the Revised 4380
Code, the state board of pharmacy may do any of the following with 4381
respect to schedules I, II, III, IV, and V established in section 4382
3719.41 of the Revised Code: 4383

(1) Add a previously unscheduled compound, mixture, 4384
preparation, or substance to any schedule; 4385

(2) Transfer a compound, mixture, preparation, or substance 4386
from one schedule to another, provided the transfer does not have 4387
the effect under Chapter 3719. of the Revised Code of providing 4388
less stringent control of the compound, mixture, preparation, or 4389
substance than is provided under the federal narcotic drug abuse 4390
control laws; 4391

(3) Remove a compound, mixture, preparation, or substance 4392
from the schedules where the board had previously added the 4393

compound, mixture, preparation, or substance to the schedules, 4394
provided that the removal shall not have the effect under Chapter 4395
3719. of the Revised Code of providing less stringent control of 4396
the compound, mixture, preparation, or substance than is provided 4397
under the federal narcotic drug abuse control laws. 4398

(B) In making a determination to add, remove, or transfer 4399
pursuant to division (A) of this section, the board shall consider 4400
the following: 4401

(1) The actual or relative potential for abuse; 4402

(2) The scientific evidence of the pharmacological effect of 4403
the substance, if known; 4404

(3) The state of current scientific knowledge regarding the 4405
substance; 4406

(4) The history and current pattern of abuse; 4407

(5) The scope, duration, and significance of abuse; 4408

(6) The risk to the public health; 4409

(7) The potential of the substance to produce psychic or 4410
physiological dependence liability; 4411

(8) Whether the substance is an immediate precursor. 4412

(C) The board may add or transfer a compound, mixture, 4413
preparation, or substance to schedule I when it appears that there 4414
is a high potential for abuse, that it has no accepted medical use 4415
in treatment in this state, or lacks accepted safety for use in 4416
treatment under medical supervision. 4417

(D) The board may add or transfer a compound, mixture, 4418
preparation, or substance to schedule II when it appears that 4419
there is a high potential for abuse, that it has a currently 4420
accepted medical use in treatment in this state, or currently 4421
accepted medical use in treatment with severe restrictions, and 4422

that its abuse may lead to severe physical or severe psychological
dependence. 4423
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(E) The board may add or transfer a compound, mixture,
preparation, or substance to schedule III when it appears that 4425
there is a potential for abuse less than the substances included 4426
in schedules I and II, that it has a currently accepted medical 4427
use in treatment in this state, and that its abuse may lead to 4428
moderate or low physical or high psychological dependence. 4429
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(F) The board may add or transfer a compound, mixture,
preparation, or substance to schedule IV when it appears that it 4431
has a low potential for abuse relative to substances included in 4432
schedule III, and that it has a currently accepted medical use in 4433
treatment in this state, and that its abuse may lead to limited 4434
physical or psychological dependence relative to the substances 4435
included in schedule III. 4436
4437

(G) The board may add or transfer a compound, mixture,
preparation, or substance to schedule V when it appears that it 4438
has lower potential for abuse than substances included in schedule 4439
IV, and that it has currently accepted medical use in treatment in 4440
this state, and that its abuse may lead to limited physical or 4441
psychological dependence relative to substances included in 4442
schedule IV. 4443
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(H) Even though a compound, mixture, preparation, or 4445
substance does not otherwise meet the criteria in this section for 4446
adding or transferring it to a schedule, the board may 4447
nevertheless add or transfer it to a schedule as an immediate 4448
precursor when all of the following apply: 4449

(1) It is the principal compound used, or produced primarily 4450
for use, in the manufacture of a controlled substance; 4451

(2) It is an immediate chemical intermediary used or likely 4452
to be used in the manufacture of such a controlled substance; 4453

(3) Its control is necessary to prevent, curtail, or limit 4454
the manufacture of the scheduled compound, mixture, preparation, 4455
or substance of which it is the immediate precursor. 4456

(I) Authority to control under this section does not extend 4457
to distilled spirits, wine, or malt beverages, as those terms are 4458
defined or used in Chapter 4301. of the Revised Code. 4459

(J) Authority to control under this section does not extend 4460
to any nonnarcotic substance if such substance may, under the 4461
Federal Food, Drug, and Cosmetic Act ~~as defined in section 4729.02~~ 4462
~~of the Revised Code~~ and the laws of this state, be lawfully sold 4463
over the counter without a prescription. Should a pattern of abuse 4464
develop for any nonnarcotic drug sold over the counter, the board 4465
may, by rule adopted in accordance with Chapter 119. of the 4466
Revised Code, after a public hearing and a documented study to 4467
determine that the substance actually meets the criteria listed in 4468
division (B) of this section, place such abused substance on a 4469
~~prescription basis~~ controlled substance schedule. 4470

(K)(1) A drug product containing ephedrine that is known as 4471
one of the following and is in the form specified shall not be 4472
considered a schedule V controlled substance: 4473

(a) Amesec capsules; 4474

(b) Bronitin tablets; 4475

(c) Bronkotabs; 4476

(d) Bronkolixir; 4477

(e) Bronkaid tablets; 4478

(f) Efedron nasal jelly; 4479

(g) Guiaphed elixir; 4480

(h) Haysma; 4481

(i) Pazo hemorrhoid ointment and suppositories; 4482

(j) Primatene "M" formula tablets;	4483
(k) Primatene "P" formula tablets;	4484
(l) Tedrigen tablets;	4485
(m) Tedral tablets, suspension and elixir;	4486
(n) T.E.P.;	4487
(o) Vatronol nose drops.	4488
(2)(a) A product containing ephedrine shall not be considered	4489
a controlled substance if the product is a food product or dietary	4490
supplement that meets all of the following criteria:	4491
(i) It contains, per dosage unit or serving, not more than	4492
the lesser of twenty-five milligrams of ephedrine alkaloids or the	4493
maximum amount of ephedrine alkaloids provided in applicable	4494
regulations adopted by the United States food and drug	4495
administration, and no other controlled substance.	4496
(ii) It contains no hydrochloride or sulfate salts of	4497
ephedrine alkaloids.	4498
(iii) It is packaged with a prominent label securely affixed	4499
to each package that states all of the following: the amount in	4500
milligrams of ephedrine in a serving or dosage unit; the amount of	4501
the food product or dietary supplement that constitutes a serving	4502
or dosage unit; that the maximum recommended dosage of ephedrine	4503
for a healthy adult human is the lesser of one hundred milligrams	4504
in a twenty-four-hour period for not more than twelve weeks or the	4505
maximum recommended dosage or period of use provided in applicable	4506
regulations adopted by the United States food and drug	4507
administration; and that improper use of the product may be	4508
hazardous to a person's health.	4509
(b)(i) Subject to division (K)(2)(b)(ii) of this section, no	4510
person shall dispense, sell, or otherwise give a product described	4511
in division (K)(2)(a) of this section to any individual under	4512

eighteen years of age. 4513

(ii) Division (K)(2)(b)(i) of this section does not apply to 4514
a physician or pharmacist who dispenses, sells, or otherwise gives 4515
a product described in division (K)(2)(a) of this section to an 4516
individual under eighteen years of age, to a parent or guardian of 4517
an individual under eighteen years of age who dispenses, sells, or 4518
otherwise gives a product of that nature to the individual under 4519
eighteen years of age, or to a person who, as authorized by the 4520
individual's parent or legal guardian, dispenses, sells, or 4521
otherwise gives a product of that nature to an individual under 4522
eighteen years of age. 4523

(c) No person in the course of selling, offering for sale, or 4524
otherwise distributing a product described in division (K)(2)(a) 4525
of this section shall advertise or represent in any manner that 4526
the product causes euphoria, ecstasy, a "buzz" or "high," or an 4527
altered mental state; heightens sexual performance; or, because it 4528
contains ephedrine alkaloids, increased muscle mass. 4529

4530
(3) A drug product that contains the isomer pseudoephedrine, 4531
or any of its salts, optical isomers, or salts of optical isomers, 4532
shall not be considered a controlled substance if the drug product 4533
is labeled in a manner consistent with federal law or with the 4534
product's over-the-counter tentative final monograph or final 4535
monograph issued by the United States food and drug 4536
administration. 4537

(4) At the request of any person, the board may except any 4538
product containing ephedrine not described in division (K)(1) or 4539
(2) of this section or any class of products containing ephedrine 4540
from being included as a schedule V controlled substance if it 4541
determines that the product or class of products does not contain 4542
any other controlled substance. The board shall make the 4543

determination in accordance with this section and by rule adopted 4544
in accordance with Chapter 119. of the Revised Code. 4545

(L) As used in this section: 4546

(1) "Food" has the same meaning as in section 3715.01 of the 4547
Revised Code; 4548

(2) "Dietary supplement" has the meaning given in the 4549
"Federal Food, Drug, and Cosmetic Act," 108 Stat. 4327 (1994), 21 4550
U.S.C.A. 321 (ff), as amended. 4551

(3) "Ephedrine alkaloids" means ephedrine, pseudoephedrine, 4552
norephedrine, norpseudoephedrine, methylephedrine, and 4553
methylnpseudoephedrine. 4554

Sec. 3719.61. Nothing in the laws dealing with drugs of abuse 4555
shall be construed to prohibit treatment of narcotic drug 4556
dependent persons by the continuing maintenance of their 4557
dependence through the administration of methadone in accordance 4558
with the rules adopted by the department of alcohol and drug 4559
addiction services under section 3793.11 of the Revised Code, when 4560
all of the following apply: 4561

(A) The likelihood that any person undergoing maintenance 4562
treatment will be cured of ~~his~~ dependence on narcotic drugs is 4563
remote, the treatment is prescribed ~~by a practitioner~~ for the 4564
purpose of alleviating or controlling the patient's drug 4565
dependence, and the patient's prognosis while undergoing ~~such~~ 4566
treatment is at least a partial improvement in ~~his~~ the patient's 4567
asocial or antisocial behavior patterns; 4568

(B) In the case of an inpatient in a hospital or clinic, the 4569
amount of the maintenance drug dispensed at any one time does not 4570
exceed the quantity necessary for a single dose, and ~~such~~ the dose 4571
is administered to the patient immediately; 4572

(C) In the case of an outpatient, the amount of the 4573

maintenance drug dispensed at any one time shall be determined by 4574
~~a practitioner with regard to the patient's treatment provider~~ 4575
taking into account the patient's progress in the treatment 4576
program, and the patient's needs for gainful employment, 4577
education, and responsible homemaking, ~~provided, except~~ that in no 4578
event shall the dosage be greater than the amount permitted by 4579
federal law and rules adopted by the department pursuant to 4580
section 3793.11 of the Revised Code; 4581

(D) The drug is not dispensed in any case to replace or 4582
supplement any part of a supply of the drug previously dispensed, 4583
or when there is reasonable cause to believe it will be used or 4584
disposed of unlawfully; 4585

(E) The drug is dispensed through a program licensed and 4586
operated in accordance with section 3793.11 of the Revised Code. 4587

Sec. 3719.81. (A) A person may furnish another a sample of 4588
any drug of abuse, or of any drug or pharmaceutical preparation 4589
~~which that~~ would be hazardous to health or safety if used without 4590
the supervision of a ~~practitioner~~ licensed health professional 4591
authorized to prescribe drugs, if all of the following apply: 4592

(1) The sample is furnished by a manufacturer, manufacturer's 4593
representative, or wholesale dealer in pharmaceuticals to a 4594
~~practitioner~~ licensed health professional authorized to prescribe 4595
drugs, or is furnished by such a practitioner professional to a 4596
patient for use as medication; 4597

(2) The drug is in the original container in which it was 4598
placed by the manufacturer, and ~~such the~~ container is plainly 4599
marked as a sample; 4600

(3) Prior to its being furnished, the drug sample has been 4601
stored under the proper conditions to prevent its deterioration or 4602
contamination; 4603

(4) If the drug is of a type which deteriorates with time, 4604
the sample container is plainly marked with the date beyond which 4605
the drug sample is unsafe to use, and ~~such the~~ the date has not 4606
expired on the sample furnished. Compliance with the labeling 4607
requirements of the "Federal Food, Drug, and ~~Cosmetics~~ Cosmetic 4608
Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, shall be 4609
deemed compliance with this section~~+~~. 4610

(5) The drug is distributed, stored, or discarded in such a 4611
way that the drug sample may not be acquired or used by any 4612
unauthorized person, or by any person, including a child, for whom 4613
it may present a health or safety hazard. 4614

(B) Division (A) of this section does not ~~apply~~ do any of the 4615
following: 4616

(1) Apply to or restrict the furnishing of any sample of a 4617
nonnarcotic substance if ~~such the~~ the substance may, under the 4618
"Federal Food, Drug, and Cosmetic Act", ~~as defined in division~~ 4619
~~(D)(1) of section 4729.02 of the Revised Code,~~ and under the laws 4620
of this state, otherwise be lawfully sold over the counter without 4621
a prescription~~i~~. 4622

(2) Authorize a prescriber who is an advanced practice nurse 4623
to furnish a sample of any drug; 4624

(3) Authorize a prescriber who is an optometrist to furnish a 4625
sample of a drug that is not a drug the optometrist is authorized 4626
to prescribe. 4627

(C) The state board of pharmacy shall, ~~pursuant to sections~~ 4628
~~119.01 to 119.13~~ in accordance with Chapter 119. of the Revised 4629
Code, adopt ~~regulations~~ rules as necessary to give effect to this 4630
section. 4631

Sec. 3719.99. (A) Whoever violates section 3719.16 or 4632
3719.161 of the Revised Code is guilty of a felony of the fifth 4633

degree. If the offender previously has been convicted of a 4634
violation of section 3719.16 or 3719.161 of the Revised Code or a 4635
drug abuse offense, a violation of section 3719.16 or 3719.161 of 4636
the Revised Code is a felony of the fourth degree. If the 4637
violation involves the sale, offer to sell, or possession of a 4638
schedule I or II controlled substance, with the exception of 4639
marihuana, and if the offender, as a result of the violation, is a 4640
major drug offender, division (D) of this section applies. 4641

(B) Whoever violates division (C) or (D) of section 3719.172 4642
of the Revised Code is guilty of a felony of the fifth degree. If 4643
the offender previously has been convicted of a violation of 4644
division (C) or (D) of section 3719.172 of the Revised Code or a 4645
drug abuse offense, a violation of division (C) or (D) of section 4646
3719.172 of the Revised Code is a felony of the fourth degree. If 4647
the violation involves the sale, offer to sell, or possession of a 4648
schedule I or II controlled substance, with the exception of 4649
marihuana, and if the offender, as a result of the violation, is a 4650
major drug offender, division (D) of this section applies. 4651

(C) Whoever violates section 3719.07 or 3719.08 of the 4652
Revised Code is guilty of a misdemeanor of the first degree. If 4653
the offender previously has been convicted of a violation of 4654
section 3719.07 or 3719.08 of the Revised Code or a drug abuse 4655
offense, a violation of section 3719.07 or 3719.08 of the Revised 4656
Code is a felony of the fifth degree. If the violation involves 4657
the sale, offer to sell, or possession of a schedule I or II 4658
controlled substance, with the exception of marihuana, and if the 4659
offender, as a result of the violation, is a major drug offender, 4660
division (D) of this section applies. 4661

(D)(1) If an offender is convicted of or pleads guilty to a 4662
felony violation of section 3719.07, 3719.08, 3719.16, or 3719.161 4663
or of division (C) or (D) of section 3719.172 of the Revised Code, 4664

if the violation involves the sale, offer to sell, or possession
of a schedule I or II controlled substance, with the exception of
marihuana, and if the offender, as a result of the violation, is a
major drug offender, the court that sentences the offender, in
lieu of the prison term authorized or required by division (A),
(B), or (C) of this section and sections 2929.13 and 2929.14 of
the Revised Code and in addition to any other sanction imposed for
the offense under sections 2929.11 to 2929.18 of the Revised Code,
shall impose upon the offender, in accordance with division
(D)(3)(a) of section 2929.14 of the Revised Code, the mandatory
prison term specified in that division and may impose an
additional prison term under division (D)(3)(b) of that section.

(2) Notwithstanding any contrary provision of section 3719.21
of the Revised Code, the clerk of the court shall pay any fine
imposed for a felony violation of section 3719.07, 3719.08,
3719.16, or 3719.161 or of division (C) or (D) of section 3719.172
of the Revised Code pursuant to division (A) of section 2929.18 of
the Revised Code in accordance with and subject to the
requirements of division (F) of section 2925.03 of the Revised
Code. The agency that receives the fine shall use the fine as
specified in division (F) of section 2925.03 of the Revised Code.

(E) Whoever violates section 3719.05, 3719.06, 3719.13, or
3719.31 or division (B) ~~or (E)~~ of section 3719.172 of the Revised
Code is guilty of a misdemeanor of the third degree. If the
offender previously has been convicted of a violation of section
3719.05, 3719.06, 3719.13, or 3719.31 or division (B) ~~or (E)~~ of
section 3719.172 of the Revised Code or a drug abuse offense, a
violation of section 3719.05, 3719.06, 3719.13, or 3719.31 or
division (B) ~~or (E)~~ of section 3719.172 of the Revised Code is a
misdemeanor of the first degree.

(F) Whoever violates section 3719.30 of the Revised Code is
guilty of a misdemeanor of the fourth degree. If the offender

previously has been convicted of a violation of section 3719.30 of
the Revised Code or a drug abuse offense, a violation of section
3719.30 of the Revised Code is a misdemeanor of the third degree.

(G) Whoever violates section 3719.32 or 3719.33 of the
Revised Code is guilty of a minor misdemeanor.

(H) Whoever violates division (K)(2)(b) of section 3719.44 of
the Revised Code is guilty of a felony of the fifth degree.

(I) Whoever violates division (K)(2)(c) of section 3719.44 of
the Revised Code is guilty of a misdemeanor of the second degree.

(J) As used in this section, "major drug offender" has the
same meaning as in section 2929.01 of the Revised Code.

Sec. 3729.01. As used in this chapter:

(A) "Ambulatory care facility" means a facility that provides
medical, diagnostic, or surgical treatment to patients who do not
require hospitalization, including a dialysis center, ambulatory
surgical facility, cardiac catheterization facility, diagnostic
imaging center, extracorporeal shock wave lithotripsy center, home
health agency, inpatient hospice, birthing center, radiation
therapy center, emergency facility, and an urgent care center.
"Ambulatory health care facility" does not include the private
office of a physician or dentist, whether the office is for an
individual or group practice.

(B) "Beneficiary" and "third-party payer" have the same
meanings as in section 3901.38 of the Revised Code.

(C) "Disability assistance medical assistance program" means
the disability assistance medical assistance program established
under Chapter 5115. of the Revised Code.

