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Am. Sub. H. B. No. 241

Representatives Hollister, Womer Benjamin, Grendell, R. Miller, Terwilleger, Ogg, Opfer, Mead, Jones, Sulzer, Sutton, Perz, Williams, Allen, Hartnett, Callender, D. Miller, Hood, Young, Bender, Householder, Smith, Carey, Van Vyven, Schuring, Olman, Padgett, Maier, DePiero, Barnes, Damschroder, Mottley, Schuler, Buehrer, Corbin, Boyd, Barrett, Salerno, Goodman, Jerse, Flannery, Sykes, Wilson, Metelsky, Healy, Perry, Kilbane
Senators Kearns, Spada, Prentiss, Blessing, Hagan, Drake, Gardner, Herington, Wachtmann, DiDonato, Cupp, Mumper, Carnes, Espy, Latta, Latell, Hottinger, Brady, Furney, McLin, Mallory, Watts, Armbruster

A BILL

To amend sections 2925.02, 2925.03, 2925.11, 2925.12, 1
2925.14, 2925.23, 2925.36, 3719.06, 3719.81, 2
4723.02, 4723.04, 4723.06, 4723.08, 4723.151, 3
4723.28, 4723.41, 4723.42, 4723.43, 4723.431, 4
4723.44, 4723.47, 4723.48, 4723.52, 4723.561, 5
4723.58, 4723.59, 4729.01, 4729.51, 4731.22, and 6
4731.27; to amend, for the purpose of adopting a 7
new section number, as indicated in parentheses, 8
section 4723.48 (4723.17); to enact new section 9
4723.48 and sections 4723.432, 4723.481, 4723.482, 10
4723.483, 4723.484, 4723.485, 4723.49, 4723.491, 11
4723.492, 4723.50, 4723.562, and 4723.563; and to 12
repeal sections 4723.51 and 5111.74 of the Revised 13
Code and to amend Section 3 of Am. Sub. H.B. 478 14
of the 119th General Assembly, as subsequently 15
amended, to permit clinical nurse specialists, 16

certified nurse-midwives, and certified nurse 17
practitioners to prescribe drugs and therapeutic 18
devices and to accelerate termination of the 19
advanced practice nurse pilot programs. 20

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

Section 1. That sections 2925.02, 2925.03, 2925.11, 2925.12, 21
2925.14, 2925.23, 2925.36, 3719.06, 3719.81, 4723.02, 4723.04, 22
4723.06, 4723.08, 4723.151, 4723.28, 4723.41, 4723.42, 4723.43, 23
4723.431, 4723.44, 4723.47, 4723.48, 4723.52, 4723.561, 4723.58, 24
4723.59, 4729.01, 4729.51, 4731.22, and 4731.27 be amended; 25
section 4723.48 (4723.17) be amended for the purpose of adopting a 26
new section number as indicated in parentheses; and new section 27
4723.48 and sections 4723.432, 4723.481, 4723.482, 4723.483, 28
4723.484, 4723.485, 4723.49, 4723.491, 4723.492, 4723.50, 29
4723.562, and 4723.563 of the Revised Code be enacted to read as 30
follows: 31

Sec. 2925.02. (A) No person shall knowingly do any of the 32
following: 33

(1) By force, threat, or deception, administer to another or 34
induce or cause another to use a controlled substance; 35

(2) By any means, administer or furnish to another or induce 36
or cause another to use a controlled substance with purpose to 37
cause serious physical harm to the other person, or with purpose 38
to cause the other person to become drug dependent; 39

(3) By any means, administer or furnish to another or induce 40
or cause another to use a controlled substance, and thereby cause 41
serious physical harm to the other person, or cause the other 42
person to become drug dependent; 43

(4) By any means, do any of the following: 44

(a) Furnish or administer a controlled substance to a 45
juvenile who is at least two years the offender's junior, when the 46
offender knows the age of the juvenile or is reckless in that 47
regard; 48

(b) Induce or cause a juvenile who is at least two years the 49
offender's junior to use a controlled substance, when the offender 50
knows the age of the juvenile or is reckless in that regard; 51

(c) Induce or cause a juvenile who is at least two years the 52
offender's junior to commit a felony drug abuse offense, when the 53
offender knows the age of the juvenile or is reckless in that 54
regard; 55

(d) Use a juvenile, whether or not the offender knows the age 56
of the juvenile, to perform any surveillance activity that is 57
intended to prevent the detection of the offender or any other 58
person in the commission of a felony drug abuse offense or to 59
prevent the arrest of the offender or any other person for the 60
commission of a felony drug abuse offense. 61

(B) Division (A)(1), (3), or (4) of this section does not 62
apply to manufacturers, wholesalers, licensed health professionals 63
authorized to prescribe drugs, pharmacists, owners of pharmacies, 64
and other persons whose conduct is in accordance with Chapters 65
3719., 4715., ~~4723.~~, 4729., 4731., and 4741. of the Revised Code 66
~~or section 4723.56 of the Revised Code.~~ 67

(C) Whoever violates this section is guilty of corrupting 68
another with drugs. The penalty for the offense shall be 69
determined as follows: 70

(1) Except as otherwise provided in this division, if the 71
drug involved is any compound, mixture, preparation, or substance 72
included in schedule I or II, with the exception of marihuana, 73

corrupting another with drugs is a felony of the second degree, 74
and, subject to division (E) of this section, the court shall 75
impose as a mandatory prison term one of the prison terms 76
prescribed for a felony of the second degree. If the drug involved 77
is any compound, mixture, preparation, or substance included in 78
schedule I or II, with the exception of marihuana, and if the 79
offense was committed in the vicinity of a school, corrupting 80
another with drugs is a felony of the first degree, and, subject 81
to division (E) of this section, the court shall impose as a 82
mandatory prison term one of the prison terms prescribed for a 83
felony of the first degree. 84

(2) Except as otherwise provided in this division, if the 85
drug involved is any compound, mixture, preparation, or substance 86
included in schedule III, IV, or V, corrupting another with drugs 87
is a felony of the second degree, and there is a presumption for a 88
prison term for the offense. If the drug involved is any compound, 89
mixture, preparation, or substance included in schedule III, IV, 90
or V and if the offense was committed in the vicinity of a school, 91
corrupting another with drugs is a felony of the second degree, 92
and the court shall impose as a mandatory prison term one of the 93
prison terms prescribed for a felony of the second degree. 94

(3) Except as otherwise provided in this division, if the 95
drug involved is marihuana, corrupting another with drugs is a 96
felony of the fourth degree, and division (C) of section 2929.13 97
of the Revised Code applies in determining whether to impose a 98
prison term on the offender. If the drug involved is marihuana and 99
if the offense was committed in the vicinity of a school, 100
corrupting another with drugs is a felony of the third degree, and 101
division (C) of section 2929.13 of the Revised Code applies in 102
determining whether to impose a prison term on the offender. 103

(D) In addition to any prison term authorized or required by 104
division (C) or (E) of this section and sections 2929.13 and 105

2929.14 of the Revised Code and in addition to any other sanction 106
imposed for the offense under this section or sections 2929.11 to 107
2929.18 of the Revised Code, the court that sentences an offender 108
who is convicted of or pleads guilty to a violation of division 109
(A) of this section or the clerk of that court shall do all of the 110
following that are applicable regarding the offender: 111

(1)(a) If the violation is a felony of the first, second, or 112
third degree, the court shall impose upon the offender the 113
mandatory fine specified for the offense under division (B)(1) of 114
section 2929.18 of the Revised Code unless, as specified in that 115
division, the court determines that the offender is indigent. 116

(b) Notwithstanding any contrary provision of section 3719.21 117
of the Revised Code, any mandatory fine imposed pursuant to 118
division (D)(1)(a) of this section and any fine imposed for a 119
violation of this section pursuant to division (A) of section 120
2929.18 of the Revised Code shall be paid by the clerk of the 121
court in accordance with and subject to the requirements of, and 122
shall be used as specified in, division (F) of section 2925.03 of 123
the Revised Code. 124

(c) If a person is charged with any violation of this section 125
that is a felony of the first, second, or third degree, posts 126
bail, and forfeits the bail, the forfeited bail shall be paid by 127
the clerk of the court pursuant to division (D)(1)(b) of this 128
section as if it were a fine imposed for a violation of this 129
section. 130