(D) "Emergency facility" means a hospital emergency

department or any other facility that provides emergency medical services.	4726 4727
(E) "Global fee" means the collective cost of professional fees, outpatient or inpatient billings, pharmaceutical products, and other medical or surgical products required to ensure satisfactory outcomes for a given diagnosis.	4728 4729 4730 4731
(F) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.	4732 4733
(G) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	4734 4735 4736
(H) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	4737 4738
(I) "Long-term care facility" means any of the following:	4739
(1) A nursing home, residential care facility, or home for the aging, all as defined in section 3721.01 of the Revised Code;	4740 4741
(2) An adult care facility, as defined in section 3722.01 of the Revised Code;	4742 4743
(3) A nursing facility, as defined in section 5111.20 of the Revised Code;	4744 4745
(4) An intermediate care facility for the mentally retarded, as defined in section 5111.20 of the Revised Code;	4746 4747
(5) A facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.	4748 4749 4750
(J) "Medical assistance program" means the program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.	4751 4752 4753 4754

(K) "Medicare" means the program established under Title XVIII of the "Social Security Act."	4755 4756
(L) "Pharmacy" has the same meaning as in section 4729.02 <u>4729.01</u> of the Revised Code.	4757 4758
(M) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.	4759 4760 4761
(N) "Price" means the actual payment for health care services or supplies by a patient or third-party payer.	4762 4763
(O)(1) "Public health care program" means any program of health care benefits that is provided by the state or a political subdivision of this state, including all of the following:	4764 4765 4766
(a) The program for medically handicapped children established under sections 3701.021 to 3701.028 of the Revised Code;	4767 4768 4769
(b) The medical assistance program;	4770
(c) The disability assistance medical assistance program;	4771
(d) Health care benefits administered by the bureau of workers' compensation;	4772 4773
(e) Mental health services certified by the department of mental health and provided in whole or in part under contract with a community mental health board, or a board of alcohol, drug addiction, and mental health services;	4774 4775 4776 4777
(f) Health care services administered by the department of alcohol and drug addiction services or a board of alcohol, drug addiction, and mental health services;	4778 4779 4780
(g) Health care services administered by the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;	4781 4782 4783

(h) Health care services administered by the rehabilitation services commission;	4784 4785
(i) Health care services administered by the department of rehabilitation and correction;	4786 4787
(j) Health care services administered by the department of youth services.	4788 4789
(2) "Public health care program" does not mean health care coverage provided to public employees or health care benefits provided to persons receiving a pension, annuity, allowance, or benefit from the public employees retirement system, the school employees retirement system, the state teachers retirement system, the police and firemen's disability and pension fund, or the state highway patrol retirement system.	4790 4791 4792 4793 4794 4795 4796
Sec. 4121.443. (A) There is hereby created the health care advisory committee consisting of nine members appointed by the administrator of workers' compensation as follows: one who is a representative of physicians licensed to practice medicine and surgery under Chapter 4731. of the Revised Code, one who is a representative of physicians licensed to practice osteopathic medicine and surgery under Chapter 4731. of the Revised Code, one who is a representative of chiropractors licensed under Chapter 4734. of the Revised Code, one who is a representative of pharmacists registered <u>licensed</u> under Chapter 4729. of the Revised Code, one who is a licensed dentist under Chapter 4715. of the Revised Code; one who is a representative of podiatrists certified under Chapter 4731. of the Revised Code; one who is a representative of psychologists licensed under Chapter 4732. of the Revised Code; one who is a representative of rehabilitation specialists, and one who is a representative of hospitals authorized to operate pursuant to section 3727.02 of the Revised Code. The administrator may consult with and obtain	4797 4798 4799 4800 4801 4802 4803 4804 4805 4806 4807 4808 4809 4810 4811 4812 4813 4814

recommendations from the Ohio state medical association, the Ohio 4815
osteopathic association, the Ohio state chiropractic association, 4816
the Ohio pharmacists association, and the Ohio hospital 4817
association for the purpose of making ~~his~~ appointments to the 4818
committee. The administrator shall make initial appointments to 4819
the committee within ninety days after the effective date of this 4820
section. Members shall serve at the pleasure of the administrator 4821
and may be reappointed. Vacancies shall be filled in the manner 4822
provided for original appointments. Committee members shall 4823
receive no compensation or expenses for the performance of their 4824
duties as members of the committee. 4825

(B) Prior to adopting rules under section 4121.441 of the 4826
Revised Code concerning issues pertaining to health care 4827
providers, the administrator shall provide the committee an 4828
opportunity to comment on and give advice concerning those rules. 4829

(C) No member of the committee shall divulge any confidential 4830
information that is disclosed to the member in the performance of 4831
~~his~~ official duties as a member of the committee. 4832

Sec. 4301.01. (A) As used in the Revised Code: 4833

(1) "Intoxicating liquor" and "liquor" include all liquids 4834
and compounds, other than beer as defined in division (B)(2) of 4835
this section, containing one-half of one per cent or more of 4836
alcohol by volume which are fit to use for beverage purposes, from 4837
whatever source and by whatever process produced, by whatever name 4838
called, and whether the same are medicated, proprietary, or 4839
patented. The phrase includes wine, as defined in division (B)(3) 4840
of this section even if it contains less than four per cent of 4841
alcohol by volume, mixed beverages, as defined in division (B)(4) 4842
of this section even if they contain less than four per cent of 4843
alcohol by volume, cider, as defined in division (B)(23) of this 4844

section, alcohol, and all solids and confections which contain any alcohol. 4845
4846

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 4847
4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the 4848
Revised Code, "sale" and "sell" include exchange, barter, gift, 4849
offer for sale, sale, distribution and delivery of any kind, and 4850
the transfer of title or possession of beer and intoxicating 4851
liquor either by constructive or actual delivery by any means or 4852
devices whatever, including the sale of beer or intoxicating 4853
liquor by means of a controlled access alcohol and beverage 4854
cabinet pursuant to section 4301.21 of the Revised Code. "Sale" 4855
and "sell" do not include the mere solicitation of orders for beer 4856
or intoxicating liquor from the holders of permits issued by the 4857
division of liquor control authorizing the sale of the beer or 4858
intoxicating liquor, but no solicitor shall solicit any such 4859
orders until the solicitor has been registered with the division 4860
pursuant to section 4303.25 of the Revised Code. 4861

(3) "Vehicle" includes all means of transportation by land, 4862
by water, or by air, and everything made use of in any way for 4863
such transportation. 4864

(B) As used in sections 4301.01 to 4301.74 of the Revised 4865
Code: 4866

(1) "Alcohol" means ethyl alcohol, whether rectified or 4867
diluted with water or not, whatever its origin may be, and 4868
includes synthetic ethyl alcohol. "Alcohol" does not include 4869
denatured alcohol and wood alcohol. 4870

(2) "Beer," "malt liquor," or "malt beverages" includes all 4871
brewed or fermented malt products containing one-half of one per 4872
cent or more of alcohol by volume but not more than six per cent 4873
of alcohol by weight. 4874

(3) "Wine" includes all liquids fit to use for beverage 4875

purposes containing not less than one-half of one per cent of 4876
alcohol by volume and not more than twenty-one per cent of alcohol 4877
by volume, which is made from the fermented juices of grapes, 4878
fruits, or other agricultural products, except that as used in 4879
sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the 4880
Revised Code, and, for purposes of determining the rate of the tax 4881
that applies, division (B) of section 4301.43 of the Revised Code, 4882
"wine" does not include cider. 4883

(4) "Mixed beverages" such as bottled and prepared cordials, 4884
cocktails, and highballs are products obtained by mixing any type 4885
of whiskey, neutral spirits, brandy, gin, or other distilled 4886
spirits with, or over, carbonated or plain water, pure juices from 4887
flowers and plants, and other flavoring materials. The completed 4888
product shall contain not less than one-half of one per cent of 4889
alcohol by volume and not more than twenty-one per cent of alcohol 4890
by volume. 4891

(5) "Spirituous liquor" includes all intoxicating liquors 4892
containing more than twenty-one per cent of alcohol by volume. 4893

(6) "Sealed container" means any container having a capacity 4894
of not more than one hundred twenty-eight fluid ounces, the 4895
opening of which is closed to prevent the entrance of air. 4896

(7) "Person" includes firms and corporations. 4897

(8) "Manufacture" includes all processes by which beer or 4898
intoxicating liquor is produced, whether by distillation, 4899
rectifying, fortifying, blending, fermentation, brewing, or in any 4900
other manner. 4901

(9) "Manufacturer" means any person engaged in the business 4902
of manufacturing beer or intoxicating liquor. 4903

(10) "Wholesale distributor" and "distributor" means a person 4904
engaged in the business of selling to retail dealers for purposes 4905

of resale. 4906

(11) "Hotel" has the meaning set forth in section 3731.01 of 4907
the Revised Code, subject to the exceptions mentioned in section 4908
3731.03 of the Revised Code. 4909

(12) "Restaurant" means a place located in a permanent 4910
building provided with space and accommodations wherein, in 4911
consideration of the payment of money, hot meals are habitually 4912
prepared, sold, and served at noon and evening, as the principal 4913
business of the place. "Restaurant" does not include ~~drugstores~~ 4914
pharmacies, confectionery stores, lunch stands, night clubs, and 4915
filling stations. 4916

(13) "Club" means a corporation or association of individuals 4917
organized in good faith for social, recreational, benevolent, 4918
charitable, fraternal, political, patriotic, or athletic purposes, 4919
which is the owner, lessor, or occupant of a permanent building or 4920
part thereof operated solely for those purposes, membership in 4921
which entails the prepayment of regular dues, and includes the 4922
place so operated. 4923

(14) "Night club" means a place operated for profit, where 4924
food is served for consumption on the premises and one or more 4925
forms of amusement are provided or permitted for a consideration 4926
which may be in the form of a cover charge or may be included in 4927
the price of the food and beverages, or both, purchased by the 4928
patrons thereof. 4929

(15) "At retail" means for use or consumption by the 4930
purchaser and not for resale. 4931

(16) "~~Drugstore~~ Pharmacy" means an establishment as defined 4932
in section ~~4729.27~~ 4729.02 of the Revised Code, which is under the 4933
management or control of a ~~legally-registered~~ licensed pharmacist 4934
in accordance with section 4729.27 Of the Revised Code. 4935

(17) "Enclosed shopping center" means a group of retail sales and service business establishments that face into an enclosed mall, share common ingress, egress, and parking facilities, and are situated on a tract of land that contains an area of not less than five hundred thousand square feet. "Enclosed shopping center" also includes not more than one business establishment that is located within a free-standing building on such a tract of land, so long as the sale of beer and intoxicating liquor on the tract of land was approved in an election held under former section 4301.353 of the Revised Code.

(18) "Controlled access alcohol and beverage cabinet" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device which requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

(19) "Residence district" means two or more contiguous election precincts located within the same county and also located within the same municipal corporation or within the unincorporated area of the same township, as described by a petition authorized by section 4301.33, 4301.332, 4303.29, or 4305.14 of the Revised Code.

(20) "Low-alcohol beverage" means any brewed or fermented malt product, or any product made from the fermented juices of grapes, fruits, or other agricultural products, that contains either no alcohol or less than one-half of one per cent of alcohol by volume. The beverages described in division (B)(20) of this section do not include a soft drink such as root beer, birch beer, or ginger beer.

(21) "Cider" means all liquids fit to use for beverage purposes that contain one-half of one per cent of alcohol by

volume, but not more than six per cent of alcohol by weight that
are made through the normal alcoholic fermentation of the juice of
sound, ripe apples, including, without limitation, flavored,
sparkling, or carbonated cider and cider made from pure condensed
apple must.

Sec. 4301.69. (A) Except as otherwise provided in this
chapter, no person shall sell beer or intoxicating liquor to an
underage person, shall buy beer or intoxicating liquor for an
underage person, or shall furnish it to an underage person, unless
given by a physician in the regular line of ~~his~~ the physician's
practice or given for established religious purposes or unless the
underage person is accompanied by a parent, spouse who is not an
underage person, or legal guardian.

In proceedings before the liquor control commission, no
permit holder, or the employee or agent of a permit holder,
charged with a violation of this division shall be charged, for
the same offense, with a violation of division (A)(1) of section
4301.22 of the Revised Code.

(B) No person who is the owner or occupant of any public or
private place shall knowingly allow any underage person to remain
in or on the place while possessing or consuming beer or
intoxicating liquor, unless the intoxicating liquor or beer is
given to the person possessing or consuming it by that person's
parent, spouse who is not an underage person, or legal guardian
and the parent, spouse who is not an underage person, or legal
guardian is present at the time of the person's possession or
consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts
or omissions in violation of this division that are committed by a
lessee of that place, unless the owner authorizes or acquiesces in
the lessee's acts or omissions.

(C) No person shall engage or use accommodations at a hotel, 4998
inn, cabin, campground, or restaurant when ~~he~~ the person knows or 4999
has reason to know either of the following: 5000

(1) That beer or intoxicating liquor will be consumed by an 5001
underage person on the premises of the accommodations that the 5002
person engages or uses, unless the person engaging or using the 5003
accommodations is the spouse of the underage person and who is not 5004
~~himself~~ an underage person, or is the parent or legal guardian of 5005
all of the underage persons, who consume beer or intoxicating 5006
liquor on the premises and that person is on the premises at all 5007
times when beer or intoxicating liquor is being consumed by an 5008
underage person; 5009

(2) That a drug of abuse will be consumed on the premises of 5010
the accommodations by any person, except a person who obtained the 5011
drug of abuse pursuant to a prescription issued by a ~~practitioner~~ 5012
licensed health professional authorized to prescribe drugs and has 5013
the drug of abuse in the original container in which it was 5014
dispensed to the person. 5015

(D)(1) No person is required to permit the engagement of 5016
accommodations at any hotel, inn, cabin, or campground by an 5017
underage person or for an underage person, if the person engaging 5018
the accommodations knows or has reason to know that the underage 5019
person is intoxicated, or that the underage person possesses any 5020
beer or intoxicating liquor and is not accompanied by a parent, 5021
spouse who is not an underage person, or legal guardian who is or 5022
will be present at all times when the beer or intoxicating liquor 5023
is being consumed by the underage person. 5024

(2) No underage person shall knowingly engage or attempt to 5025
engage accommodations at any hotel, inn, cabin, or campground by 5026
presenting identification that falsely indicates that ~~he~~ the 5027
underage person is twenty-one years of age or older for the 5028

purpose of violating this section. 5029

(E) No underage person shall knowingly possess or consume any 5030
beer or intoxicating liquor, in any public or private place, 5031
unless ~~he~~ the underage person is accompanied by a parent, spouse 5032
who is not an underage person, or legal guardian, or unless the 5033
beer or intoxicating liquor is given by a physician in the regular 5034
line of ~~his~~ the physician's practice or given for established 5035
religious purposes. 5036

(F) No parent, spouse who is not an underage person, or legal 5037
guardian of a minor shall knowingly permit the minor to violate 5038
this section or section 4301.63, 4301.632, 4301.633, or 4301.634 5039
of the Revised Code. 5040

(G) The operator of any hotel, inn, cabin, or campground 5041
shall make the provisions of this section available in writing to 5042
any person engaging or using accommodations at the hotel, inn, 5043
cabin, or campground. 5044

(H) As used in this section: 5045

(1) "Drug of abuse" has the same meaning as in section 5046
3719.011 of the Revised Code. 5047

(2) "Hotel" has the same meaning as in section 3731.01 of the 5048
Revised Code. 5049

(3) "Licensed health professional authorized to prescribe 5050
drugs" and "prescription" have the same meanings as in section 5051
4729.02 Of the Revised Code. 5052

(4) "Minor" means a person under the age of eighteen years. 5053

~~(4) "Practitioner" and "prescription" have the same meanings 5054
as in section 3719.01 of the Revised Code.~~ 5055

(5) "Underage person" means a person under the age of 5056
twenty-one years. 5057

Sec. 4303.01. As used in sections 4303.01 to 4303.37 of the Revised Code, "intoxicating liquor," "liquor," "sale," "sell," "vehicle," "alcohol," "beer," "malt liquor," "malt beverage," "wine," "mixed beverages," "spirituous liquor," "sealed container," "person," "manufacture," "manufacturer," "wholesale distributor," "distributor," "hotel," "restaurant," "club," "night club," "at retail," "~~drugstore~~ pharmacy," and "~~Enclosed~~ enclosed shopping center" have the meaning set forth in section 4301.01 of the Revised Code.

Sec. 4303.21. Permit G may be issued to the owner of a ~~drugstore~~ pharmacy in charge of a ~~registered~~ licensed pharmacist to be named in such permit for the sale at retail of alcohol for medicinal purposes in quantities at each sale of not more than one gallon upon the written prescription of a physician or dentist who is lawfully and regularly engaged in the practice of ~~his~~ the physician's or dentist's profession in this state, and for the sale of industrial alcohol for mechanical, chemical, or scientific purposes to a person known by the seller to be engaged in such mechanical, chemical, or scientific pursuits; all subject to section 4303.34 of the Revised Code. The fee for this permit if fifty dollars.

Sec. 4303.27. Each permit issued under sections 4303.02 to 4303.23 of the Revised Code, shall authorize the person named to carry on the business specified at the place or in the boat, vessel, or classes of dining car equipment described, and shall be issued for one year, or part thereof, commencing on the day after the uniform expiration dates designated by the division of liquor control, or for the unexpired portion of such year, and no longer, subject to suspension, revocation, or cancellation as authorized or required by Chapters 4301. and 4303. of the Revised Code. Upon

application by a permit holder, the superintendent of liquor 5088
control may expand during specified seasons of the year the 5089
premises for which the permit holder's permit was issued to 5090
include a premises immediately adjacent to the premises for which 5091
the permit was issued, so long as the immediately adjacent 5092
premises is under the permit holder's ownership and control and is 5093
located in an area where sales under the permit are not prohibited 5094
because of a local option election. Whenever the superintendent 5095
considers it advisable to cancel the unexpired portion of an 5096
outstanding permit in order that the permit may be issued on one 5097
of the uniform expiration dates designated by the superintendent, 5098
the superintendent shall refund to the holder a proportionate 5099
amount representing the unexpired portion of the permit year 5100
pursuant to section 4301.41 of the Revised Code. Such permit does 5101
not authorize the person named to carry on the business specified 5102
at any place or in any vehicle, boat, vessel, or class of dining 5103
car equipment other than that named, nor does it authorize any 5104
person other than the one named in such permit to carry on such 5105
business at the place or in the vehicle, boat, vessel, or class of 5106
dining car equipment named, except pursuant to compliance with the 5107
rules and orders of the division governing the assignment and 5108
transfer of permits, and with the consent of the division. The 5109
holder of a G permit may substitute the name of another ~~registered~~ 5110
licensed pharmacist for that entered on the permit, subject to 5111
rules of the division. 5112

Chapters 4301. and 4303. of the Revised Code do not prohibit 5113
the holder of an A, B, C, or D permit from making deliveries of 5114
beer or intoxicating liquor containing not more than twenty-one 5115
per cent of alcohol by volume, or prohibit the holder of an A or B 5116
permit from selling or distributing beer or intoxicating liquor to 5117
a person at a place outside this state, or prohibit the holder of 5118
any such a permit, or an H permit, from delivering any beer or 5119

intoxicating liquor so sold from a point in this state to a point 5120
outside this state. 5121

Sec. 4303.34. The sale of alcohol under G and I permits is 5122
subject to the following restrictions in addition to those imposed 5123
by the rules or orders of the division of liquor control: 5124

(A) All sales under such permits shall be made by the 5125
~~registered~~ licensed pharmacist in charge of the store or by a 5126
~~registered assistant~~ licensed pharmacist intern, lawfully employed 5127
therein. 5128

(B) All sales to hospitals, infirmaries, and medical or 5129
educational institutions for the uses authorized by such permits 5130
shall be made only upon the written, signed, dated, and sworn 5131
application of the superintendent of such institution. 5132

(C) All sales of alcohol to physicians, dentists, and 5133
veterinary surgeons shall be made only on the written, signed, 5134
dated, and sworn application of such physician, dentist, or 5135
veterinary surgeon, personally presented by the applicant. 5136

(D) All sales of alcohol for mechanical, chemical, or 5137
scientific purposes shall be made only upon the written 5138
application of the purchaser known by the ~~registered~~ pharmacist or 5139
~~assistant~~ pharmacist intern to be a person engaged in such 5140
mechanical, chemical, or scientific pursuits, which application 5141
shall be dated, signed, and sworn to by the purchaser. 5142

All applications required by this section shall state clearly 5143
and specifically the kind and quantity of alcohol required and the 5144
use to which it is to be put by the person purchasing it, and that 5145
the person will not use any of the alcohol procured for any other 5146
use than that stated in the application. 5147

All prescriptions and applications required by this section 5148
shall be canceled as soon as filled by the person filling the 5149

same, by having "canceled" plainly written or stamped thereon and 5150
signed and dated by the person who filled the same, and shall be 5151
kept open to public inspection. No person shall furnish alcohol 5152
more than once on any such prescription or application. 5153

Each holder of such a permit shall register in an 5154
alphabetically arranged book, kept exclusively for that purpose, 5155
all prescriptions of physicians and dentists, in the following 5156
order: the name of the physician or dentist, the name of the 5157
person prescribed for, the quantity and kind of alcohol, and the 5158
use for which prescribed. 5159

The person making the sale shall indorse upon the 5160
prescription the date upon which it was filled and the person's 5161
own name. Each such holder shall keep a record of applications, 5162
showing the date of each, by whom made, the quantity and kind of 5163
alcohol supplied, and when, where, and for what purpose and by 5164
whom such alcohol was to be used. Each applicant shall certify to 5165
the same by signing the applicant's name in such record book. Such 5166
book shall be open at all times during business hours to the 5167
inspection of the division. 5168

Any ~~registered~~ licensed pharmacist or ~~assistant~~ pharmacist 5169
intern may administer the oath required by this section. 5170

Sec. 4723.28. As used in this section, "dangerous drug" and 5171
"prescription" have the same meanings as in section ~~4729.02~~ 5172
4729.01 of the Revised Code. 5173

(A) The board of nursing, pursuant to an adjudication 5174
conducted under Chapter 119. of the Revised Code and by a vote of 5175
a quorum, may revoke or may refuse to grant a license or 5176
certificate to a person found by the board to have committed fraud 5177
in passing the examination or to have committed fraud, 5178
misrepresentation, or deception in applying for or securing any 5179

license or certificate issued by the board.	5180
(B) The board of nursing, pursuant to an adjudication	5181
conducted under Chapter 119. of the Revised Code and by a vote of	5182
a quorum, may impose one or more of the following sanctions: deny,	5183
revoke permanently, suspend, or place restrictions on any license	5184
or certificate issued by the board; reprimand or otherwise	5185
discipline a holder of a license or certificate; or impose a fine	5186
of not more than five hundred dollars per violation. The sanctions	5187
may be imposed for any of the following:	5188
(1) Denial, revocation, suspension, or restriction of a	5189
license to practice nursing, for any reason other than a failure	5190
to renew, in another state or jurisdiction; or denial, revocation,	5191
suspension, or restriction of a license to practice a health care	5192
occupation other than nursing, for any reason other than a failure	5193
to renew, in Ohio or another state or jurisdiction;	5194
(2) Engaging in the practice of nursing, having failed to	5195
renew a license issued under this chapter, or while a license is	5196
under suspension;	5197
(3) Conviction of, a plea of guilty to, or a judicial finding	5198
of guilt of a misdemeanor committed in the course of practice;	5199
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(4) Conviction of, a plea of guilty to, or a judicial finding	5201
of guilt of any felony or of any crime involving gross immorality	5202
or moral turpitude;	5203
(5) Selling, giving away, or administering drugs for other	5204
than legal and legitimate therapeutic purposes; or conviction of,	5205
a plea of guilty to, or a judicial finding of guilt of violating	5206
any municipal, state, county, or federal drug law;	5207
(6) Conviction of, a plea of guilty to, or a judicial finding	5208
of guilt of an act in another jurisdiction that would constitute a	5209

felony or a crime of moral turpitude in Ohio;	5210
(7) Conviction of, a plea of guilty to, or a judicial finding	5211
of guilt of an act in the course of practice in another	5212
jurisdiction that would constitute a misdemeanor in Ohio;	5213
(8) Self-administering or otherwise taking into the body any	5214
dangerous drug in any way not in accordance with a legal, valid	5215
prescription;	5216
(9) Habitual indulgence in the use of controlled substances,	5217
other habit-forming drugs, or alcohol or other chemical substances	5218
to an extent that impairs ability to practice;	5219
(10) Impairment of the ability to practice according to	5220
acceptable and prevailing standards of safe nursing care because	5221
of habitual or excessive use of drugs, alcohol, or other chemical	5222
substances that impair the ability to practice;	5223
(11) Impairment of the ability to practice according to	5224
acceptable and prevailing standards of safe nursing care because	5225
of a physical or mental disability;	5226
(12) Assaulting or causing harm to a patient or depriving a	5227
patient of the means to summon assistance;	5228
(13) Obtaining or attempting to obtain money or anything of	5229
value by intentional misrepresentation or material deception in	5230
the course of practice;	5231
(14) Adjudication by a probate court that the license	5232
applicant or license holder is mentally ill or mentally	5233
incompetent. The board may restore the license upon adjudication	5234
by a probate court of the person's restoration to competency or	5235
upon submission to the board of other proof of competency.	5236
(15) The suspension or termination of employment by the	5237
department of defense or the veterans administration of the United	5238
States for any act that violates or would violate this chapter;	5239