(2) The court either shall revoke or, if it does not revoke, 131
shall suspend for not less than six months or more than five 132
years, the driver's or commercial driver's license or permit of 133
any person who is convicted of or pleads guilty to a violation of 134
this section that is a felony of the first degree and shall 135
suspend for not less than six months nor more than five years the 136

driver's or commercial driver's license or permit of any person 137
who is convicted of or pleads guilty to any other violation of 138
this section. If an offender's driver's or commercial driver's 139
license or permit is revoked pursuant to this division, the 140
offender, at any time after the expiration of two years from the 141
day on which the offender's sentence was imposed or from the day 142
on which the offender finally was released from a prison term 143
under the sentence, whichever is later, may file a motion with the 144
sentencing court requesting termination of the revocation. Upon 145
the filing of the motion and the court's finding of good cause for 146
the termination, the court may terminate the revocation. 147

(3) If the offender is a professionally licensed person or a 148
person who has been admitted to the bar by order of the supreme 149
court in compliance with its prescribed and published rules, in 150
addition to any other sanction imposed for a violation of this 151
section, the court forthwith shall comply with section 2925.38 of 152
the Revised Code. 153

(E) Notwithstanding the prison term otherwise authorized or 154
required for the offense under division (C) of this section and 155
sections 2929.13 and 2929.14 of the Revised Code, if the violation 156
of division (A) of this section involves the sale, offer to sell, 157
or possession of a schedule I or II controlled substance, with the 158
exception of marihuana, and if the court imposing sentence upon 159
the offender finds that the offender as a result of the violation 160
is a major drug offender and is guilty of a specification of the 161
type described in section 2941.1410 of the Revised Code, the 162
court, in lieu of the prison term that otherwise is authorized or 163
required, shall impose upon the offender the mandatory prison term 164
specified in division (D)(3)(a) of section 2929.14 of the Revised 165
Code and may impose an additional prison term under division 166
(D)(3)(b) of that section. 167

Sec. 2925.03. (A) No person shall knowingly sell or offer to 168
sell a controlled substance. 169

(B) This section does not apply to any of the following: 170

(1) Manufacturers, licensed health professionals authorized 171
to prescribe drugs, pharmacists, owners of pharmacies, and other 172
persons whose conduct is in accordance with Chapters 3719., 4715., 173
4723., 4729., 4731., and 4741. ~~or section 4723.56~~ of the Revised 174
Code; 175

(2) If the offense involves an anabolic steroid, any person 176
who is conducting or participating in a research project involving 177
the use of an anabolic steroid if the project has been approved by 178
the United States food and drug administration; 179

(3) Any person who sells, offers for sale, prescribes, 180
dispenses, or administers for livestock or other nonhuman species 181
an anabolic steroid that is expressly intended for administration 182
through implants to livestock or other nonhuman species and 183
approved for that purpose under the "Federal Food, Drug, and 184
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 185
and is sold, offered for sale, prescribed, dispensed, or 186
administered for that purpose in accordance with that act. 187

(C) Whoever violates division (A) of this section is guilty 188
of one of the following: 189

(1) If the drug involved in the violation is any compound, 190
mixture, preparation, or substance included in schedule I or 191
schedule II, with the exception of marihuana, cocaine, L.S.D., 192
heroin, and hashish, whoever violates division (A) of this section 193
is guilty of aggravated trafficking in drugs. The penalty for the 194
offense shall be determined as follows: 195

(a) Except as otherwise provided in division (C)(1)(b), (c), 196
(d), (e), or (f) of this section, aggravated trafficking in drugs 197

is a felony of the fourth degree, and division (C) of section 198
2929.13 of the Revised Code applies in determining whether to 199
impose a prison term on the offender. 200

(b) Except as otherwise provided in division (C)(1)(c), (d), 201
(e), or (f) of this section, if the offense was committed in the 202
vicinity of a school or in the vicinity of a juvenile, aggravated 203
trafficking in drugs is a felony of the third degree, and division 204
(C) of section 2929.13 of the Revised Code applies in determining 205
whether to impose a prison term on the offender. 206