(16) Violation of this chapter or any rules adopted under it;	5240
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(17) Violation of any restrictions placed on a license by the board;	5242
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(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	5244
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(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care;	5247
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(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse under section 4723.02 of the Revised Code;	5249
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(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse under section 4723.02 of the Revised Code;	5252
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(22) Aiding and abetting in the unlicensed practice of nursing;	5255
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(23) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, or a registered nurse approved as an advanced practice nurse under section 4723.55 of the Revised Code, either of the following:	5257
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(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	5262
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(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant	5268
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to a health insurance or health care policy, contract, or plan 5270
that covers such nursing services, would otherwise be required to 5271
pay. 5272

(24) Failure to comply with the terms and conditions of 5273
participation in the alternative program for chemically dependent 5274
nurses created by section 4723.35 of the Revised Code; 5275

(25) In the case of a certified registered nurse anesthetist, 5276
clinical nurse specialist, certified nurse-midwife, or certified 5277
nurse practitioner: 5278

(a) Engaging in activities that exceed those permitted for 5279
the nurse's nursing specialty under section 4723.43 of the Revised 5280
Code; 5281

(b) Failure to meet the quality assurance standards 5282
established under section 4723.07 of the Revised Code. 5283

(26) In the case of a clinical nurse specialist, certified 5284
nurse-midwife, or certified nurse practitioner, failure to 5285
maintain a standard care arrangement in accordance with section 5286
4723.431 of the Revised Code or to practice in accordance with the 5287
standard care arrangement. 5288

(C) If a criminal action is brought against a license holder 5289
for an act or crime described in divisions (B)(3) to (7) of this 5290
section and the action is dismissed by the trial court other than 5291
on the merits, the board shall hold an adjudication hearing to 5292
determine whether the license holder committed the act on which 5293
the action was based. If the board determines on the basis of the 5294
hearing that the license holder committed the act, or if the 5295
license holder fails to participate in the hearing, the board may 5296
take action as though the license holder had been convicted of the 5297
act. 5298

If the board takes action on the basis of a conviction, plea 5299

of guilty, or a judicial determination of guilt as described in 5300
divisions (B)(3) to (7) of this section that is overturned on 5301
appeal, the license holder may, on exhaustion of the appeal 5302
process, petition the board for reconsideration of its action. On 5303
receipt of the petition and supporting court documents, the board 5304
shall temporarily rescind its action. If the board determines that 5305
the decision on appeal was a decision on the merits, it shall 5306
permanently rescind its action. If the board determines that the 5307
decision on appeal was not a decision on the merits, it shall hold 5308
an adjudicatory hearing to determine whether the license holder 5309
committed the act on which the original conviction, plea, or 5310
judicial determination was based. If the board determines on the 5311
basis of the hearing that the license holder committed such act, 5312
or if the license holder does not request a hearing, the board 5313
shall reinstate its action; otherwise, the board shall permanently 5314
rescind its action. 5315

Notwithstanding the provision of division (C)(2) of section 5316
2953.32 of the Revised Code specifying that if records pertaining 5317
to a criminal case are sealed under that section the proceedings 5318
in the case shall be deemed not to have occurred, sealing of the 5319
records of a conviction on which the board has based an action 5320
under this section shall have no effect on the board's action or 5321
any sanction imposed by the board under this section. 5322

(D) In enforcing division (B) of this section, the board may 5323
compel any individual licensed by this chapter or who has applied 5324
for licensure to submit to a mental or physical examination, or 5325
both, as required by the board and at the expense of the 5326
individual. Failure of any individual to submit to a mental or 5327
physical examination when directed constitutes an admission of the 5328
allegations, unless the failure is due to circumstances beyond the 5329
individual's control, and a default and final order may be entered 5330
without the taking of testimony or presentation of evidence. If 5331

the board finds that an individual is impaired, the board shall
require the individual to submit to care, counseling, or treatment
approved or designated by the board, as a condition for initial,
continued, reinstated, or renewed licensure to practice. The
individual shall be afforded an opportunity to demonstrate to the
board that the individual can resume the individual's occupation
in compliance with acceptable and prevailing standards under the
provisions of the individual's license. For the purpose of this
section, any individual who is licensed by this chapter or makes
application for licensure shall be deemed to have given consent to
submit to a mental or physical examination when directed to do so
in writing by the board, and to have waived all objections to the
admissibility of testimony or examination reports that constitute
a privileged communication.

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

Information received by the board pursuant to an
investigation is confidential and not subject to discovery in any
civil action, except that the board may disclose information to
law enforcement officers and government entities investigating a
person licensed by the board. No law enforcement officer or
government entity with knowledge of any information disclosed by
the board pursuant to this division shall divulge the information
to any other person or government entity except for the purpose of
an adjudication by a court or licensing or registration board or

officer to which the person to whom the information relates is a party. 5364
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If the investigation requires a review of patient records, the investigation and proceeding shall be conducted in such a manner as to protect patient confidentiality. 5366
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All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.251 of the Revised Code. 5369
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The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code. The board may appoint a hearing examiner as provided in section 119.09 to conduct any hearing the board is empowered to hold under Chapter 119. of the Revised Code. 5372
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In the absence of fraud or bad faith, neither the board nor any current or former members, agents, representatives, or employees of the board shall be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to their official duties undertaken or performed pursuant to this chapter. If a current or former member, agent, representative, or employee requests the state to defend the individual against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the individual's official duties, if the request is made in writing at a reasonable time before trial, and if the individual requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for such defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay that part of a claim or judgment that is for punitive or exemplary damages. 5377
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(F) Any action taken by the board under this section resulting in a suspension from practice shall be accompanied by a 5393
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written statement of the conditions under which the person may be reinstated to practice. 5395
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(G) No unilateral surrender of a license issued under this chapter shall be effective unless accepted by majority vote of the board. No application for a license issued under this chapter may be withdrawn without a majority vote of the board. 5397
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(H) Notwithstanding division (B)(23) of this section, sanctions shall not be imposed against any licensee who waives deductibles and copayments: 5401
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(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. The consent shall be made available to the board upon request. 5404
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(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board. 5409
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Sec. 4725.01. As used in this chapter: 5412

(A)(1) The "practice of optometry" means the application of optical principles, through technical methods and devices, in the examination of human eyes for the purpose of ascertaining departures from the normal, measuring their functional powers, adapting optical accessories for the aid thereof, and detecting ocular abnormalities that may be evidence of disease, pathology, or injury. 5413
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(2) In the case of a licensed optometrist who holds a topical ocular pharmaceutical agents certificate, the "practice of optometry" has the same meaning as in division (A)(1) of this section, except that it also includes administering topical ocular pharmaceutical agents for the purposes set forth in division 5420
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(A)(1) of this section.	5425
(3) In the case of a licensed optometrist who holds a therapeutic pharmaceutical agents certificate, the "practice of optometry" has the same meaning as in divisions (A)(1) and (2) of this section, except that it also includes employing, applying, administering, and prescribing instruments, devices, procedures other than invasive procedures, and therapeutic pharmaceutical agents for the following purposes:	5426 5427 5428 5429 5430 5431 5432
(a) Examination, investigation, diagnosis, or prevention of any disease, injury, or other abnormal condition of the visual system;	5433 5434 5435
(b) Treatment or cure of any disease, injury, or other abnormal condition of the anterior segment of the human eye.	5436 5437
(B) "Topical ocular pharmaceutical agents" means:	5438
(1) Proparacaine hydrochloride in a potency not exceeding five-tenths of one per cent ophthalmic solution;	5439 5440
(2) Benoxinate hydrochloride in a potency not exceeding four-tenths of one per cent ophthalmic solution;	5441 5442
(3) Phenylephrine hydrochloride in a potency not exceeding two and five-tenths per cent ophthalmic solution;	5443 5444
(4) Hydroxyamphetamine hydrobromide in a potency not exceeding one per cent ophthalmic solution;	5445 5446
(5) Tropicamide in a potency not exceeding one per cent ophthalmic solution;	5447 5448
(6) Cyclopentolate in a potency not exceeding one per cent ophthalmic solution;	5449 5450
(7) Any other topical ocular pharmaceutical agents if the primary indications for their use are consistent with the purposes set forth in division (A)(1) of this section, their new drug	5451 5452 5453

application is approved by and the potency in which they may be 5454
used for evaluative purposes has been established by the federal 5455
food and drug administration after January 1, 1983, and their use 5456
for the purposes set forth in division (A)(1) of this section has 5457
been approved by rule of the state board of optometry. 5458

(C) "Therapeutic pharmaceutical agent" means a topical ocular 5459
pharmaceutical agent or any of the following drugs or dangerous 5460
drugs, as defined in section ~~4729.02~~ 4729.01 of the Revised Code, 5461
that is used for examination, investigation, diagnosis, or 5462
prevention of disease, injury, or other abnormal condition of the 5463
visual system or for treatment or cure of disease, injury, or 5464
other abnormal condition of the anterior segment of the human eye 5465
and is an anti-microbial, anti-allergy, anti-glaucoma, topical 5466
anti-inflammatory, or cycloplegic agent, or an analgesic: 5467

- (1) A topical ophthalmic preparation; 5468
- (1) A topical ophthalmic preparation; 5469
- (2) Oral dosage of any of the following drugs: 5470
- (a) Acetazolamide; 5471
- (b) Astemizole; 5472
- (c) Dichlorphenamide; 5473
- (d) Diphenhydramine; 5474
- (e) Glycerin in a fifty per cent solution; 5475
- (f) Isosorbide in a forty-five per cent solution; 5476
- (g) Methazolamide; 5477
- (h) Analgesics that may be legally sold without prescription; 5478
- (h) Analgesics that may be legally sold without prescription; 5479
- (i) Terfenadine; 5480
- (j) Ampicillin in a two hundred fifty milligram or five 5481
hundred milligram dosage; 5482

(k) Cefaclor in a two hundred fifty milligram or five hundred milligram dosage;	5483 5484
(l) Cephalexin in a two hundred fifty milligram or five hundred milligram dosage;	5485 5486
(m) Dicloxacillin in a two hundred fifty milligram or five hundred milligram dosage;	5487 5488
(n) Doxycycline in a fifty milligram or one hundred milligram dosage;	5489 5490
(o) Erythromycin in a two hundred fifty milligram, three hundred and thirty-three milligram, or five hundred milligram dosage;	5491 5492 5493
(p) Penicillin VK in a two hundred fifty milligram or five hundred milligram dosage;	5494 5495
(q) Tetracycline in a two hundred fifty milligram or five hundred milligram dosage.	5496 5497
(3) Any other oral dosage of a drug or dangerous drug that is listed by rule adopted by the state board of optometry under section 4725.04 of the Revised Code.	5498 5499 5500
(D) "Invasive procedure" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, administering medication by injection, or the removal of intraocular foreign bodies.	5501 5502 5503 5504 5505
(E) "Visual system" means the human eye and its accessory or subordinate anatomical parts.	5506 5507
(F) "Certificate of licensure" means a certificate issued by the state board of optometry under section 4725.09 of the Revised Code authorizing the holder to practice optometry as provided in division (A)(1) of this section.	5508 5509 5510 5511

(G) "Topical ocular pharmaceutical agents certificate" means 5512
a certificate issued by the state board of optometry under section 5513
4725.09 of the Revised Code authorizing the holder to practice 5514
optometry as provided in division (A)(2) of this section. 5515

(H) "Therapeutic pharmaceutical agents certificate" means a 5516
certificate issued by the state board of optometry under division 5517
(A)(3) or (4) of section 4725.09 of the Revised Code authorizing 5518
the holder to practice optometry as provided in division (A)(3) of 5519
this section. 5520

Sec. ~~4729.02~~ 4729.01. As used in this chapter: 5521

(A) "Pharmacy" means any area, room, rooms, place of 5522
business, department, or portion of any of the foregoing, where 5523
~~prescriptions are filled or where drugs, dangerous drugs, or~~ 5524
~~poisons are compounded, sold, offered, or displayed for sale,~~ 5525
~~dispensed, or distributed to the public~~ the practice of pharmacy 5526
is conducted. 5527

(B) ~~To~~ "practice Practice of pharmacy" means ~~to interpret~~ 5528
providing pharmacist care requiring specialized knowledge, 5529
judgment, and skill derived from the principles of biological, 5530
chemical, behavioral, social, pharmaceutical, and clinical 5531
sciences. As used in this division, "pharmacist care" includes the 5532
following: 5533

(1) Interpreting prescriptions, ~~to compound or dispense;~~ 5534

(2) Compounding or dispensing drugs, ~~dangerous drugs, and~~ 5535
~~poisons,~~ and dispensing drug therapy related devices ~~that under~~ 5536
~~the "Federal Food, Drug, and Cosmetic Act" must be labeled for~~ 5537
~~sale only on the order of a practitioner; to participate in drug~~ 5538
~~selection pursuant to Chapter 3715. and section 4729.38 of the~~ 5539
~~Revised Code; and to participate with practitioners in reviews of~~ 5540
drug utilization.; 5541

(C)(3) 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; 5542
5543
5544
5545
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(4) Performing drug regimen reviews with individuals by discussing all of the drugs that the individual is taking and explaining the interactions of the drugs; 5547
5548
5549

(5) 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; 5550
5551
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5553

(6) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy; 5554
5555
5556

(7) Acting pursuant to a consult agreement with a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, if an agreement has been established with the physician. 5557
5558
5559
5560

(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances: 5561
5562
5563

(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs; 5564
5565

(2) Pursuant to the modification of a prescription made in accordance with a consult agreement; 5566
5567

(3) As an incident to research, teaching activities, or chemical analysis; 5568
5569

(4) In anticipation of prescription drug orders based on routine, regularly observed dispensing patterns. 5570
5571

(D) "Consult agreement" means an agreement to manage an individual's drug therapy that has been entered into by a pharmacist and a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 5572
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(E) "Drug" means: 5577

(1) Any article recognized in the ~~official~~ United States ~~pharmacopeia, pharmacopoeia and~~ national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in ~~man~~ humans or ~~other~~ animals; 5578
5579
5580
5581
5582

(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in ~~man~~ humans or ~~other~~ animals; 5583
5584
5585

(3) Any article, other than food, intended to affect the structure or any function of the body of ~~man~~ humans or ~~other~~ animals; 5586
5587
5588

(4) Any article intended for use as a component of any article specified in division (C)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories. 5589
5590
5591
5592

~~(D)~~(F) "Dangerous drug" means any of the following: 5593

(1) Any drug to which either of the following applies: 5594

(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; 5595
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(b) Under Chapter 3715. or 3719. of the Revised Code, the 5602
drug may be dispensed only upon a prescription~~+~~. 5603

(2) Any drug that contains a schedule V controlled substance 5604
and that is exempt from Chapter 3719. of the Revised Code or to 5605
which that chapter does not apply; 5606

(3) Any drug intended for administration by injection into 5607
the human body other than through a natural orifice of the human 5608
body. 5609

~~(E)~~(G) "Federal drug abuse control laws" has the same meaning 5610
as in section 3719.01 of the Revised Code. 5611

~~(F)~~ "Federal Food, Drug, and Cosmetic Act," means the 5612
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 5613
U.S.C. 301, as amended. 5614

~~(G)~~(H) "Prescription" means ~~an~~ a written, electronic, or oral 5615
order for drugs or combinations or mixtures of drugs to be used by 5616
a particular individual or for treating a particular animal, 5617
~~written or signed~~ issued by a ~~practitioner or transmitted by a~~ 5618
~~practitioner to a pharmacist by word of mouth, telephone,~~ 5619
~~telegraph, or other means of communication and recorded in writing~~ 5620
~~by the pharmacist~~ licensed health professional authorized to 5621
prescribe drugs. 5622

~~(H)~~(I) "Practitioner Licensed health professional authorized 5623
to prescribe drugs" means ~~any of the following~~ 5624

~~(1) A person~~ an individual who is licensed ~~pursuant to~~ 5625
~~Chapter 4715., 4725., 4731., or 4741. of the Revised Code and~~ 5626
authorized by law to ~~write prescriptions for drugs or~~ prescribe 5627
drugs or dangerous drugs~~+~~ 5628

~~(2) A professional association, as defined in section 1785.01~~ 5629
~~of the Revised Code, organized by an individual who is, or a group~~ 5630
~~of individuals who are, licensed pursuant to Chapter 4715., 4725.,~~ 5631

~~4731., or 4741. of the Revised Code and authorized by law to write
prescriptions for drugs or dangerous drugs, or a
corporation for profit formed under Chapter 1701. of the Revised
Code by an individual or group of individuals so licensed and
authorized;~~

~~(3) A partnership of individuals who are licensed pursuant to
Chapter 4715., 4725., 4731., or 4741. of the Revised Code and
authorized by law to write prescriptions for drugs or dangerous
drugs;~~

~~(4) A limited liability company formed under Chapter 1705. of
the Revised Code for the purpose of rendering a professional
service covered by Chapter 4715., 4725., 4731., or 4741. of the
Revised Code, the members, employees, other agents, and, if
applicable, managers of which are licensed or otherwise legally
authorized to render the covered professional service in this
state and are authorized by law to write prescriptions for drugs
or dangerous drugs;~~

~~(5) or drug therapy related devices in the course of the
individual's professional practice, including only the following:~~

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

~~(2) An advanced practice nurse authorized approved under
section 4723.56 of the Revised Code to prescribe drugs and
therapeutic devices;~~

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

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

(5) A veterinarian licensed under Chapter 4741. of the 5662
Revised Code. 5663

~~(I) "Poison" means any drug, chemical, or preparation likely~~ 5664
~~to be deleterious or destructive to adult human life in quantities~~ 5665
~~of four grams or less.~~ 5666

(J) "Sale" and "sell" include delivery, transfer, barter, 5667
exchange, or gift, or offer therefor, and each such transaction 5668
made by any person, whether as principal proprietor, agent, or 5669
employee. 5670

(K) "Wholesale sale" and "sale at wholesale" mean any sale in 5671
which the purpose of the purchaser is to resell the article 5672
purchased or received by the purchaser. 5673

(L) "Retail sale" and "sale at retail" mean any sale other 5674
than a wholesale sale or sale at wholesale. 5675

(M) "Retail seller" means any person that sells any dangerous 5676
drug to consumers without assuming control over and responsibility 5677
for its administration. Mere advice or instructions regarding 5678
administration do not constitute control or establish 5679
responsibility. 5680

(N) "Price information" means the price charged for a 5681
prescription for a particular drug product and, in an easily 5682
understandable manner, all of the following: 5683

(1) The proprietary name of the drug product; 5684

(2) The established (generic) name of the drug product; 5685

(3) The strength of the drug product if the product contains 5686
a single active ingredient or if the drug product contains more 5687
than one active ingredient and a relevant strength can be 5688
associated with the product without indicating each active 5689
ingredient. The established name and quantity of each active 5690
ingredient are required if such a relevant strength cannot be so 5691

associated with a drug product containing more than one 5692
ingredient. 5693

(4) The dosage form; 5694

(5) The price charged for a specific quantity of the drug 5695
product. The stated price shall include all charges to the 5696
consumer, including, but not limited to, the cost of the drug 5697
product, professional fees, handling fees, if any, and a statement 5698
identifying professional services routinely furnished by the 5699
pharmacy. Any mailing fees and delivery fees may be stated 5700
separately without repetition. The information shall not be false 5701
or misleading. 5702

(O) "Wholesale distributor of dangerous drugs" means a person 5703
engaged in the sale of dangerous drugs at wholesale and includes 5704
any agent or employee of such a person authorized by the person to 5705
engage in the sale of dangerous drugs at wholesale. 5706

(P) "Manufacturer of dangerous drugs" means a person, other 5707
than a pharmacist, who manufactures dangerous drugs and who is 5708
engaged in the sale of those dangerous drugs within this state. 5709

(Q) "Terminal distributor of dangerous drugs" means a person, 5710
~~other than a practitioner,~~ who is engaged in the sale of dangerous 5711
drugs at retail, or any person, other than a wholesale distributor 5712
or a pharmacist, who has ~~in the person's~~ possession, custody, or 5713
control of dangerous drugs for any purpose other than for ~~the~~ that 5714
person's own use and consumption, and includes pharmacies, 5715
hospitals, nursing homes, and laboratories and all other persons 5716
who procure dangerous drugs for sale or other distribution by or 5717
under the supervision of a pharmacist or ~~medical practitioner~~ 5718
licensed health professional authorized to prescribe drugs. 5719

(R) "Promote to the public" means disseminating a 5721
representation to the public in any manner or by any means, other 5722

than by labeling, for the purpose of inducing, or that is likely
to induce, directly or indirectly, the purchase of a dangerous
drug at retail.

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

(T) "Finished dosage form" has the same meaning as in
~~division (A)(17) of~~ section 3715.01 of the Revised Code.

~~(U) As used in section 4729.38 of the Revised Code,~~
~~"manufacturer" means a person who manufactures, as defined in~~
~~division (A)(18) of section 3715.01 of the Revised Code.~~

~~(V)~~ "Generically equivalent drug" has the same meaning as in
~~division (A)(20) of~~ section 3715.01 of the Revised Code.

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

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

Sec. ~~4729.01~~ 4729.02. There shall be a state board of
pharmacy, consisting of nine members, eight of whom shall be
pharmacists ~~registered~~ licensed under this chapter, representing
to the extent practicable various phases of the practice of
pharmacy, and one of whom shall be a public member at least sixty
years of age. Members shall be appointed by the governor with the
advice and consent of the senate. Terms of office shall be for
four years, commencing on the first day of July and ending on the
thirtieth day of June. The Ohio ~~state pharmaceutical~~ pharmacists
association may annually submit to the governor the names of not

less than five pharmacists ~~registered~~ licensed under this chapter, 5753
and from the names submitted or from others, at ~~his~~ the governor's 5754
discretion, the governor each year shall ~~appoint two members of~~ 5755
~~the board, except that the governor shall appoint three members of~~ 5756
~~the board in 1991 and every four years thereafter~~ make 5757
appointments to the board. Each member shall hold office from the 5758
date of ~~his~~ appointment until the end of the term for which ~~he~~ the 5759
member was appointed. Any member appointed to fill a vacancy 5760
occurring prior to the expiration of the term for which ~~his~~ the 5761
predecessor was appointed shall hold office for the remainder of 5762
such term. Any member shall continue in office subsequent to the 5763
expiration date of ~~his~~ the member's term until ~~his~~ a successor 5764
takes office, or until a period of sixty days has elapsed, 5765
whichever occurs first. 5766

No member of the board shall be reappointed to the board more 5767
than once. 5768

Sec. 4729.03. The state board of pharmacy shall organize by 5769
electing a president and a vice-president who are members of the 5770
board. The president shall preside over the meetings of the board, 5771
but shall not vote upon matters determined by the board, except in 5772
the event of a tie vote, in which case the president shall vote. 5773
The board shall also employ an executive director who is a 5774
~~registered~~ licensed pharmacist in good standing in ~~his profession~~ 5775
~~and who is not~~ the practice of pharmacy in this state. The person 5776
employed shall not be a member of the board. Each of the officers 5777
elected shall serve for a term of one year. The members of the 5778
board shall receive an amount fixed pursuant to division (J) of 5779
section 124.15 of the Revised Code for each day employed in the 5780
discharge of their official duties and their necessary expenses 5781
while engaged therein. 5782

Sec. 4729.06. The state board of pharmacy shall keep a record 5783
of its proceedings and a register of all persons to whom 5784
identification cards and ~~certificates~~ licenses have been granted 5785
as pharmacists or pharmacy interns, together with each renewal and 5786
suspension or revocation of an identification card and ~~certificate~~ 5787
license. The books and registers of the board shall be prima-facie 5788
evidence of the matters therein recorded. The president and 5789
executive director of the board may administer oaths. 5790

5791

A statement signed by the executive director to which is 5792
affixed the official seal of the board to the effect that it 5793
appears from the records of the board that ~~no such~~ the board has 5794
not issued an identification card and ~~certificate~~ license to 5795
practice pharmacy, or any of its branches, ~~in the state has been~~ 5796
~~issued to any such~~ the person specified ~~therein~~ in the statement, 5797
or that an identification card and ~~certificate~~ license, if issued, 5798
has been revoked or suspended, shall be received as prima-facie 5799
evidence of the record of ~~such~~ the board in any court or before 5800
any officer of this state. 5801

Sec. 4729.07. An individual desiring to be ~~registered~~ 5802
licensed as a pharmacist shall file with the executive director of 5803
the state board of pharmacy a verified application giving such 5804
information as the board requires, and appear before the board to 5805
take an examination to determine fitness to practice pharmacy. 5806
Examinations of those applying for ~~registration~~ licensure as 5807
pharmacists shall be held at such times, during each year, and at 5808
such places as the board determines. The board may make use of all 5809
or any part of the licensure examination of the national 5810
association of boards of pharmacy or any other national 5811
standardized pharmacy examination that it considers appropriate to 5812
perform its duties under this section. The board may require 5813

applicants for licensure by examination to purchase the 5814
examination and any related materials from the organization 5815
providing it. 5816

Sec. 4729.08. Every applicant for examination and 5817
~~registration~~ licensure as a pharmacist shall: 5818

(A) Be at least eighteen years of age; 5819

(B) Be of good moral character and habits; 5820

(C) Have obtained a degree in pharmacy from a program that 5821
has been recognized and approved by the state board of pharmacy, 5822
except that graduates of schools or colleges of pharmacy that are 5823
located outside the United States and have not demonstrated that 5824
the standards of their programs are at least equivalent to 5825
programs recognized and approved by the board shall be required to 5826
pass an equivalency examination recognized and approved by the 5827
board and to establish written and oral proficiency in English. 5828

(D) Have satisfactorily completed at least the minimum 5829
requirements for pharmacy internship as outlined by the board. 5830

If the board is satisfied that the applicant meets the 5831
foregoing requirements and if the applicant passes the examination 5832
required under section 4729.07 of the Revised Code, the board 5833
shall issue to the applicant a ~~certificate of registration~~ license 5834
and an identification card authorizing ~~him~~ the individual to 5835
practice pharmacy. 5836

Sec. 4729.09. The state board of pharmacy may ~~register~~ 5837
license an individual as a pharmacist without examination and 5838
issue ~~him a certificate of such registration and~~ an identification 5839
card to the pharmacist if ~~such~~ the individual: 5840

(A) Holds a ~~certificate~~ license in good standing to practice 5841
pharmacy under the laws of another state, has successfully 5842

completed an examination for ~~registration~~ licensure in the other 5843
state, and in the opinion of the board, ~~such~~ the examination was 5844
at least as thorough as that required by the board at the time 5845
~~such~~ the individual took the examination; 5846

(B) Is of good moral character and habit; 5847

(C) Has filed with the ~~board~~ licensing body of the other 5848
state ~~with which he holds a certificate of good standing~~ at least 5849
the credentials or the equivalent ~~as where then~~ that were required 5850
by the ~~Ohio board for registration~~ as this state at the time the
individual was licensed a pharmacist. 5852

The board shall not issue any identification card or 5853
~~certificate~~ license to ~~such~~ an individual licensed in another 5854
state if the state in which ~~such~~ the individual is ~~registered~~ 5855
licensed does not reciprocate by granting ~~certificates~~ licenses to 5856
practice pharmacy to persons holding valid ~~certificates to~~ 5857
~~practice pharmacy in Ohio issued~~ licenses received through 5858
examination by the state board of pharmacy ~~of Ohio~~. 5859

Sec. 4729.11. The state board of pharmacy shall establish a 5860
pharmacy internship program for the purpose of providing the 5861
practical experience necessary ~~for registration to practice~~ as a 5862
pharmacist. Any individual who desires to become a pharmacy intern 5863
shall apply for ~~registration~~ licensure to the board, and shall be 5864
issued an identification card and ~~certificate of registration~~ 5865
license as a pharmacy intern if in the opinion of the board the 5866
applicant is actively pursuing an educational program in 5867
preparation for ~~registration~~ licensure as a pharmacist and meets 5868
the other requirements as determined by the board. ~~Such~~ An 5869
identification card and ~~certificate of registration~~ license shall 5870
be valid until the next annual renewal date and shall be renewed 5871
only if the intern is meeting the requirements and ~~regulations~~ 5872
rules of the board. 5873

The state board of pharmacy may appoint a director of 5874
pharmacy internship who is a ~~registered~~ licensed pharmacist and 5875
who is not directly or indirectly connected with a school or 5876
college of pharmacy or department of pharmacy of a university. The 5877
5878

~~The~~ director of pharmacy internship shall be responsible to 5879
the board for the operation and direction of the pharmacy 5880
internship program established by the board under this section, 5881
and for such other duties as the board may assign. 5882

Sec. 4729.12. ~~The~~ An identification card issued by the state 5883
board of pharmacy ~~shall issue an identification card to each~~ 5884
~~registered pharmacist or pharmacy intern, which shall entitle~~ 5885
under section 4729.08 Of the Revised Code entitles the individual 5886
to whom it is issued to practice as a pharmacist or as a pharmacy 5887
intern in this state until the next annual renewal date. 5888

Identification cards shall be renewed annually on the 5889
fifteenth day of September, according to the standard renewal 5890
procedure of ~~sections 4745.01 to 4745.03~~ Chapter 4745. of the 5891
Revised Code. 5892

Each pharmacist and pharmacy intern shall ~~have his~~ carry the 5893
identification card or renewal identification card ~~on his person~~ 5894
while engaged in the practice of pharmacy ~~and his certificate of~~ 5895
~~registration.~~ The license shall be conspicuously exposed at the 5896
principal place where ~~he~~ the pharmacist or pharmacy intern 5897
practices pharmacy. 5898

~~If a~~ A pharmacist or pharmacy intern who desires to continue 5899
in the practice of ~~his profession,~~ he pharmacy shall file with the 5900
board an application in such form and containing such data as the 5901
board may require for renewal of an identification card. If the 5902
board finds that the ~~applicant has been registered and that such~~ 5903

~~registration~~ applicant's card has not been revoked or placed under 5904
suspension, and that ~~he~~ the applicant has paid the renewal fee, 5905
has continued ~~his~~ pharmacy education in accordance with the rules 5906
of the board, and is entitled to continue in the practice of 5907
pharmacy, the board shall issue a renewal identification card to 5908
the applicant. 5909

When an identification card has lapsed for more than sixty 5910
days but application is made within three years after the 5911
expiration of the card, the applicant shall be issued a renewal 5912
identification card without further examination if ~~he~~ the 5913
applicant meets the requirements of this section and pays the fee 5914
designated under division (E) of section 4729.15 of the Revised 5915
Code. 5916

Sec. 4729.13. ~~If a registered~~ A pharmacist who fails to make 5917
application to the state board of pharmacy for a renewal 5918
identification card within a period of three years from the 5919
expiration of ~~his~~ the identification card, ~~he~~ must pass an 5920
examination for registration; except that a ~~person who has been~~ 5921
~~registered under the laws of this state and after the expiration~~ 5922
~~of his~~ pharmacist whose registration has expired, but who has 5923
continually practiced pharmacy in another state under a 5924
~~certificate~~ license issued by the authority of ~~such~~ that state, 5925
may obtain a renewal identification card upon payment to the 5926
executive director of the board the fee designated under division 5927
(F) of section 4729.15 of the Revised Code. 5928

Sec. 4729.14. A replacement ~~certificate~~ license or 5929
identification card may be issued a person registered with the 5930
state board of pharmacy as a pharmacist or as a pharmacy intern 5931
whose ~~certificate~~ license or identification card has been lost or 5932
destroyed, upon condition that the applicant by affidavit sets 5933
forth the facts concerning the loss or destruction of ~~his~~ 5934

~~certificate~~ the previously issued license or identification card. 5935

Sec. 4729.15. The state board of pharmacy shall charge the 5936
following fees: 5937

(A) For applying for ~~registration~~ a license to practice as a 5938
pharmacist, an amount adequate to cover all rentals, compensation 5939
for proctors, and other expenses of the board related to 5940
examination except the expenses of procuring and grading the 5941
examination, which fee shall not be returned if the applicant 5942
fails to pass the examination; 5943

(B) For the examination of an applicant for ~~registration~~ 5944
licensure as a pharmacist, an amount adequate to cover any 5945
expenses to the board of procuring and grading the examination or 5946
any part thereof, which fee shall not be returned if the applicant 5947
fails to pass the examination; 5948

(C) For issuing a ~~certificate of registration~~ license and an 5949
identification card to an individual who passes the examination 5950
described in section 4729.07 of the Revised Code, an amount that 5951
is adequate to cover the expense; 5952

(D) For ~~the renewal application fee of~~ a pharmacist applying 5953
for renewal of an identification card within sixty days after the 5954
expiration date, ninety-seven dollars and fifty cents, which fee 5955
shall not be returned if the applicant fails to qualify for 5956
renewal; 5957

(E) For ~~the renewal application fee of~~ a pharmacist applying 5958
for renewal of an identification card that has lapsed for more 5959
than sixty days, but for less than three years, one hundred 5960
thirty-five dollars, which fee shall not be returned if the 5961
applicant fails to qualify for renewal; 5962

(F) For ~~the renewal application fee of~~ a pharmacist applying 5963
for renewal of an identification card that has lapsed for more 5964

than three years, three hundred thirty-seven dollars and fifty 5965
cents, which fee shall not be returned if the applicant fails to 5966
qualify for renewal; 5967

(G) For ~~the application fee of an applicant for registration~~ 5968
~~as a pharmacist, certificate of registration, applying for a~~ 5969
license and identification card, on presentation of a ~~certificate~~ 5970
pharmacist license granted by another state, three hundred 5971
thirty-seven dollars and fifty cents, which fee shall not be 5972
returned if the applicant fails to qualify for ~~registration~~ 5973
licensure. 5974

(H) For ~~the application fee for registration a license and~~ 5975
identification card to practice as a pharmacy intern, ~~certificate~~ 5976
~~of registration, and identification card,~~ twenty-two dollars and 5977
fifty cents, which fee shall not be returned if the applicant 5978
fails to qualify for ~~registration~~ licensure; 5979

(I) For the renewal ~~application fee~~ of a pharmacy intern ~~for~~ 5980
~~an~~ identification card, twenty-two dollars and fifty cents, which 5981
fee shall not be returned if the applicant fails to qualify for 5982
renewal; 5983

(J) For issuing a replacement ~~certificate~~ license to a 5984
pharmacist, twenty-two dollars and fifty cents; 5985

(K) For issuing a replacement ~~certificate~~ license to a 5986
pharmacy intern, seven dollars and fifty cents; 5987

(L) For issuing a replacement identification card to a 5988
pharmacist, thirty-seven dollars and fifty cents, or pharmacy 5989
intern, seven dollars and fifty cents; 5990

(M) For certifying ~~registration~~ licensure and grades for 5991
reciprocal ~~registration~~ licensure, ten dollars; 5992

(N) For making copies of any application, affidavit, or other 5993
document filed in the state board of pharmacy office, an amount 5994

fixed by the board that is adequate to cover the expense, except
that for copies required by federal or state agencies or law
enforcement officers for official purposes, no charge need be
made;

(O) For certifying and affixing the seal of the board, an
amount fixed by the board that is adequate to cover the expense,
except that for certifying and affixing the seal of the board to a
document required by federal or state agencies or law enforcement
officers for official purposes, no charge need be made;

(P) For each copy of a book or pamphlet that includes laws
administered by the state board of pharmacy, rules adopted by the
board, and chapters of the Revised Code with which the board is
required to comply, an amount fixed by the board that is adequate
to cover the expense of publishing and furnishing the book or
pamphlet.

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

(1) Guilty of a felony or gross immorality;

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

(3) Addicted to or abusing liquor or drugs or impaired
physically or mentally to such a degree as to render ~~him~~ the

<u>pharmacist or pharmacy intern</u> unfit to practice pharmacy;	6025
(4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;	6026 6027
(5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of <u>this chapter</u> , sections 3715.52 to 3715.72 <u>Of the Revised Code</u> , or Chapter 2925.7 <u>or</u> 3719.7, or 4729. of the Revised Code;	6028 6029 6030 6031 6032
(6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;	6033 6034
(7) Guilty of knowingly lending his <u>the pharmacist's or pharmacy intern's</u> name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or	6035 6036 6037 6038
(8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner <u>any licensed health professional authorized to prescribe drugs</u> or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;	6039 6040 6041 6042 6043 6044
(9) <u>Has violated the terms of a consult agreement entered into pursuant to section 4729.39 Of the Revised Code.</u>	6045 6046
(B) Any individual whose identification card is revoked, suspended, or refused, shall return his <u>the</u> identification card and certificate of registration <u>license</u> to the offices of the state board of pharmacy within ten days after receipt of notice of such action.	6047 6048 6049 6050 6051
(C) As used in this section:	6052
"Unprofessional conduct in the practice of pharmacy" includes any of the following:	6053 6054

- (1) Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading; 6055
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- (2) The sale of any drug for which a prescription ~~from a practitioner~~ is required, without having received a prescription for the drug; 6057
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- (3) Willfully and knowingly filling prescriptions or selling drugs for false or forged prescriptions; 6060
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- (4) Willfully and knowingly failing to maintain complete and accurate records of all controlled substances received or dispensed in compliance with federal laws and regulations and state laws and rules; 6062
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- (5) Obtaining any remuneration by fraud, misrepresentation, or deception; 6066
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- (6) Obtaining or attempting to obtain a license issued under this chapter or Chapter 3715. ~~or 4729.~~ of the Revised Code from the state board of pharmacy by fraud, misrepresentation, or deception; 6068
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- ~~(7) Waiving the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers pharmaceutical services, would otherwise be required to pay for the services if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider.~~ 6072
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- ~~(8) Advertising that a pharmacy, pharmacist, or pharmacist intern will waive the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers pharmaceutical services, would otherwise be required to pay for the services.~~ 6078
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- ~~(D) Notwithstanding divisions (C)(7) and (8) of this section, sanctions shall not be imposed against any licensee who waives~~ 6083
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~~deductibles and copayments:~~ 6085

~~(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copays shall be made only with the full knowledge and consent of the plan purchaser, payer, and third party administrator. Such consent shall be made available to the board upon request.~~ 6086
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~~(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.~~ 6091
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Sec. 4729.25. (A) The state board of pharmacy shall enforce, or cause to be enforced, this chapter. If it has information that such sections have any provision of this chapter has been violated, it shall investigate the matter, and take such action as it considers appropriate in accordance with its rules ~~made and published pursuant to adopted under~~ section 4729.26 of the Revised Code. With regard to violations of sections 4729.51 to 4729.62 Of the Revised Code, the board's actions also shall be taken in accordance with section 4729.63 Of the Revised Code. 6094
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(B) Nothing in this chapter shall be construed to require the state board of pharmacy to enforce minor violations of this chapter if the board determines that the public interest is adequately served by a notice or warning to the alleged offender. 6103
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Sec. 4729.26. The state board of pharmacy ~~is empowered to make such~~ may adopt rules and regulations, subject to and in accordance with ~~sections 119.01 to 119.13, inclusive, Chapter 119.~~ of the Revised Code, not inconsistent with the law, ~~pertaining to the practice of pharmacy~~ as may be necessary to carry out the purpose purposes of and TO enforce ~~sections 4729.01 to 4729.37, inclusive, of the Revised Code~~ the provisions of this chapter pertaining to the practice of pharmacy. ~~Such~~ The rules and 6107
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regulations shall be published and ~~distributed~~ made available by 6115
the board to each ~~of its licensees~~ pharmacist licensed under this 6116
chapter. 6117

Sec. 4729.27. A person not a ~~registered~~ pharmacist, who owns, 6118
manages, or conducts a pharmacy ~~as defined in section 4729.02 of~~ 6119
~~the Revised Code,~~ shall ~~have in his~~ employ, a pharmacist to be in 6120
full and actual charge of such pharmacy, ~~a pharmacist registered~~ 6121
~~under the laws of this state.~~ Any ~~registered~~ pharmacist, who owns, 6122
manages, or conducts a pharmacy shall be personally in full and 6123
actual charge of ~~such~~ the pharmacy, or shall ~~have in his~~ employ 6124
another pharmacist to be in full and actual charge of ~~such~~ the 6125
pharmacy, ~~a pharmacist registered under the laws of this state.~~ 6126
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Sec. 4729.28. No person who is not a ~~registered~~ pharmacist or 6128
a pharmacy intern under the personal supervision of a ~~registered~~ 6129
pharmacist shall compound, dispense, or sell ~~drugs,~~ dangerous 6130
~~drugs, and poisons~~ or otherwise engage in the practice of 6131
pharmacy. 6132

Sec. 4729.29. (A) ~~As used in this section:~~ 6133

(1) ~~"Dentist" means a person licensed under Chapter 4715. of~~ 6134
~~the Revised Code to practice dentistry.~~ 6135

(2) ~~"Optometrist" means a person who is licensed to practice~~ 6136
~~optometry and holds a valid therapeutic pharmaceutical agents~~ 6137
~~certificate issued under Chapter 4725. of the Revised Code.~~ 6138

(3) ~~"Physician" means a person holding a valid certificate~~ 6139
~~issued under Chapter 4731. of the Revised Code authorizing the~~ 6140
~~person to practice medicine and surgery, osteopathic medicine and~~ 6141
~~surgery, or podiatry.~~ 6142

~~(4) "Veterinarian" means a person licensed under Chapter 4741. of the Revised Code to practice veterinarian medicine.~~ 6143
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~~(5) "Advanced practice nurse" means an individual approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices.~~ 6145
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~~(B) Divisions (A) and (B) of section 4729.02 4729.01 and sections 4729.26, 4729.27, and section 4729.28 of the Revised Code do not do either of the following:~~ 6148
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~~(1) Apply to a dentist, optometrist, physician, veterinarian, or advanced practice nurse; licensed health professional authorized to prescribe drugs or prevent dentists, optometrists, physicians, or veterinarians a prescriber from personally supplying their furnishing the prescriber's patients with such drugs as to the dentist, optometrist, physician, or veterinarian, within the prescriber's scope of professional practice, that seem proper; or prevent an advanced practice nurse from personally supplying drugs and therapeutic devices in accordance with section 4723.561 of the Revised Code to the prescriber.~~ 6151
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~~(2) Apply to the sale of oxygen, peritoneal dialysis solutions, or the sale of proprietary drugs or medicines by a retail dealer, in original packages when labeled as required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended.~~ 6161
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~~(B) When a prescriber personally furnishes drugs to a patient pursuant to division (A)(1) of this section, the prescriber shall ensure that the drugs are labeled and packaged in accordance with state and federal drug laws and any rules and regulations adopted pursuant to those laws. Records of purchase and disposition of all drugs personally furnished to patients shall be maintained by the prescriber in accordance with state and federal drug statutes and~~ 6167
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any rules adopted pursuant to those statutes. 6174

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(C) Nothing in this chapter prohibits a person who is 6176
certified to administer topical ocular pharmaceutical agents under 6177
Chapter 4725. of the Revised Code from purchasing, possessing, or 6178
administering topical ocular pharmaceutical agents in accordance 6179
with Chapter 4725. of the Revised Code. 6180

Sec. 4729.30. Sections 4729.27 and 4729.28 of the Revised 6181
Code shall not prohibit a person from selling Paris green and 6182
other materials or compounds used exclusively for spraying and 6183
disinfecting when put up in bottles or boxes, bearing the name of 6184
a ~~registered~~ licensed pharmacist or wholesale dealer, and labeled 6185
as required by section 3719.33 of the Revised Code or apply to or 6186
interfere with the exclusively wholesale business of a dealer. 6187

Sec. 4729.36. (A) No place except a pharmacy licensed as a 6188
terminal distributor of dangerous drugs and no person except a 6189
licensed pharmacist shall display any sign or advertise in any 6190
fashion, using the words "pharmacy," "drugs," "drug store," "drug 6191
store supplies," "pharmacist," "druggist," "pharmaceutical 6192
chemist," "apothecary," "drug sundries," "medicine," or any of 6193
these words or their equivalent, in any manner. 6194

(B) A pharmacy ~~or pharmacist~~ making retail sales may 6195
advertise by name or therapeutic class the availability for sale 6196
of or dispensing of any dangerous drug provided ~~such that the~~ 6197
advertising includes the price information as defined specified in 6198
the definition of that term in division (N) of section 4729.02 6199
4729.01 of the Revised Code. 6200

Sec. 4729.37. A copy of an original prescription may only be 6201
filled in accordance with the rules and regulations adopted by the 6202
state board of pharmacy. 6203

Prescriptions received electronically or by word of mouth, 6204
telephone, telegraph, or other means of communication shall be 6205
recorded in writing by the pharmacist and the record so made by 6206
the pharmacist shall constitute the original prescription to be 6207
filled by the pharmacist. All prescriptions shall be preserved on 6208
file at the pharmacy for a period of three years from the date of 6209
last dispensing, subject to inspection by the proper officers of 6210
the law. 6211

Sec. 4729.38. (A) Unless instructed otherwise by the person 6212
receiving the drug pursuant to the prescription, a pharmacist 6213
filling a prescription for a drug prescribed by its brand name may 6214
select a generically equivalent drug, as defined in section 6215
3715.01 of the Revised Code, subject to the following conditions: 6216

(1) The pharmacist shall not select a generically equivalent 6217
drug if the prescriber handwrites "dispense as written," or 6218
"D.A.W.," on the written prescription, or, when ordering a 6219
prescription electronically or orally, the prescriber specifies 6220
that the prescribed drug is medically necessary. These 6221
designations shall not be preprinted or stamped on the 6222
prescription. Division (A)(1) of this section does not preclude a 6223
reminder of the procedure required to prohibit the selection of a 6224
generically equivalent drug from being preprinted on the 6225
prescription. 6226

(2) The pharmacist shall not select a generically equivalent 6227
drug unless its price to the ~~purchaser~~ patient is less than or 6228
equal to the price of the prescribed drug, ~~and shall pass on as a~~ 6229
~~savings to the purchaser, other than the state medical assistance~~ 6230
~~program, the full amount of the retail price difference between~~ 6231
~~the prescribed brand name drug and the generically equivalent~~ 6232
~~drug. The amount paid for the generic drug under the state medical~~ 6233
~~assistance program shall be as provided by federal regulation.~~ 6234

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(3) The pharmacist, or the pharmacist's agent, assistant, or
employee shall inform the ~~person receiving the drug pursuant to~~
~~the prescription of the selection of~~ patient or the patient's
agent if a lower cost generically equivalent drug is available at
a lower or equal cost, of the price difference between the brand
~~name drug and the generically equivalent drug,~~ and of the person's
right to refuse the drug selected. Division (A)(3) of this section
does not apply to any:

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(a) Prescription that is billed to any agency, division, or
department of this state which will reimburse the pharmacy;

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(b) Prescriptions for patients of a hospital, nursing home,
or similar patient care facility.

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(B) Unless the prescriber instructs otherwise, the label for
every drug dispensed shall include the drug's brand name, if any,
or its generic name and the name of the distributor, using
abbreviations if necessary. ~~A pharmacist shall indicate on the~~
~~container or its label the notation "generic substitution made"~~
~~when~~ When dispensing at retail a generically equivalent drug for
the brand name drug prescribed, ~~and shall verbally notify the~~
~~recipient that a generic substitution has been made. This~~
~~requirement shall be~~ the pharmacist shall indicate on the drug's
label or container that a generic substitution was made. The
labeling requirements established by this division are in addition
to all other labeling requirements of Chapter 3715. of the Revised
Code.

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(C) A pharmacist who selects a generically equivalent drug
pursuant to this section assumes no greater liability for
selecting the dispensed drug than would be incurred in filling a
prescription for a drug prescribed by its brand name.

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(D) The failure of a prescriber to restrict a prescription by

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specifying "dispense as written," or "D.A.W.," pursuant to 6266
division (A)(1) of this section shall not constitute evidence of 6267
the prescriber's negligence unless the prescriber had reasonable 6268
cause to believe that the health condition of the patient for whom 6269
the drug was intended warranted the prescription of a specific 6270
brand name drug and no other. No ~~licensed~~ prescriber shall be 6271
liable for civil damages or in any criminal prosecution arising 6272
from the interchange of a generically equivalent drug for a 6273
prescribed brand name drug by a pharmacist, unless the prescribed 6274
brand name drug would have reasonably caused the same loss, 6275
damage, injury, or death. 6276

~~(E) Each terminal distributor shall prepare a list of generic 6277
and brand name drug products which may be selected as the drug 6278
product of choice. In compiling the list of generic and brand name 6279
drug products, the distributor shall rely on the drug product 6280
research, testing, information, and lists compiled by other 6281
pharmacies, states, the United States department of health and 6282
human services, and any other source which the distributor 6283
considers reliable. The list shall be available for review in the 6284
pharmacy on request of the public, the state board of pharmacy, or 6285
any practitioner. This list shall be revised following each 6286
addition, deletion, or modification. No drug interchange shall be 6287
made by a pharmacist unless the drug to be interchanged is on this 6288
list. 6289~~

Sec. 4729.381. No licensed pharmacist shall be liable for 6290
civil damages or in any criminal prosecution arising from the 6291
dispensing of a drug based upon a formulary established by a 6292
~~practitioner in~~ a hospital, a health insuring corporation, ~~or a~~ 6293
long-term care facility, or the department of rehabilitation and 6294
corrections and requiring the pharmacist to dispense the 6295
particular drug. 6296

Sec. 4729.39. (A) A pharmacist may enter into a consult agreement with a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. Under a consult agreement, a pharmacist is authorized to manage an individual's drug therapy, but only to the extent specified in the agreement by the individual's physician and to the extent specified in this section and the rules adopted under this section.

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

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

Each consult agreement shall be in writing, except that a consult agreement may be entered into verbally if it is immediately reduced to writing. A consult agreement may not be implemented until it has been signed by the pharmacist, the physician, and the individual whose drug therapy will be managed or another person who has the authority to provide consent to treatment on behalf of the individual. The physician shall specify in the agreement the extent to which the pharmacist is authorized to manage the drug therapy of the individual specified in the agreement. The physician shall include in the individual's medical

record the fact that a consult agreement has been entered into 6329
with a pharmacist. 6330

Prior to commencing any action to manage an individual's drug 6331
therapy under a consult agreement, the pharmacist shall make 6332
reasonable attempts to contact and confer with the physician who 6333
entered into the consult agreement with the pharmacist. a 6334
pharmacist may commence an action to manage an individual's drug 6335
therapy prior to conferring with the physician, but shall 6336
immediately cease the action that was commenced if the pharmacist 6337
has not conferred with the physician within forty-eight hours. 6338

A pharmacist acting under a consult agreement shall maintain 6339
a record of each action taken to manage an individual's drug 6340
therapy. The pharmacist shall send to the individual's physician a 6341
written report of all actions taken to manage the individual's 6342
drug therapy at INTERVALS the physician shall specify when 6343
entering into the agreement. The physician shall include the 6344
pharmacist's report in the medical records the physician maintains 6345
for the individual. 6346

A consult agreement may be terminated by either the 6347
pharmacist or physician who entered into the agreement. By 6348
withdrawing consent, the individual whose drug therapy is being 6349
managed or the individual who consented to the treatment on behalf 6350
of the individual may terminate a consult agreement. the 6351
pharmacist or physician who receives the individual's withdrawal 6352
of consent shall provide written notice to the opposite party. a 6353
pharmacist or physician who terminates a consult agreement shall 6354
provide written notice to the opposite party and to the individual 6355
who consented to treatment under the agreement. The termination of 6356
a consult agreement shall be recorded by the pharmacist and 6357
physician in the records they maintain on the individual being 6358
treated. 6359

The authority of a pharmacist to manage an individual's drug therapy under a consult agreement does not permit the pharmacist to manage drug therapy prescribed by any other physician or to manage an individual's drug therapy in a hospital or health care facility at which the pharmacist is not authorized to practice.

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

Sec. 4729.51. (A) No person other than a registered wholesale distributor of dangerous drugs shall possess for sale, sell, distribute, or deliver, at wholesale, dangerous drugs, except as follows:

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

(2) A licensed terminal distributor of dangerous drugs having more than one establishment or place may transfer or deliver dangerous drugs from one establishment or place for which a license has been issued to the terminal distributor to another establishment or place for which a license has been issued to the

terminal distributor if the license issued for each establishment	6391
or place is in effect at the time of the transfer or delivery.	6392
(B)(1) No registered wholesale distributor of dangerous drugs	6393
shall possess for sale, or sell, at wholesale, dangerous drugs to	6394
any person other than the following:	6395
(a) A practitioner <u>licensed health professional authorized to</u>	6396
<u>prescribe drugs;</u>	6397
(b) A registered wholesale distributor of dangerous drugs;	6398
(c) A manufacturer of dangerous drugs;	6399
(d) A licensed terminal distributor of dangerous drugs,	6400
subject to division (B)(2) of this section;	6401
(e) Carriers or warehousemen for the purpose of carriage or	6402
storage;	6403
(f) Terminal or wholesale distributors of dangerous drugs who	6404
are not engaged in the sale of dangerous drugs within this state;	6405
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(g) An optometrist licensed under Chapter 4725. of the	6407
Revised Code who is certified to administer topical ocular	6408
pharmaceutical agents under that chapter for the purposes	6409
authorized by that chapter;	6410
(h) An individual who holds a current license, certificate,	6411
or registration issued under Title 47 of the Revised Code and has	6412
been certified to conduct diabetes education by a national	6413
certifying body specified in rules adopted by the state board of	6414
pharmacy under section 4729.68 of the Revised Code, but only with	6415
respect to insulin that will be used for the purpose of diabetes	6416
education and only if diabetes education is within the	6417
individual's scope of practice under statutes and rules regulating	6418
the individual's profession.	6419
(2) No registered wholesale distributor of dangerous drugs	6420

shall possess dangerous drugs for sale at wholesale, or sell such
drugs at wholesale, to a licensed terminal distributor of
dangerous drugs, except to:

(a) A terminal distributor who has a category I license, only
dangerous drugs described in category I, as defined in division
(A)(1) of section 4729.54 of the Revised Code;

(b) A terminal distributor who has a category II license,
only dangerous drugs described in category I and category II, as
defined in divisions (A)(1) and (2) of section 4729.54 of the
Revised Code;

(c) A terminal distributor who has a category III license,
dangerous drugs described in category I, category II, and category
III, as defined in divisions (A)(1), (2), and (3) of section
4729.54 of the Revised Code;

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

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

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

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

(4) Divisions (C)(1), (2), and (3) of this section do not
apply to a registered wholesale distributor of dangerous drugs, a
licensed terminal distributor of dangerous drugs, ~~a practitioner,~~
or a person who possesses, or possesses for sale or sells, at
retail, a dangerous drug in accordance with Chapters 3719., 4715.,
4725., 4729., 4731., and 4741. or section 4723.56 of the Revised

Code. 6451

Divisions (C)(1), (2), and (3) of this section do not apply 6452
to an individual who holds a current license, certificate, or 6453
registration issued under Title 47 of the Revised Code and has 6454
been certified to conduct diabetes education by a national 6455
certifying body specified in rules adopted by the state board of 6456
pharmacy under section 4729.68 of the Revised Code, but only to 6457
the extent that the individual possesses insulin or personally 6458
supplies insulin solely for the purpose of diabetes education and 6459
only if diabetes education is within the individual's scope of 6460
practice under statutes and rules regulating the individual's 6461
profession. 6462

(D) No licensed terminal distributor of dangerous drugs shall 6463
purchase for the purpose of resale dangerous drugs from any person 6464
other than a registered wholesale distributor of dangerous drugs, 6465
except as follows: 6466

(1) A licensed terminal distributor of dangerous drugs may 6467
make occasional purchases of dangerous drugs for resale from a 6468
pharmacist who is a licensed terminal distributor of dangerous 6469
drugs or who is employed by a licensed terminal distributor of 6470
dangerous drugs; 6471

(2) A licensed terminal distributor of dangerous drugs having 6472
more than one establishment or place may transfer or receive 6473
dangerous drugs from one establishment or place for which a 6474
license has been issued to the terminal distributor to another 6475
establishment or place for which a license has been issued to the 6476
terminal distributor if the license issued for each establishment 6477
or place is in effect at the time of the transfer or receipt. 6478

(E) No licensed terminal distributor of dangerous drugs shall 6479
engage in the sale or other distribution of dangerous drugs at 6480
retail or maintain possession, custody, or control of dangerous 6481

drugs for any purpose other than the distributor's personal use or
consumption, at any establishment or place other than that or
those described in the license issued by the board of pharmacy to
such terminal distributor.

~~(F) Nothing in this section shall do either of the following:~~

~~(1) Require a person engaged solely in the sale or other
distribution, at wholesale, of drugs and supplies for veterinary
use only, to be registered under sections 4729.50 to 4729.66 of
the Revised Code;~~

~~(2) Prohibit the purchase or sale, at wholesale, of drugs and
supplies for veterinary use only by a person engaged solely in the
distribution of drugs and supplies for veterinary use only.~~

~~(G) Nothing in this section shall be construed to interfere
with the performance of official duties by any law enforcement
official authorized by municipal, county, state, or federal law to
collect samples of any drug, regardless of its nature or in whose
possession it may be.~~

Sec. 4729.52. (A) A person desiring to be registered as a
wholesale distributor of dangerous drugs shall file with the
executive director of the state board of pharmacy a verified
application containing such information as the board requires of
the applicant relative to the qualifications ~~for~~ to be registered
as a wholesale distributor of dangerous drugs set forth in section
4729.53 of the Revised Code and the rules adopted ~~pursuant thereto~~
under that section. The board shall register as a wholesale
distributor of dangerous drugs each ~~person who has submitted an~~
~~application therefor and~~ applicant who has paid the required
registration fee, if the board determines that the applicant meets
the qualifications ~~for~~ to be registered as a wholesale distributor

of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted ~~pursuant thereto~~ under that section.

(B) The board may register and issue to a ~~nonresident~~ person who does not reside in this state a registration certificate as a wholesale distributor of dangerous drugs if the person possesses a current and valid wholesale distributor of dangerous drugs registration certificate or license issued by another state that has qualifications for licensure or registration comparable to the registration requirements in this state and pays the required registration fee.

(C) All registration certificates issued pursuant to this section are effective for a period of twelve months from the first day of July of each year. A registration certificate shall be renewed annually by the board for a like period, pursuant to this section and the standard renewal procedure of Chapter 4745. of the Revised Code. A person desiring to renew a registration certificate shall submit an application for renewal and pay the required renewal fee before the first day of July each year.

(D) Each registration certificate and its application shall describe not more than one establishment or place where the registrant or applicant may engage in the sale of dangerous drugs at wholesale. No registration certificate shall authorize or permit the wholesale distributor of dangerous drugs named therein to engage in the sale of drugs at wholesale or to maintain possession, custody, or control of dangerous drugs for any purpose other than for the registrant's own use and consumption at any establishment or place other than that described in the certificate.

(E)(1) The registration fee is one hundred fifty dollars and shall accompany each application for registration. The registration renewal fee is one hundred fifty dollars and shall

accompany each renewal application. 6543

~~(2)~~ A registration certificate that has not been renewed in 6544
any year by the first day of August may be reinstated upon payment 6545
of the renewal fee and a penalty ~~fee~~ of fifty-five dollars. 6546

(2) Renewal fees and penalties assessed under ~~divisions~~ 6547
division (E)(1) ~~and (2)~~ of this section shall not be returned if 6548
the applicant fails to qualify for renewal. 6549

(F) The registration of any person as a wholesale distributor 6550
of dangerous drugs subjects the person and the person's agents and 6551
employees to the jurisdiction of the board and to the laws of this 6552
state for the purpose of the enforcement of this chapter and the 6553
rules of the board. However, the filing of an application for 6554
registration as a wholesale distributor of dangerous drugs by, or 6555
on behalf of, any person or the registration of any person as a 6556
wholesale distributor of dangerous drugs shall not, of itself, 6557
constitute evidence that the person is doing business within this 6558
state. 6559

Sec. 4729.54. (A) As used in this section: 6560

(1) "Category I" means single-dose injections of intravenous 6561
fluids, including saline, Ringer's lactate, five per cent dextrose 6562
and distilled water, and other intravenous fluids or parenteral 6563
solutions included in this category by rule of the board of 6564
pharmacy, that have a volume of one hundred milliliters or more 6565
and that contain no added substances, or single-dose injections of 6566
epinephrine to be administered pursuant to sections 4765.38 and 6567
4765.39 of the Revised Code. 6568

(2) "Category II" means any dangerous drug that is not 6569
included in category I or III. 6570

(3) "Category III" means any controlled substance that is 6571
contained in schedule I, II, III, IV, or V. 6572

(4) "Emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code. 6573
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(5) "Person" includes an emergency medical service organization. 6575
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(6) "Schedule I, schedule II, schedule III, schedule IV, and schedule V" mean controlled substance schedules I, II, III, IV, and V, respectively, as established pursuant to section 3719.41 of the Revised Code and as amended. 6577
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(B) A person who desires to be licensed as a terminal distributor of dangerous drugs shall file with the executive director of the board of pharmacy a verified application that contains the following: 6581
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(1) Information that the board requires relative to the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code; 6585
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(2) A statement that the person wishes to be licensed as a category I, category II, category III, limited category I, limited category II, or limited category III terminal distributor of dangerous drugs; 6588
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(3) If the person wishes to be licensed as a limited category I, limited category II, or limited category III terminal distributor of dangerous drugs, a notarized list of the dangerous drugs that the person wishes to possess, have custody or control of, and distribute, which list shall also specify the purpose for which those drugs will be used and their source; 6592
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(4) If the person is an emergency medical service organization, the information that is specified in division (C)(1) of this section; 6598
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(5) Except for an emergency medical service organization, the identity of the one establishment or place at which the person 6601
6602

intends to engage in the sale or other distribution of dangerous
drugs at retail, and maintain possession, custody, or control of
dangerous drugs for purposes other than the person's own use or
consumption.

(C)(1) An emergency medical service organization that wishes
to be licensed as a terminal distributor of dangerous drugs shall
list in its application for licensure the following additional
information:

(a) The units under its control that the organization
determines will possess dangerous drugs for the purpose of
administering emergency medical services in accordance with
Chapter 4765. of the Revised Code;

(b) With respect to each such unit, whether the dangerous
drugs that the organization determines the unit will possess are
in category I, II, or III.

(2) An emergency medical service organization that is
licensed as a terminal distributor of dangerous drugs shall file a
new application for such licensure if there is any change in the
number, or location of, any of its units or any change in the
category of the dangerous drugs that any unit will possess.

(3) A unit listed in an application for licensure pursuant to
division (C)(1) of this section may obtain the dangerous drugs it
is authorized to possess from its emergency medical service
organization or, on a replacement basis, from a hospital pharmacy.
If units will obtain dangerous drugs from a hospital pharmacy, the
organization shall file, and maintain in current form, the
following items with the pharmacist who is responsible for the
hospital's terminal distributor of dangerous drugs license:

(a) A copy of its standing orders or protocol;

(b) A list of the personnel employed or used by the

organization to provide emergency medical services in accordance 6633
with Chapter 4765. of the Revised Code, who are authorized to 6634
possess the drugs, which list also shall indicate the personnel 6635
who are authorized to administer the drugs. 6636

(D) Each emergency medical service organization that applies 6637
for a terminal distributor of dangerous drugs license shall submit 6638
with its application the following: 6639

(1) A notarized copy of its standing orders or protocol, 6640
which orders or protocol shall be signed by a physician and 6641
specify the dangerous drugs that its units may carry, expressed in 6642
standard dose units; 6643

(2) A list of the personnel employed or used by the 6644
organization to provide emergency medical services in accordance 6645
with Chapter 4765. of the Revised Code. 6646

An emergency medical service organization that is licensed as 6647
a terminal distributor shall notify the board immediately of any 6648
changes in its standing orders or protocol. 6649

(E) There shall be six categories of terminal distributor of 6650
dangerous drugs licenses, which categories shall be as follows: 6651

(1) Category I license. A person who obtains this license may 6652
possess, have custody or control of, and distribute only the 6653
dangerous drugs described in category I. 6654

(2) Limited category I license. A person who obtains this 6655
license may possess, have custody or control of, and distribute 6656
only the dangerous drugs described in category I that were listed 6657
in the application for licensure. 6658

(3) Category II license. A person who obtains this license 6659
may possess, have custody or control of, and distribute only the 6660
dangerous drugs described in category I and category II. 6661

(4) Limited category II license. A person who obtains this 6662

license may possess, have custody or control of, and distribute 6663
only the dangerous drugs described in category I or category II 6664
that were listed in the application for licensure. 6665

(5) Category III license. A person who obtains this license 6666
may possess, have custody or control of, and distribute the 6667
dangerous drugs described in category I, category II, and category 6668
III. 6669

(6) Limited category III license. A person who obtains this 6670
license may possess, have custody or control of, and distribute 6671
only the dangerous drugs described in category I, category II, or 6672
category III that were listed in the application for licensure. 6673

(F) Except for an application made on behalf of an animal 6674
shelter, if an applicant for licensure as a limited category I, 6675
II, or III terminal distributor of dangerous drugs intends to 6676
administer dangerous drugs to a person or animal, the applicant 6677
shall submit, with the application, a notarized copy of its 6678
protocol or standing orders, which protocol or orders shall be 6679
signed by a ~~practitioner~~ licensed health professional authorized 6680
to prescribe drugs, specify the dangerous drugs to be 6681
administered, and list personnel who are authorized to administer 6682
the dangerous drugs in accordance with federal law or the law of 6683
this state. An application made on behalf of an animal shelter 6684
shall include a notarized list of the dangerous drugs to be 6685
administered to animals and the personnel who are authorized to 6686
administer the drugs to animals in accordance with section 6687
4729.532 of the Revised Code. After obtaining a terminal 6688
distributor license, a licensee shall notify the board immediately 6689
of any changes in its protocol or standing orders, or in such 6690
personnel. 6691

(G) Each applicant for licensure as a terminal distributor of 6692
dangerous drugs shall submit, with the application, a license fee 6693

determined as follows: 6694

(1) For a category I or limited category I license, 6695
forty-five dollars; 6696

(2) For a category II or limited category II license, one 6697
hundred twelve dollars and fifty cents; 6698

(3) For a category III or limited category III license, one 6699
hundred fifty dollars. 6700

Fees assessed under divisions (G)(1) to (3) of this section 6701
shall not be returned if the applicant fails to qualify for 6702
registration. 6703

(H)(1) The board shall issue a terminal distributor of 6704
dangerous drugs license to each person who submits an application 6705
for such licensure in accordance with this section, pays the 6706
required license fee, is determined by the board to meet the 6707
requirements set forth in section 4729.55 of the Revised Code, and 6708
satisfies any other applicable requirements of this section. 6709

(2) The license of a person other than an emergency medical 6710
service organization shall describe the one establishment or place 6711
at which the licensee may engage in the sale or other distribution 6712
of dangerous drugs at retail and maintain possession, custody, or 6713
control of dangerous drugs for purposes other than the licensee's 6714
own use or consumption. The one establishment or place shall be 6715
that which is described in the application for licensure. 6716

No such license shall authorize or permit the terminal 6717
distributor of dangerous drugs named in it to engage in the sale 6718
or other distribution of dangerous drugs at retail or to maintain 6719
possession, custody, or control of dangerous drugs for any purpose 6720
other than the distributor's own use or consumption, at any 6721
establishment or place other than that described in the license, 6722
except that an agent or employee of an animal shelter may possess 6723

and use dangerous drugs in the course of business as provided in 6724
division (D) of section 4729.532 of the Revised Code. 6725

(3) The license of an emergency medical service organization 6726
shall cover and describe all the units of the organization listed 6727
in its application for licensure. 6728

(4) The license of every terminal distributor of dangerous 6729
drugs shall indicate, on its face, the category of licensure. If 6730
the license is a limited category I, II, or III license, it shall 6731
specify, and shall authorize the licensee to possess, have custody 6732
or control of, and distribute only, the dangerous drugs that were 6733
listed in the application for licensure. 6734

(I) All licenses issued pursuant to this section shall be 6735
effective for a period of twelve months from the first day of 6736
January of each year. A license shall be renewed by the board for 6737
a like period, annually, according to the provisions of this 6738
section, and the standard renewal procedure of Chapter 4745. of 6739
the Revised Code. A person who desires to renew a license shall 6740
submit an application for renewal and pay the required fee on or 6741
before the thirty-first day of December each year. The fee 6742
required for the renewal of a license shall be the same as the fee 6743
paid for the license being renewed, and shall accompany the 6744
application for renewal. 6745

A license that has not been renewed during December in any 6746
year and by the first day of February of the following year may be 6747
reinstated only upon payment of the required renewal fee and a 6748
penalty fee of fifty-five dollars. 6749

(J)(1) No emergency medical service organization that is 6750
licensed as a terminal distributor of dangerous drugs shall fail 6751
to comply with division (C)(2) or (3) of this section. 6752

(2) No emergency medical service organization that is 6753
licensed as a terminal distributor of dangerous drugs shall fail 6754

to comply with division (D) of this section.

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(3) No licensed terminal distributor of dangerous drugs shall possess, have custody or control of, or distribute dangerous drugs that the terminal distributor is not entitled to possess, have custody or control of, or distribute by virtue of its category of licensure.

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(4) No licensee that is required by division (F) of this section to notify the board of changes in its protocol or standing orders, or in personnel, shall fail to comply with that division.

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Sec. 4729.55. ~~(A) As used in this section:~~

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~~(1) "Dentist" means a person licensed under Chapter 4715. of the Revised Code to practice dentistry.~~

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~~(2) "Optometrist" means a person who is licensed to practice optometry and holds a valid therapeutic pharmaceutical agents certificate issued under Chapter 4725. of the Revised Code.~~

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~~(3) "Physician" means a person holding a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.~~

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~~(4) "Veterinarian" means a person licensed under Chapter 4741. of the Revised Code to practice veterinary medicine.~~

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~~(5) "Advanced practice nurse" means an individual approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices.~~

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~~(B)~~ No license shall be issued to an applicant for licensure as a terminal distributor of dangerous drugs unless the applicant has furnished satisfactory proof to the board of pharmacy that:

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~~(1)~~(A) The applicant is equipped as to land, buildings, and equipment to properly carry on the business of a terminal

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6783

distributor of dangerous drugs within the category of licensure 6784
approved by the board. 6785

~~(2)~~(B) A pharmacist, ~~dentist, optometrist, physician,~~ 6786
~~veterinarian, advanced practice nurse~~ licensed health professional 6787
authorized to prescribe drugs, animal shelter licensed with the 6788
state board of pharmacy under section 4729.531 of the Revised 6789
Code, or a laboratory as defined in ~~division (N)~~ of section 6790
3719.01 of the Revised Code ~~shall~~ will maintain supervision and 6791
control over the possession and custody of dangerous drugs that 6792
may be acquired by or on behalf of the applicant. 6793

~~(3)~~(C) Adequate safeguards are assured to prevent the sale or 6794
other distribution of dangerous drugs by any person other than a 6795
pharmacist, ~~dentist, optometrist, physician, veterinarian,~~ or 6796
~~advanced practice nurse~~ licensed health professional authorized to 6797
prescribe drugs. 6798

~~(4)~~(D) If the applicant, or any agent or employee of the 6799
applicant, has been found guilty of violating section 4729.51 of 6800
the Revised Code, the "Federal Food, Drug and Cosmetic Act," 52 6801
Stat. 1040 (1938), 21 U.S.C.A. 301, the federal ~~narcotic law,~~ 6802
~~sections 3715.01 to 3715.72~~ drug abuse control laws, Chapter 6803
2925., 3715., 3719., or 4729. of the Revised Code, or any rule of 6804
the board, adequate safeguards are assured to prevent the 6805
recurrence of the violation. 6806

~~(5)~~(E) In the case of an applicant who is a food processor or 6807
retail seller of food, the applicant ~~shall~~ will maintain 6808
supervision and control over the possession and custody of nitrous 6809
oxide. 6810

~~(6)~~(F) In the case of an applicant who is a retail seller of 6811
oxygen in original packages labeled as required by the "Federal 6812
Food, Drug, and Cosmetic Act," the applicant ~~shall~~ will maintain 6813
supervision and control over the possession, custody, and retail 6814

sale of the oxygen. 6815

~~(7)~~(G) If the application is made on behalf of an animal 6816
shelter, ~~that~~ at least one of the agents or employees of the 6817
animal shelter is certified in compliance with section 4729.532 of 6818
the Revised Code. 6819

~~(8)~~(H) In the case of an applicant who is a retail seller of 6820
peritoneal dialysis solutions in original packages labeled as 6821
required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 6822
1040 (1938), 21 U.S.C.A. 301, the applicant ~~shall~~ will maintain 6823
supervision and control over the possession, custody, and retail 6824
sale of the peritoneal dialysis solutions. 6825

Sec. 4729.57. (A) The state board of pharmacy may suspend, 6826
revoke, or refuse to renew any license issued to a terminal 6827
distributor of dangerous drugs pursuant to section 4729.54 of the 6828
Revised Code, or may impose a monetary penalty or forfeiture not 6829
to exceed in severity any fine designated under the Revised Code 6830
for a similar offense or one thousand dollars if the acts 6831
committed have not been classified as an offense by the Revised 6832
Code, for any of the following causes: 6833

(1) Making any false material statements in an application 6834
for a license as a terminal distributor of dangerous drugs; 6835

(2) Violating any rule of the board; 6836

(3) Violating any provision of this chapter; 6837

(4) Violating any provision of the "Federal Food, Drug, and 6838
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 6839
3715. of the Revised Code; 6840

(5) Violating any provision of the federal ~~narcotic law~~ drug 6841
abuse control laws or Chapter 2925. or 3719. of the Revised Code; 6842

(6) Falsely or fraudulently promoting to the public a 6843
dangerous drug, except that nothing in this division prohibits a 6844

terminal distributor of dangerous drugs from furnishing 6845
information concerning a dangerous drug to a ~~practitioner~~ health 6846
care provider or another licensed terminal distributor; 6847

(7) Ceasing to satisfy the qualifications of a terminal 6848
distributor of dangerous drugs set forth in section 4729.55 of the 6849
Revised Code; 6850

(8) Except as provided in division (B) of this section: 6851

(a) Waiving the payment of all or any part of a deductible or 6852
copayment that an individual, pursuant to a health insurance or 6853
health care policy, contract, or plan that covers the services 6854
provided by a terminal distributor of dangerous drugs, would 6855
otherwise be required to pay for the services if the waiver is 6856
used as an enticement to a patient or group of patients to receive 6857
pharmacy services from that terminal distributor; 6858

(b) Advertising that the terminal distributor will waive the 6859
payment of all or any part of a deductible or copayment that an 6860
individual, pursuant to a health insurance or health care policy, 6861
contract, or plan that covers the pharmaceutical services, would 6862
otherwise be required to pay for the services. 6863

(B) Sanctions shall not be imposed under division (A)(8) of 6864
this section against any terminal distributor of dangerous drugs 6865
that waives deductibles and copayments as follows: 6866

(1) In compliance with a health benefit plan that expressly 6867
allows such a practice. Waiver of the deductibles or copayments 6868
shall be made only with the full knowledge and consent of the plan 6869
purchaser, payer, and third-party administrator. Documentation of 6870
the consent shall be made available to the board on request. 6871

(2) For professional services rendered to any other person 6872
licensed pursuant to this chapter to the extent allowed by this 6873
chapter and the rules of the board. 6874

~~(B)~~(C)(1) Upon the suspension or revocation of a license 6875
issued to a terminal distributor of dangerous drugs or the refusal 6876
by the board to renew such a license, the distributor shall 6877
immediately surrender ~~his~~ the license to the board. 6878

(2) The board may place under seal all dangerous drugs that 6879
are owned by or in the possession, custody, or control of a 6880
terminal distributor at the time ~~his~~ the license is suspended or 6881
revoked or at the time the board refuses to renew ~~his~~ the license. 6882
Except as otherwise provided in this division, dangerous drugs so 6883
sealed shall not be disposed of, until appeal rights under Chapter 6884
119. of the Revised Code have expired or an appeal filed pursuant 6885
to that chapter has been determined. 6886

The court involved in an appeal filed pursuant to Chapter 6887
119. of the Revised Code may order the board, during the pendency 6888
of the appeal, to sell sealed dangerous drugs that are perishable. 6889
The proceeds of such a sale shall be deposited with that court. 6890

Sec. 4729.59. The ~~secretary~~ executive director of the state 6891
board of pharmacy shall maintain a register of the names, 6892
addresses, and the date of registration of those persons to whom a 6893
registration certificate has been issued pursuant to section 6894
4729.52 of the Revised Code and those persons to whom a license 6895
has been issued pursuant to section 4729.54 of the Revised Code. 6896
~~Such~~ The register shall be the property of the board and shall be 6897
open for public examination and inspection at all reasonable 6898
times, as the board may direct. 6899

The board shall publish or make available to registered 6900
wholesale distributors and licensed terminal distributors of 6901
dangerous drugs, annually, and at such other times and in such 6902
manner as the board shall ~~by regulation~~ prescribe, a roster 6903
setting forth the names and addresses of those persons who have 6904
been registered by the board pursuant to section 4729.52 of the 6905

Revised Code and those persons who have been licensed pursuant to 6906
section 4729.54 of the Revised Code, those persons whose licenses 6907
or registration certificates have been suspended, revoked, or 6908
surrendered, and those persons whose licenses or registration 6909
certificates have not been renewed. 6910

A written statement signed and verified by the ~~secretary~~ 6911
executive director of the board in which it is stated that after 6912
diligent search of the register no record or entry of the issuance 6913
of a license or registration certificate to a person is found is 6914
admissible in evidence and constitutes presumptive evidence of the 6915
fact that ~~such~~ the person is not a licensed terminal distributor 6916
or is not a registered wholesale distributor of dangerous drugs. 6917

Sec. 4729.60. (A) Before a registered wholesale distributor 6918
of dangerous drugs may sell dangerous drugs at wholesale to any 6919
person other than a ~~practitioner~~ licensed health professional 6920
authorized to prescribe drugs, a registered wholesale distributor 6921
of dangerous drugs, a manufacturer of dangerous drugs, a carrier 6922
or a ~~warehouseman~~ warehouser but only for the purpose of carriage 6923
or storage, or a terminal distributor of dangerous drugs who is 6924
not engaged in the sale of dangerous drugs within this state, such 6925
wholesale distributor shall obtain from the purchaser and the 6926
purchaser shall furnish to the wholesale distributor a certificate 6927
indicating that the purchaser is a licensed terminal distributor 6928
of dangerous drugs. The certificate shall be in the form that the 6929
state board of pharmacy shall prescribe ~~by regulation~~, and shall 6930
set forth the name of the licensee, the number of the license, a 6931
description of the place or establishment or each place or 6932
establishment for which the license was issued, the category of 6933
licensure, and, if the license is a limited category I, II, or III 6934
license, the dangerous drugs that the licensee is authorized to 6935
possess, have custody or control of, and distribute. 6936

If no certificate is obtained or furnished before ~~such~~ a sale 6937
is made, it shall be presumed that ~~such~~ the sale of dangerous 6938
drugs by the wholesale distributor is in violation of division (B) 6939
of section 4729.51 of the Revised Code and ~~such~~ the purchase of 6940
dangerous drugs by the purchaser is in violation of division (C) 6941
of section 4729.51 of the Revised Code. If a registered wholesale 6942
distributor of dangerous drugs obtains or is furnished ~~such~~ a 6943
certificate from a terminal distributor of dangerous drugs and 6944
relies on ~~such~~ the certificate in selling dangerous drugs at 6945
wholesale to ~~such~~ the terminal distributor of dangerous drugs, 6946
~~such~~ the wholesale distributor of dangerous drugs shall be deemed 6947
not to have violated division (B) of section 4729.51 of the 6948
Revised Code in making ~~such~~ the sale. 6949

(B) Before a licensed terminal distributor of dangerous drugs 6950
may purchase dangerous drugs at wholesale, ~~such~~ the terminal 6951
distributor shall obtain from the seller and the seller shall 6952
furnish to the terminal distributor the number of the seller's 6953
registration certificate to engage in the sale of dangerous drugs 6954
at wholesale. 6955

If no registration number is obtained or furnished before 6956
~~such~~ a purchase is made, it shall be presumed that ~~such~~ the 6957
purchase of dangerous drugs by the terminal distributor is in 6958
violation of division (D) of section 4729.51 of the Revised Code 6959
and ~~such~~ the sale of dangerous drugs by the seller is in violation 6960
of division (A) of section 4729.51 of the Revised Code. If a 6961
licensed terminal distributor of dangerous drugs obtains or is 6962
furnished a registration number from a wholesale distributor of 6963
dangerous drugs and relies on ~~such~~ the registration number in 6964
purchasing dangerous drugs at wholesale from ~~such~~ the wholesale 6965
distributor of dangerous drugs, ~~such~~ the terminal distributor 6966
shall be deemed not to have violated division (D) of section 6967
4729.51 of the Revised Code in making ~~such~~ the purchase. 6968

Sec. 4729.63. ~~Except as provided in division (B) of section 4729.25 of the Revised Code, the~~ If the state board of pharmacy shall ~~enforce, or cause to be enforced,~~ has information that sections 4729.51 to 4729.62 of the Revised Code. ~~If it has information that such sections~~ have been violated, it shall investigate the matter and upon probable cause appearing file a complaint in an appropriate court for prosecution of the offender. The

~~The~~ attorney general, prosecuting attorney, or city director of law to whom the board reports any violation of sections 4729.51 to 4729.62 of the Revised Code shall cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner provided by law.

Sec. 4729.66. ~~The~~ In addition to the rules it adopts for the practice of pharmacy under section 4729.26 Of the Revised Code, the state board of pharmacy may ~~make such~~ adopt rules and regulations, ~~subject to and in accordance with sections 119.01 to 119.13, inclusive,~~ Chapter 119. of the Revised Code, not inconsistent with the law, as may be necessary to carry out the purposes of and to enforce the provisions of this chapter pertaining to the purchase for resale, possession for sale, sale, and other distribution of dangerous drugs ~~as may be necessary to carry out the purposes of and enforce sections 4729.51 to 4729.62, inclusive,~~ of the Revised Code.

Sec. 4729.67. On receipt of a notice pursuant to section 2301.373 of the Revised Code, the state board of pharmacy shall comply with that section with respect to a license, identification card, or certificate of registration issued pursuant to this chapter.

Sec. 4731.052. (A) As used in this section: 6998

(1) "Dangerous drug" has the same meaning as in section 6999
4729.02 of the Revised Code. 7000

(2) "Intractable pain" means a state of pain that is 7001
determined, after reasonable medical efforts have been made to 7002
relieve the pain or cure its cause, to have a cause for which no 7003
treatment or cure is possible or for which none has been found. 7004

(3) "Physician" means an individual authorized under this 7005
chapter to practice medicine and surgery or osteopathic medicine 7006
and surgery. 7007

(B) The state medical board shall adopt rules in accordance 7008
with Chapter 119. of the Revised Code that establish standards and 7009
procedures to be followed by physicians in the diagnosis and 7010
treatment of intractable pain, including standards for managing 7011
intractable pain by prescribing, ~~dispensing~~ personally furnishing, 7012
or administering dangerous drugs in amounts or combinations that 7013
may not be appropriate when treating other medical conditions. In 7014
developing the rules, the board shall consult with and permit 7015
review by physicians who are experienced in the diagnosis and 7016
treatment of intractable pain. 7017

(C) When a physician diagnoses an individual as having 7018
intractable pain, the physician may treat the pain by managing it 7019
with dangerous drugs in amounts or combinations that may not be 7020
appropriate when treating other medical conditions. The 7021
physician's diagnosis shall be made after having the individual 7022
evaluated by one or more other physicians who specialize in the 7023
treatment of the area, system, or organ of the body perceived as 7024
the source of the pain. The physician's diagnosis and treatment 7025
decisions shall be made according to accepted and prevailing 7026
standards for medical care. The physician shall maintain a record 7027

of all of the following: 7028

(1) Medical history and physical examination of the 7029
individual; 7030

(2) The diagnosis of intractable pain, including signs, 7031
symptoms, and causes; 7032

(3) The plan of treatment proposed, the patient's response to 7033
treatment, and any modification to the plan of treatment; 7034

(4) The dates on which dangerous drugs were prescribed, 7035
~~dispensed~~ furnished, or administered, the name and address of the 7036
individual to or for whom the dangerous drugs were prescribed, 7037
dispensed, or administered, and the amounts and dosage forms for 7038
the dangerous drugs prescribed, ~~dispensed~~ furnished, or 7039
administered; 7040

(5) A copy of the report made by the physician or the 7041
physician to whom referral for evaluation was made under this 7042
division. 7043

(D) A physician who treats intractable pain by managing it 7044
with dangerous drugs is not subject to disciplinary action by the 7045
board under section 4731.22 of the Revised Code solely because the 7046
physician treated the intractable pain with dangerous drugs. The 7047
physician is subject to disciplinary action only if the dangerous 7048
drugs are not prescribed, furnished, or administered, ~~or dispensed~~ 7049
in accordance with this section and the rules adopted under it. 7050

Sec. 4741.22. The state veterinary medical licensing board 7051
may refuse to issue or renew a license, registration, or temporary 7052
permit to or of any applicant who, and may issue a reprimand to, 7053
suspend or revoke the license, registration, or the temporary 7054
permit of, or impose a civil penalty pursuant to this section upon 7055
any person licensed to practice veterinary medicine or any person 7056
registered as a registered veterinary technician who: 7057

(A) In the conduct of the person's practice does not conform to the rules of the board governing proper, humane, sanitary, and hygienic methods to be used in the care and treatment of animals;	7058 7059 7060
(B) Uses fraud, misrepresentation, or deception in completing the examination conducted by the board;	7061 7062
(C) Is found to be physically or psychologically addicted to alcohol or an illegal or controlled substance, as defined in division (D) of section 3719.01 of the Revised Code, to such a degree as to render the person unfit to practice veterinary medicine;	7063 7064 7065 7066 7067
(D) Directly or indirectly employs or lends the person's services to a solicitor for the purpose of obtaining patients;	7068 7069
(E) Obtains a fee on the assurance that an incurable disease can be cured;	7070 7071
(F) Advertises in a manner that violates section 4741.21 of the Revised Code;	7072 7073
(G) Has professional association with or lends the person's name to any unlicensed person, association, or organization for the purpose of obtaining patients;	7074 7075 7076
(H) Divides fees or charges or has any arrangement to share fees or charges with any other person, except on the basis of services performed;	7077 7078 7079
(I) Sells any biologic containing living, dead, or sensitized organisms or products of those organisms, except in a manner that the board by rule has prescribed;	7080 7081 7082
(J) Is convicted of any felony or crime involving moral turpitude;	7083 7084
(K) Is convicted of any violation of section 959.13 of the Revised Code;	7085 7086

(L) Is convicted of a felony drug abuse offense, as defined in section 2925.01 of the Revised Code;	7087 7088
(M) Swears falsely in any affidavit required to be made by him <u>the person</u> in the course of his <u>the</u> practice of veterinary medicine;	7089 7090 7091
(N) Fails to report promptly to the proper official any known reportable disease;	7092 7093
(O) Fails to report promptly vaccinations or the results of tests when required to do so by law or rule;	7094 7095
(P) Has been adjudicated incompetent for the purpose of holding the license or permit by a court, as provided in section 5122.301 of the Revised Code, and has not been restored to legal capacity for that purpose;	7096 7097 7098 7099
(Q) Permits a person who is not a licensed veterinarian, a veterinary student extern, or a registered veterinary technician to engage in work or perform duties in violation of this chapter;	7100 7101 7102
(R) Is guilty of gross incompetence;	7103
(S) Has had a license to practice veterinary medicine or a license, registration, or certificate to engage in activities as a registered veterinary technician revoked, suspended, or acted against by disciplinary action by an agency similar to this board of another state, territory, or country or the District of Columbia;	7104 7105 7106 7107 7108 7109
(T) Is or has practiced with a revoked, suspended, inactive, expired, or terminated license or registration;	7110 7111
(U) Represents self as a specialist unless certified as a specialist by the board;	7112 7113
(V) In the person's capacity as a veterinarian or registered veterinary technician makes or files a report, health certificate, vaccination certificate, or other document that the person knows	7114 7115 7116

is false or negligently or intentionally fails to file a report or
record required by any applicable state or federal law; 7117
7118

(W) Fails to use reasonable care in the administration of 7119
drugs, as defined in ~~division (C)~~ of section ~~4729.02~~ 4729.01 of 7120
the Revised Code, or acceptable scientific methods in the 7121
selection of those drugs or other modalities for treatment of a 7122
disease or in conduct of surgery; 7123

(X) Makes available a dangerous drug, as defined in ~~division~~ 7124
~~(D)~~ of section ~~4729.02~~ 4729.01 of the Revised Code, to any person 7125
other than for the specific treatment of an animal patient; 7126

(Y) Refuses to permit a board investigator or the board's 7127
designee to inspect the person's business premises during regular 7128
business hours; 7129

(Z) Violates any order of the board or fails to comply with a 7130
subpoena of the board; 7131

(AA) Fails to maintain medical records as required by rule of 7132
the board. 7133

Before the board may revoke, deny, refuse to renew, or 7134
suspend a license, registration, or temporary permit or otherwise 7135
discipline the holder of a license, registration, or temporary 7136
permit, the executive secretary shall file written charges with 7137
the board. The board shall conduct a hearing on the charges as 7138
provided in Chapter 119. of the Revised Code. 7139

If the board, after a hearing conducted pursuant to Chapter 7140
119. of the Revised Code, revokes, refuses to renew, or suspends a 7141
license, registration, or temporary permit or otherwise 7142
disciplines the holder of a license, registration, or temporary 7143
permit for a violation of this section, section 4741.23 or 7144
4741.28, division (C) or (D) of section 4741.19, or division (B), 7145
(C), or (D) of section 4741.21 of the Revised Code, the board may 7146

impose a civil penalty upon the holder of the license, permit, or registration of not less than fifty dollars or more than two hundred fifty dollars for a first offense and not less than two hundred fifty dollars or more than one thousand dollars for each subsequent offense. In addition to the civil penalty and any other penalties imposed pursuant to this chapter, the board may assess any holder of a license, permit, or registration the costs of the hearing conducted under this section if the board determines that the holder has violated any provision for which the board may impose a civil penalty under this section.

Sec. 5123.193. (A) As used in this section: 7157

(1) "Health care professional" ~~means any of the following:~~ 7158

~~(a) A dentist who holds a valid license issued under Chapter 4715. of the Revised Code;~~ 7159
7160

~~(b) A registered nurse or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code;~~ 7161
7162

~~(c) An advanced practice nurse approved pursuant to section 4723.56 of the Revised Code;~~ 7163
7164

~~(d) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code;~~ 7165
7166

~~(e) A physician who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine and surgery, osteopathic medicine and surgery, or pediatry;~~ 7167
7168
7169
7170

~~(f) A practitioner of a limited branch of medicine who holds a valid certificate issued under Chapter 4731. of the Revised Code;~~ 7171
7172
7173

~~(g) A respiratory care professional who holds a valid license issued under Chapter 4761. has the same meaning as in section~~ 7174
7175

5126.35 of the Revised Code. 7176

(2) "ICF/MR" means an intermediate care facility for the 7177
mentally retarded. 7178

(3) "ICF/MR worker" means a person who is employed by an 7179
ICF/MR, provides services pursuant to a contract with an ICF/MR, 7180
or provides services as a volunteer in an ICF/MR, except that 7181
"ICF/MR worker" does not include a health care professional acting 7182
within the scope of a professional license or certificate. 7183

(B)(1) Except as provided in division (B)(2) of this section, 7184
this section applies to each ICF/MR with fifteen or fewer resident 7185
beds that is licensed as a residential facility by the department 7186
of mental retardation and developmental disabilities under section 7187
5123.19 of the Revised Code and certified by the director of 7188
health as being in compliance with applicable standards for such 7189
facilities for purposes of the medical assistance program operated 7190
under Chapter 5111. of the Revised Code. This section also applies 7191
to periods during which such a facility's residents are being 7192
transported in a vehicle operated by the facility or by a person 7193
or government entity under contract with the facility and periods 7194
during which residents are participating in a field trip sponsored 7195
by the facility. 7196

This section does not apply to an ICF/MR with more than 7197
fifteen resident beds or other types of residential facilities 7198
licensed by the department of mental retardation and developmental 7199
disabilities under section 5123.19 of the Revised Code. 7200

(2) This section does not apply to an ICF/MR operated by a 7201
county board of mental retardation and developmental disabilities. 7202
An ICF/MR operated by a county board with fewer than seventeen 7203
resident beds is subject to the policy adopted by the board under 7204
section 5126.351 of the Revised Code. 7205

(C)(1) Each ICF/MR subject to this section shall adopt a 7206

written policy on whether it will permit ICF/MR workers to give
oral or apply topical medications to residents of the ICF/MR. The
facility shall adopt a policy that is consistent with section
4723.61 of the Revised Code and the rules adopted by the board of
nursing under that section. Each policy adopted shall specify one
of the following:

(a) Except in an emergency, ICF/MR workers shall neither give
oral nor apply topical medications to a resident of the facility;

(b) An ICF/MR worker specified by the facility may be
permitted to give oral or apply topical medications to residents
if the task is delegated by a nurse and the worker acts in
accordance with this section and the rules adopted under section
4723.61 of the Revised Code.

(2) The policy does not apply to any employee or volunteer
who is a health care professional, as long as the professional is
acting within the scope of ~~his~~ the professional's profession. The
policy applies to oral and topical medications that are drugs, as
described in section ~~4729.02~~ 4729.01 of the Revised Code and have
been prescribed by a health care professional authorized by law to
prescribe drugs. For purposes of the policy, oral medications
include those that can be ingested through either the mouth or a
stable gastric tube.

(D)(1) An ICF/MR that adopts a policy under which its ICF/MR
workers may be permitted to give oral or apply topical medications
shall employ or contract with a registered nurse to implement the
policy.

(2) The facility shall specify the ICF/MR workers who may be
permitted to give or apply medications. Specification may be made
by naming individual workers or by designating groups of workers
according to their position, training, or other qualifications.

The facility may permit a worker to give or apply medications only 7238
if all of the following apply: 7239

(a) The worker has successfully completed the training 7240
requirements specified in division (E) of this section; 7241

(b) Authority to give oral or apply topical medications for a 7242
particular resident has been delegated to the worker by a nurse in 7243
accordance with the rules adopted under section 4723.61 of the 7244
Revised Code; 7245

(c) The facility determines there is no statement on the 7246
state nurse aide registry created under section 3721.32 of the 7247
Revised Code indicating that worker has been the subject of a 7248
finding of abuse or neglect of a long-term care facility resident 7249
or the misappropriation of such a resident's property; 7250

(d) The facility determines the worker has not been convicted 7251
of or pleaded guilty to any felony that is related to drugs or the 7252
abuse of an individual. A worker's criminal background may be 7253
determined by requesting information from the bureau of criminal 7254
identification and investigation pursuant to division (E) of 7255
section 109.57 of the Revised Code. If a worker is convicted of or 7256
pleads guilty to a felony after ~~his~~ the criminal background has 7257
been determined, the worker shall immediately notify the ICF/MR. 7258
7259

(3) An ICF/MR worker may give oral or apply topical 7260
medications to residents only if all of the following apply: 7261

(a) The worker has successfully completed the training 7262
requirements specified in division (E) of this section; 7263

(b) The authority to give oral or apply topical medications 7264
for a particular resident has been delegated to the worker by a 7265
nurse in accordance with the rules adopted under section 4723.61 7266
of the Revised Code; 7267

(c) The medication to be given or applied is received by the worker in the container in which it was dispensed by a pharmacist or the prescribing health care professional;

(d) The worker complies with all applicable requirements established under this section and the rules adopted under section 4723.61 of the Revised Code.

(4) A registered nurse or licensed practical nurse may delegate to an ICF/MR worker specified by the facility authority to give oral or apply topical medications, except that a licensed practical nurse may delegate the authority only if the nurse has successfully completed a course in medication administration approved by the board of nursing and is acting at the direction of a registered nurse. Delegation may occur only after the nurse delegating the authority or another nurse authorized to delegate the authority has completed an assessment of the conditions at the facility that pertain to the delegation. Delegation may occur only if the assessment indicates that the requirements established by this section and the rules adopted under section 4723.61 of the Revised Code have been met.

(a) The assessments shall include an assessment of all of the following:

(i) The residents who need medication and the types of nursing care they require as it relates to their need for medication;

(ii) The amount and nature of any assessments of residents performed by other health care professionals;

(iii) The training and skills of the ICF/MR workers who will receive the delegated authority to give oral or apply topical medications.

(b) With regard to the assessment of a resident, the

following apply:	7298
(i) A nurse shall repeat the assessment if there is a change in the resident's health status;	7299 7300
(ii) A nurse is not required to repeat those parts of the assessment that have been completed by the facility to comply with federal regulations that require comprehensive functional assessments or nursing health status reviews, if the facility makes the information from those assessments available to the nurse and the nurse determines that the information is current, valid, and accurate.	7301 7302 7303 7304 7305 7306 7307
(5)(a) A nurse may delegate to the ICF/MR workers specified by the facility authority to give oral or apply topical medications only if all of the following information is available to the nurse:	7308 7309 7310 7311
(i) The name of the resident to receive the medication;	7312
(ii) The name of the medication and the dosage to be given or applied;	7313 7314
(iii) The time or intervals at which the medication is to be given or applied;	7315 7316
(iv) The date the medication is to begin and cease;	7317
(v) Any special instructions for handling, giving, or applying the medication, including instructions for maintaining sterile conditions and appropriate storage;	7318 7319 7320
(vi) Indication of any severe adverse reactions to the medication that should be reported to the health care professional who prescribed the medication and any other procedures that should be followed in an emergency;	7321 7322 7323 7324
(vii) One or more telephone numbers at which the health care professional who prescribed the medication can be reached in an emergency and the telephone number of another health care	7325 7326 7327

professional who should be contacted if the prescribing 7328
professional cannot be located. 7329

(b) The information must be received from one or more health 7330
care professionals acting within the scope of their professions, 7331
unless the information is provided by the ICF/MR from records it 7332
maintains to comply with federal regulations regarding standard 7333
drug regimen reviews and the nurse determines that the information 7334
from the facility is current, valid, and accurate. 7335

(6) An ICF/MR worker to whom a nurse has delegated authority 7336
to give oral or apply topical medications shall perform those 7337
tasks only pursuant to the direction and supervision of a nurse 7338
who is authorized to delegate the authority. The direction and 7339
supervision may be provided on-site or, pursuant to some means of 7340
telecommunication, off-site. The nurse shall direct and supervise 7341
the ICF/MR worker in accordance with standards established by the 7342
board of nursing in rules adopted under section 4723.61 of the 7343
Revised Code. 7344

(E)(1) Except as provided in division (E)(4) of this section, 7345
to be eligible to give oral or apply topical medications pursuant 7346
to division (D) of this section, an ICF/MR worker must 7347
successfully complete a medication course for ICF/MR workers that 7348
has been approved as meeting the standards established for such 7349
courses by the board of nursing in rules adopted under section 7350
4723.61 of the Revised Code. To be eligible to take the medication 7351
course, the worker must meet the eligibility standards established 7352
in rules adopted under section 4723.61 of the Revised Code. 7353

7354

The medication course for ICF/MR workers shall consist of the 7355
following units of instruction: 7356

(a) A core module consisting of at least ten hours of 7357
instruction that covers general information about medication 7358

administration, except that the course instructor may waive any 7359
portion of the module if the worker provides documentation that ~~he~~ 7360
the worker has successfully completed training in the portion that 7361
would be waived and the instructor determines that the worker's 7362
knowledge in that area is current and adequate; 7363

(b) Three practical modules that correlate with the 7364
medications the worker will be giving or applying, each consisting 7365
of at least five hours of instruction. A separate module shall be 7366
completed in each of the following areas: oral medication; topical 7367
medication; and eye, ear, and nose drops and ointments. 7368

(2) Successful completion of the medication course for ICF/MR 7369
workers may be achieved only by doing both of the following: 7370

(a) Receiving a score of at least eighty per cent on the 7371
final written examination of the core module; 7372
7373

(b) Completing five successful demonstrations of giving or 7374
applying medications in each of the three practical modules. To be 7375
considered successful, each demonstration must consist of 7376
performing the whole process of giving or applying a medication, 7377
including all hand washing and record keeping requirements. The 7378
demonstrations shall be supervised by a registered nurse or a 7379
licensed practical nurse who has successfully completed a course 7380
in medication administration approved by the board of nursing and 7381
is acting at the direction of a registered nurse. 7382

(3) To remain eligible to give oral and apply topical 7383
medications, an ICF/MR worker shall, beginning one year after the 7384
successful completion of initial training, annually complete at 7385
least four contact hours of training related to medication that 7386
meets the standards established by the board of nursing in rules 7387
adopted under section 4723.61 of the Revised Code. The training 7388
shall be arranged by a nurse and may occur in the ICF/MR. 7389

(4) An ICF/MR worker who, on or before the effective date of this section, successfully completed the training program described in the "program manual for implementation of the medication administration by unlicensed personnel in ICF/MR group homes of 15 beds or less," as developed by the departments of health and mental retardation and developmental disabilities, is not required to complete the medication course for ICF/MR workers as a condition of being eligible to give oral or apply topical medications pursuant to division (D) of this section. Such a worker is subject to all other requirements of this section, including the annual completion of at least four contact hours of training related to medication. The annual training requirement begins for such a worker one year after the effective date of this section.

(F) An ICF/MR worker who is authorized under division (D) of this section to give or apply medication is not liable for any injury caused by the medication if both of the following apply:

(1) The worker gave or applied the medication in accordance with the methods that were taught in training completed pursuant to this section;

(2) The worker did not act in a manner that constitutes wanton or reckless misconduct.

(G) Any individual or entity, including the board of nursing, may file a complaint with the department of mental retardation and developmental disabilities regarding the performance by or qualifications of a person who gives oral or applies topical medications pursuant to this section.

(H)(1) The department of mental retardation and developmental disabilities shall adopt rules establishing the following:

(a) Procedures the department will follow to correct

violations of this section; 7421

(b) A process for accepting and acting on complaints made by 7422
the board of nursing or any other person or entity regarding the 7423
performance or qualifications of an ICF/MR worker to give oral or 7424
apply topical medications. 7425

(2) The department shall adopt initial rules not later than 7426
ninety days after the effective date of this section. The rules 7427
shall be adopted in accordance with Chapter 119. of the Revised 7428
Code and shall be consistent with any applicable requirements 7429
established in rules adopted by the board of nursing under section 7430
4723.61 of the Revised Code. 7431

(I) This section does not require an ICF/MR worker to give 7432
oral or apply topical medications unless such a requirement is 7433
established by the facility's policy adopted under division (B) of 7434
this section. 7435

Sec. 5126.35. As used in this section and in sections 7436
5126.351 to 5126.356 of the Revised Code: 7437

(A) "County board client" means a person enrolled in a 7438
program offered by a county board of mental retardation and 7439
developmental disabilities or receiving services from a county 7440
board. 7441

(B) "County board worker" means a person who is employed by a 7442
county board of mental retardation and developmental disabilities 7443
or provides services to county board clients either as a volunteer 7444
or pursuant to a contract with the board, except that "county 7445
board worker" does not include a health care professional acting 7446
within the scope of his professional license or certificate. 7447
7448

(C) "Delegated nursing task" means a task that is within the 7449
scope of practice of a nurse as determined pursuant to Chapter 7450

4723. of the Revised Code and is delegated by a nurse to a county	7451
board worker pursuant to a policy adopted by a county board under	7452
section 5126.351 of the Revised Code.	7453
(D) "Health care professional" means any of the following:	7454
(1) A dentist who holds a valid license issued under Chapter	7455
4715. of the Revised Code;	7456
(2) A registered or licensed practical nurse who holds a	7457
valid license issued under Chapter 4723. of the Revised Code;	7458
(3) An optometrist who holds a valid license issued under	7459
Chapter 4725. of the Revised Code;	7460
(4) A pharmacist who holds a valid license issued under	7461
Chapter 4729. of the Revised Code;	7462
(5) A doctor of medicine or osteopathic medicine, podiatrist,	7463
or a practitioner of a limited branch of medicine who holds a	7464
valid certificate issued under Chapter 4731. of the Revised Code;	7465
	7466
(6) A physician's assistant for whom a physician holds a	7467
valid certificate of registration issued under section 4730.04 of	7468
the Revised Code;	7469
(7) An occupational therapist or occupational therapy	7470
assistant or a physical therapist or physical therapy assistant	7471
who holds a valid license issued under Chapter 4755. of the	7472
Revised Code;	7473
(8) A respiratory care professional who holds a valid license	7474
issued under Chapter 4761. of the Revised Code.	7475
(E) "Nurse" means a registered nurse or licensed practical	7476
nurse who holds a valid license issued under Chapter 4723. of the	7477
Revised Code.	7478
(F) "Prescribed medication" means a drug described in section	7479

~~4729.02~~ 4729.01 of the Revised Code that is to be taken orally or 7480
applied topically pursuant to the instructions of a health care 7481
professional who is authorized by law to prescribe drugs. 7482

7483

Sec. 5739.02. For the purpose of providing revenue with which 7484
to meet the needs of the state, for the use of the general revenue 7485
fund of the state, for the purpose of securing a thorough and 7486
efficient system of common schools throughout the state, for the 7487
purpose of affording revenues, in addition to those from general 7488
property taxes, permitted under constitutional limitations, and 7489
from other sources, for the support of local governmental 7490
functions, and for the purpose of reimbursing the state for the 7491
expense of administering this chapter, an excise tax is hereby 7492
levied on each retail sale made in this state. 7493

(A) The tax shall be collected pursuant to the schedules in 7494
section 5739.025 of the Revised Code. 7495

The tax applies and is collectible when the sale is made, 7496
regardless of the time when the price is paid or delivered. 7497

In the case of a sale, the price of which consists in whole 7498
or in part of rentals for the use of the thing transferred, the 7499
tax, as regards such rentals, shall be measured by the 7500
installments thereof. 7501

In the case of a sale of a service defined under division 7502
(MM) or (NN) of section 5739.01 of the Revised Code, the price of 7503
which consists in whole or in part of a membership for the receipt 7504
of the benefit of the service, the tax applicable to the sale 7505
shall be measured by the installments thereof. 7506

(B) The tax does not apply to the following: 7507

(1) Sales to the state or any of its political subdivisions, 7508
or to any other state or its political subdivisions if the laws of 7509

that state exempt from taxation sales made to this state and its	7510
political subdivisions;	7511
(2) Sales of food for human consumption off the premises	7512
where sold;	7513
(3) Sales of food sold to students only in a cafeteria,	7514
dormitory, fraternity, or sorority maintained in a private,	7515
public, or parochial school, college, or university;	7516
(4) Sales of newspapers, and of magazine subscriptions	7517
shipped by second class mail, and sales or transfers of magazines	7518
distributed as controlled circulation publications;	7519
(5) The furnishing, preparing, or serving of meals without	7520
charge by an employer to an employee provided the employer records	7521
the meals as part compensation for services performed or work	7522
done;	7523
(6) Sales of motor fuel upon receipt, use, distribution, or	7524
sale of which in this state a tax is imposed by the law of this	7525
state, but this exemption shall not apply to the sale of motor	7526
fuel on which a refund of the tax is allowable under section	7527
5735.14 of the Revised Code; and the tax commissioner may deduct	7528
the amount of tax levied by this section applicable to the price	7529
of motor fuel when granting a refund of motor fuel tax pursuant to	7530
section 5735.14 of the Revised Code and shall cause the amount	7531
deducted to be paid into the general revenue fund of this state;	7532
(7) Sales of natural gas by a natural gas company, of	7533
electricity by an electric company, of water by a water-works	7534
company, or of steam by a heating company, if in each case the	7535
thing sold is delivered to consumers through wires, pipes, or	7536
conduits, and all sales of communications services by a telephone	7537
or telegraph company, all terms as defined in section 5727.01 of	7538
the Revised Code;	7539

(8) Casual sales by a person, or auctioneer employed directly 7540
by the person to conduct such sales, except as to such sales of 7541
motor vehicles, watercraft or outboard motors required to be 7542
titled under section 1548.06 of the Revised Code, watercraft 7543
documented with the United States coast guard, snowmobiles, 7544
all-purpose vehicles as defined in section 4519.01 of the Revised 7545
Code, and manufactured homes; 7546

(9) Sales of services or tangible personal property, other 7547
than motor vehicles and manufactured homes, by churches or by 7548
nonprofit organizations operated exclusively for charitable 7549
purposes as defined in division (B)(12) of this section, provided 7550
that the number of days on which such tangible personal property 7551
or services, other than items never subject to the tax, are sold 7552
does not exceed six in any calendar year. If the number of days on 7553
which such sales are made exceeds six in any calendar year, the 7554
church or organization shall be considered to be engaged in 7555
business and all subsequent sales by it shall be subject to the 7556
tax. In counting the number of days, all sales by groups within a 7557
church or within an organization shall be considered to be sales 7558
of that church or organization, except that sales made by separate 7559
student clubs and other groups of students of a primary or 7560
secondary school, and sales made by a parent-teacher association, 7561
booster group, or similar organization that raises money to 7562
support or fund curricular or extracurricular activities of a 7563
primary or secondary school, shall not be considered to be sales 7564
of such school, and sales by each such club, group, association, 7565
or organization shall be counted separately for purposes of the 7566
six-day limitation. This division does not apply to sales by a 7567
noncommercial educational radio or television broadcasting 7568
station. 7569

(10) Sales not within the taxing power of this state under 7570
the Constitution of the United States; 7571

(11) The transportation of persons or property, unless the 7572
transportation is by a private investigation and security service; 7573

(12) Sales of tangible personal property or services to 7574
churches, to organizations exempt from taxation under section 7575
501(c)(3) of the Internal Revenue Code of 1986, and to any other 7576
nonprofit organizations operated exclusively for charitable 7577
purposes in this state, no part of the net income of which inures 7578
to the benefit of any private shareholder or individual, and no 7579
substantial part of the activities of which consists of carrying 7580
on propaganda or otherwise attempting to influence legislation; 7581
sales to offices administering one or more homes for the aged or 7582
one or more hospital facilities exempt under section 140.08 of the 7583
Revised Code; and sales to organizations described in division (D) 7584
of section 5709.12 of the Revised Code. 7585

"Charitable purposes" means the relief of poverty; the 7586
improvement of health through the alleviation of illness, disease, 7587
or injury; the operation of an organization exclusively for the 7588
provision of professional, laundry, printing, and purchasing 7589
services to hospitals or charitable institutions; the operation of 7590
a home for the aged, as defined in section 5701.13 of the Revised 7591
Code; the operation of a radio or television broadcasting station 7592
that is licensed by the federal communications commission as a 7593
noncommercial educational radio or television station; the 7594
operation of a nonprofit animal adoption service or a county 7595
humane society; the promotion of education by an institution of 7596
learning that maintains a faculty of qualified instructors, 7597
teaches regular continuous courses of study, and confers a 7598
recognized diploma upon completion of a specific curriculum; the 7599
operation of a parent teacher association, booster group, or 7600
similar organization primarily engaged in the promotion and 7601
support of the curricular or extracurricular activities of a 7602
primary or secondary school; the operation of a community or area 7603

center in which presentations in music, dramatics, the arts, and 7604
related fields are made in order to foster public interest and 7605
education therein; the production of performances in music, 7606
dramatics, and the arts; or the promotion of education by an 7607
organization engaged in carrying on research in, or the 7608
dissemination of, scientific and technological knowledge and 7609
information primarily for the public. 7610

Nothing in this division shall be deemed to exempt sales to 7611
any organization for use in the operation or carrying on of a 7612
trade or business, or sales to a home for the aged for use in the 7613
operation of independent living facilities as defined in division 7614
(A) of section 5709.12 of the Revised Code. 7615

(13) Building and construction materials and services sold to 7616
construction contractors for incorporation into a structure or 7617
improvement to real property under a construction contract with 7618
this state or a political subdivision thereof, or with the United 7619
States government or any of its agencies; building and 7620
construction materials and services sold to construction 7621
contractors for incorporation into a structure or improvement to 7622
real property that are accepted for ownership by this state or any 7623
of its political subdivisions, or by the United States government 7624
or any of its agencies at the time of completion of such 7625
structures or improvements; building and construction materials 7626
sold to construction contractors for incorporation into a 7627
horticulture structure or livestock structure for a person engaged 7628
in the business of horticulture or producing livestock; building 7629
materials and services sold to a construction contractor for 7630
incorporation into a house of public worship or religious 7631
education, or a building used exclusively for charitable purposes 7632
under a construction contract with an organization whose purpose 7633
is as described in division (B)(12) of this section; building and 7634
construction materials sold for incorporation into the original 7635

construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons engaged in any of the activities mentioned in division (E)(2) or (9) of section 5739.01 of the Revised Code, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, and "packaging" means placing therein.

(16) Sales of food to persons using food stamp coupons to purchase the food. As used in division (B)(16) of this section, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for

use or consumption directly in the production by farming, 7667
agriculture, horticulture, or floriculture of other tangible 7668
personal property for use or consumption directly in the 7669
production of tangible personal property for sale by farming, 7670
agriculture, horticulture, or floriculture; or material and parts 7671
for incorporation into any such tangible personal property for use 7672
or consumption in production; and of tangible personal property 7673
for such use or consumption in the conditioning or holding of 7674
products produced by and for such use, consumption, or sale by 7675
persons engaged in farming, agriculture, horticulture, or 7676
floriculture, except where such property is incorporated into real 7677
property; 7678

(18) Sales of drugs dispensed by a ~~registered~~ licensed 7679
pharmacist upon the order of a ~~practitioner-licensed~~ health 7680
professional authorized to prescribe, ~~dispense, and administer~~ 7681
~~drugs to a human being in the course of the professional practice,~~ 7682
as defined in section 4729.01 Of the Revised Code; insulin as 7683
recognized in the official United States pharmacopoeia; urine and 7684
blood testing materials when used by diabetics or persons with 7685
hypoglycemia to test for glucose or acetone; hypodermic syringes 7686
and needles when used by diabetics for insulin injections; epoetin 7687
alfa when purchased for use in the treatment of persons with 7688
end-stage renal disease; hospital beds when purchased for use by 7689
persons with medical problems for medical purposes; and oxygen and 7690
oxygen-dispensing equipment when purchased for use by persons with 7691
medical problems for medical purposes; 7692

(19) Sales of artificial limbs or portion thereof, breast 7693
prostheses, and other prosthetic devices for humans; braces or 7694
other devices for supporting weakened or nonfunctioning parts of 7695
the human body; wheelchairs; devices used to lift wheelchairs into 7696
motor vehicles and parts and accessories to such devices; crutches 7697
or other devices to aid human perambulation; and items of tangible 7698

personal property used to supplement impaired functions of the 7699
human body such as respiration, hearing, or elimination. No 7700
exemption under this division shall be allowed for nonprescription 7701
drugs, medicines, or remedies; items or devices used to supplement 7702
vision; items or devices whose function is solely or primarily 7703
cosmetic; or physical fitness equipment. This division does not 7704
apply to sales to a physician or medical facility for use in the 7705
treatment of a patient. 7706

(20) Sales of emergency and fire protection vehicles and 7707
equipment to nonprofit organizations for use solely in providing 7708
fire protection and emergency services for political subdivisions 7709
of the state; 7710

(21) Sales of tangible personal property manufactured in this 7711
state, if sold by the manufacturer in this state to a retailer for 7712
use in the retail business of the retailer outside of this state 7713
and if possession is taken from the manufacturer by the purchaser 7714
within this state for the sole purpose of immediately removing the 7715
same from this state in a vehicle owned by the purchaser; 7716
7717

(22) Sales of services provided by the state or any of its 7718
political subdivisions, agencies, instrumentalities, institutions, 7719
or authorities, or by governmental entities of the state or any of 7720
its political subdivisions, agencies, instrumentalities, 7721
institutions, or authorities; 7722

(23) Sales of motor vehicles to nonresidents of this state 7723
upon the presentation of an affidavit executed in this state by 7724
the nonresident purchaser affirming that the purchaser is a 7725
nonresident of this state, that possession of the motor vehicle is 7726
taken in this state for the sole purpose of immediately removing 7727
it from this state, that the motor vehicle will be permanently 7728
titled and registered in another state, and that the motor vehicle 7729

will not be used in this state; 7730

(24) Sales to persons engaged in the preparation of eggs for 7731
sale of tangible personal property used or consumed directly in 7732
such preparation, including such tangible personal property used 7733
for cleaning, sanitizing, preserving, grading, sorting, and 7734
classifying by size; packages, including material and parts for 7735
packages, and machinery, equipment, and material for use in 7736
packaging eggs for sale; and handling and transportation equipment 7737
and parts therefor, except motor vehicles licensed to operate on 7738
public highways, used in intraplant or interplant transfers or 7739
shipment of eggs in the process of preparation for sale, when the 7740
plant or plants within or between which such transfers or 7741
shipments occur are operated by the same person. "Packages" 7742
includes containers, cases, baskets, flats, fillers, filler flats, 7743
cartons, closure materials, labels, and labeling materials, and 7744
"packaging" means placing therein. 7745

(25)(a) Sales of water to a consumer for residential use, 7746
except the sale of bottled water, distilled water, mineral water, 7747
carbonated water, or ice; 7748

(b) Sales of water by a nonprofit corporation engaged 7749
exclusively in the treatment, distribution, and sale of water to 7750
consumers, if such water is delivered to consumers through pipes 7751
or tubing. 7752

(26) Fees charged for inspection or reinspection of motor 7753
vehicles under section 3704.14 of the Revised Code; 7754

(27) Sales of solar, wind, or hydrothermal energy systems 7755
that meet the guidelines established under division (B) of section 7756
1551.20 of the Revised Code, components of such systems that are 7757
identified under division (B) or (D) of that section, or charges 7758
for the installation of such systems or components, made during 7759
the period from August 14, 1979, through December 31, 1985; 7760

(28) Sales to persons licensed to conduct a food service operation pursuant to section 3732.03 of the Revised Code, of tangible personal property primarily used directly for the following:	7761 7762 7763 7764
(a) To prepare food for human consumption for sale;	7765
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	7766 7767 7768 7769
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	7770 7771
(29) Sales of animals by nonprofit animal adoption services or county humane societies;	7772 7773
(30) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	7774 7775 7776 7777
(31) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	7778 7779 7780
(32) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	7781 7782 7783
(33) The sale, lease, repair, and maintenance of; parts for; or items attached to or incorporated in motor vehicles that are primarily used for transporting tangible personal property by a person engaged in highway transportation for hire;	7784 7785 7786 7787
(34) Sales to the state headquarters of any veterans' organization in Ohio that is either incorporated and issued a charter by the congress of the United States or is recognized by	7788 7789 7790

the United States veterans administration, for use by the 7791
headquarters; 7792

(35) Sales to a telecommunications service vendor of tangible 7793
personal property and services used directly and primarily in 7794
transmitting, receiving, switching, or recording any interactive, 7795
two-way electromagnetic communications, including voice, image, 7796
data, and information, through the use of any medium, including, 7797
but not limited to, poles, wires, cables, switching equipment, 7798
computers, and record storage devices and media, and component 7799
parts for the tangible personal property. The exemption provided 7800
in division (B)(35) of this section shall be in lieu of all other 7801
exceptions under division (E)(2) of section 5739.01 of the Revised 7802
Code to which a telecommunications service vendor may otherwise be 7803
entitled based upon the use of the thing purchased in providing 7804
the telecommunications service. 7805

(36) Sales of investment metal bullion and investment coins. 7806
"Investment metal bullion" means any elementary precious metal 7807
that has been put through a process of smelting or refining, 7808
including, but not limited to, gold, silver, platinum, and 7809
palladium, and which is in such state or condition that its value 7810
depends upon its content and not upon its form. "Investment metal 7811
bullion" does not include fabricated precious metal that has been 7812
processed or manufactured for one or more specific and customary 7813
industrial, professional, or artistic uses. "Investment coins" 7814
means numismatic coins or other forms of money and legal tender 7815
manufactured of gold, silver, platinum, palladium, or other metal 7816
under the laws of the United States or any foreign nation with a 7817
fair market value greater than any statutory or nominal value of 7818
such coins. 7819

(37)(a) Sales where the purpose of the consumer is to use or 7820
consume the things transferred in making retail sales and 7821
consisting of newspaper inserts, catalogues, coupons, flyers, gift 7822

certificates, or other advertising material that prices and	7823
describes tangible personal property offered for retail sale.	7824
(b) Sales to direct marketing vendors of preliminary	7825
materials such as photographs, artwork, and typesetting that will	7826
be used in printing advertising material; of printed matter that	7827
offers free merchandise or chances to win sweepstake prizes and	7828
that is mailed to potential customers with advertising material	7829
described in division (B)(37)(a) of this section; and of equipment	7830
such as telephones, computers, facsimile machines, and similar	7831
tangible personal property primarily used to accept orders for	7832
direct marketing retail sales.	7833
(c) Sales of automatic food vending machines that preserve	7834
food with a shelf life of forty-five days or less by refrigeration	7835
and dispense it to the consumer.	7836
For purposes of division (B)(37) of this section, "direct	7837
marketing" means the method of selling where consumers order	7838
tangible personal property by United States mail, delivery	7839
service, or telecommunication and the vendor delivers or ships the	7840
tangible personal property sold to the consumer from a warehouse,	7841
catalogue distribution center, or similar fulfillment facility by	7842
means of the United States mail, delivery service, or common	7843
carrier.	7844
(38) Sales to a person engaged in the business of	7845
horticulture or producing livestock of materials to be	7846
incorporated into a horticulture structure or livestock structure;	7847
(39) The sale of a motor vehicle that is used exclusively for	7848
a vanpool ridesharing arrangement to persons participating in the	7849
vanpool ridesharing arrangement when the vendor is selling the	7850
vehicle pursuant to a contract between the vendor and the	7851
department of transportation;	7852
(40) Sales of personal computers, computer monitors, computer	7853

keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(41) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

As used in this section, except in division (B)(16) of this section, "food" includes cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. It does not include: spirituous or malt liquors; soft drinks; sodas and beverages that are ordinarily dispensed at bars and soda fountains or in connection therewith, other than coffee, tea, and cocoa;

root beer and root beer extracts; malt and malt extracts; mineral 7885
oils, cod liver oils, and halibut liver oil; medicines, including 7886
tonics, vitamin preparations, and other products sold primarily 7887
for their medicinal properties; and water, including mineral, 7888
bottled, and carbonated waters, and ice. 7889

(C) The levy of an excise tax on transactions by which 7890
lodging by a hotel is or is to be furnished to transient guests 7891
pursuant to this section and division (B) of section 5739.01 of 7892
the Revised Code does not prevent any of the following: 7893

(1) A municipal corporation or township from levying an 7894
excise tax for any lawful purpose not to exceed three per cent on 7895
transactions by which lodging by a hotel is or is to be furnished 7896
to transient guests in addition to the tax levied by this section. 7897
If a municipal corporation or township repeals a tax imposed under 7898
division (C)(1) of this section and a county in which the 7899
municipal corporation or township has territory has a tax imposed 7900
under division (C) of section 5739.024 of the Revised Code in 7901
effect, the municipal corporation or township may not reimpose its 7902
tax as long as that county tax remains in effect. A municipal 7903
corporation or township in which a tax is levied under division 7904
(B)(2) of section 351.021 of the Revised Code may not increase the 7905
rate of its tax levied under division (C)(1) of this section to 7906
any rate that would cause the total taxes levied under both of 7907
those divisions to exceed three per cent on any lodging 7908
transaction within the municipal corporation or township. 7909

(2) A municipal corporation or a township from levying an 7910
additional excise tax not to exceed three per cent on such 7911
transactions pursuant to division (B) of section 5739.024 of the 7912
Revised Code. Such tax is in addition to any tax imposed under 7913
division (C)(1) of this section. 7914

(3) A county from levying an excise tax pursuant to division 7915

(A) of section 5739.024 of the Revised Code.	7916
(4) A county from levying an excise tax not to exceed three per cent of such transactions pursuant to division (C) of section 5739.024 of the Revised Code. Such a tax is in addition to any tax imposed under division (C)(3) of this section.	7917 7918 7919 7920
(5) A convention facilities authority, as defined in division (A) of section 351.01 of the Revised Code, from levying the excise taxes provided for in division (B) of section 351.021 of the Revised Code.	7921 7922 7923 7924
(6) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (D) of section 5739.024 of the Revised Code. Such tax is in addition to any tax imposed under division (C)(3) or (4) of this section.	7925 7926 7927 7928 7929
(7) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (E) of section 5739.024 of the Revised Code. Such a tax is in addition to any tax imposed under division (C)(3), (4), or (6) of this section.	7930 7931 7932 7933 7934
(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.	7935 7936 7937 7938
Section 2. That existing sections 2305.234, 2305.25, 2305.33, 2317.02, 2913.02, 2913.51, 2925.01, 2925.02, 2925.03, 2925.09, 2925.11, 2925.12, 2925.14, 2925.23, 2925.50, 2927.24, 3313.713, 3701.33, 3709.161, 3715.01, 3715.03, 3715.52, 3715.53, 3715.54, 3715.55, 3715.56, 3715.57, 3715.59, 3715.63, 3715.64, 3715.65, 3715.66, 3715.69, 3715.70, 3715.71, 3715.73, 3719.01, 3719.011, 3719.05, 3719.06, 3719.07, 3719.08, 3719.09, 3719.12, 3719.121,	7939 7940 7941 7942 7943 7944 7945

3719.15, 3719.172, 3719.19, 3719.30, 3719.34, 3719.35, 3719.36, 7946
3719.42, 3719.44, 3719.61, 3719.81, 3719.99, 4121.443, 4301.01, 7947
4301.69, 4303.01, 4303.21, 4303.27, 4303.34, 4723.28, 4725.01, 7948
4729.01, 4729.02, 4729.03, 4729.06, 4729.07, 4729.08, 4729.09, 7949
4729.11, 4729.12, 4729.13, 4729.14, 4729.15, 4729.16, 4729.25, 7950
4729.26, 4729.27, 4729.28, 4729.29, 4729.30, 4729.36, 4729.37, 7951
4729.38, 4729.381, 4729.51, 4729.52, 4729.54, 4729.55, 4729.57, 7952
4729.59, 4729.60, 4729.63, 4729.66, 4729.67, 4731.052, 4741.22, 7953
5123.193, 5126.35, and 5739.02, and sections 4729.021, 4729.261, 7954
and 4729.262 of the Revised Code are hereby repealed. 7955

Section 3. The amendment of section 2305.234 of the Revised 7956
Code is not intended to supersede the earlier repeal, with delayed 7957
effective date, of that section. 7958

Section 4. Section 2317.02 of the Revised Code is presented 7959
in this act as a composite of the section as amended by both Sub. 7960
S.B. 223 and Am. Sub. S.B. 230 of the 121st General Assembly, with 7961
the new language of neither of the acts shown in capital letters. 7962
Section 2913.02 of the Revised Code is presented in this act as a 7963
composite of the section as amended by both Am. Sub. S.B. 2 and 7964
Sub. H.B. 4 of the 121st General Assembly, with the new language 7965
of neither of the acts shown in capital letters. Section 2913.51 7966
of the Revised Code is presented in this act as a composite of the 7967
section as amended by both Am. Sub. S.B. 2 and Sub. H.B. 4 of the 7968
121st General Assembly, with the new language of neither of the 7969
acts shown in capital letters. Section 2925.01 of the Revised Code 7970
is presented in this act as a composite of the section as amended 7971
by Am. Sub. S.B. 143, Sub. H.B. 125, Am. Sub. S.B. 269, and Sub. 7972
S.B. 223 of the 121st General Assembly, with the new language of 7973
none of the acts shown in capital letters. Section 2925.03 of the 7974
Revised Code is presented in this act as a composite of the 7975
section as amended by both Am. Sub. S.B. 269 and Am. Sub. S.B. 166 7976

of the 121st General Assembly, with the new language of neither of 7977
the acts shown in capital letters. Section 3719.01 of the Revised 7978
Code is presented in this act as a composite of the section as 7979
amended by both Am. Sub. H.B. 162 and Am. Sub. S.B. 269 of the 7980
121st General Assembly, with the new language of neither of the 7981
acts shown in capital letters. This is in recognition of the 7982
principle stated in division (B) of section 1.52 of the Revised 7983
Code that such amendments are to be harmonized where not 7984
substantively irreconcilable and constitutes a legislative finding 7985
that such is the resulting version in effect prior to the 7986
effective date of this act. 7987