(c) Except as otherwise provided in this division, if the 207
amount of the drug involved equals or exceeds the bulk amount but 208
is less than five times the bulk amount, aggravated trafficking in 209
drugs is a felony of the third degree, and the court shall impose 210
as a mandatory prison term one of the prison terms prescribed for 211
a felony of the third degree. If the amount of the drug involved 212
is within that range and if the offense was committed in the 213
vicinity of a school or in the vicinity of a juvenile, aggravated 214
trafficking in drugs is a felony of the second degree, and the 215
court shall impose as a mandatory prison term one of the prison 216
terms prescribed for a felony of the second degree. 217

(d) Except as otherwise provided in this division, if the 218
amount of the drug involved equals or exceeds five times the bulk 219
amount but is less than fifty times the bulk amount, aggravated 220
trafficking in drugs is a felony of the second degree, and the 221
court shall impose as a mandatory prison term one of the prison 222
terms prescribed for a felony of the second degree. If the amount 223
of the drug involved is within that range and if the offense was 224
committed in the vicinity of a school or in the vicinity of a 225
juvenile, aggravated trafficking in drugs is a felony of the first 226
degree, and the court shall impose as a mandatory prison term one 227
of the prison terms prescribed for a felony of the first degree. 228

(e) If the amount of the drug involved equals or exceeds 229
fifty times the bulk amount but is less than one hundred times the 230
bulk amount and regardless of whether the offense was committed in 231
the vicinity of a school or in the vicinity of a juvenile, 232
aggravated trafficking in drugs is a felony of the first degree, 233
and the court shall impose as a mandatory prison term one of the 234
prison terms prescribed for a felony of the first degree. 235

(f) If the amount of the drug involved equals or exceeds one 236
hundred times the bulk amount and regardless of whether the 237
offense was committed in the vicinity of a school or in the 238
vicinity of a juvenile, aggravated trafficking in drugs is a 239
felony of the first degree, the offender is a major drug offender, 240
and the court shall impose as a mandatory prison term the maximum 241
prison term prescribed for a felony of the first degree and may 242
impose an additional prison term prescribed for a major drug 243
offender under division (D)(3)(b) of section 2929.14 of the 244
Revised Code. 245

(2) If the drug involved in the violation is any compound, 246
mixture, preparation, or substance included in schedule III, IV, 247
or V, whoever violates division (A) of this section is guilty of 248
trafficking in drugs. The penalty for the offense shall be 249
determined as follows: 250

(a) Except as otherwise provided in division (C)(2)(b), (c), 251
(d), or (e) of this section, trafficking in drugs is a felony of 252
the fifth degree, and division (C) of section 2929.13 of the 253
Revised Code applies in determining whether to impose a prison 254
term on the offender. 255

(b) Except as otherwise provided in division (C)(2)(c), (d), 256
or (e) of this section, if the offense was committed in the 257
vicinity of a school or in the vicinity of a juvenile, trafficking 258
in drugs is a felony of the fourth degree, and division (C) of 259

section 2929.13 of the Revised Code applies in determining whether
to impose a prison term on the offender.

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(c) Except as otherwise provided in this division, if the
amount of the drug involved equals or exceeds the bulk amount but
is less than five times the bulk amount, trafficking in drugs 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 drugs
is a felony of the third degree, and there is a presumption for a
prison term for the offense.

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(d) Except as otherwise provided in this division, if the
amount of the drug involved equals or exceeds five times the bulk
amount but is less than fifty times the bulk amount, trafficking
in drugs is a felony of the third 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 drugs is a felony of the second degree,
and there is a presumption for a prison term for the offense.

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

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(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 equals or exceeds two hundred grams but is less than 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 equals or exceeds one thousand grams but is less than 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 equals or exceeds five thousand grams
but is less than 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 equals or 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 equals or 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 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.

(g) Except as otherwise provided in this division, if the
offense involves a gift of twenty grams or less of marihuana,
trafficking in marihuana is a minor misdemeanor upon a first
offense and a misdemeanor of the third degree upon a subsequent
offense. If the offense involves a gift of twenty grams or less of

marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third 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 trafficking in cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), (f), or (g) of this section, trafficking in cocaine 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)(4)(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 cocaine 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 equals or exceeds five grams but is less than ten grams of cocaine that is not crack cocaine or equals or exceeds one gram but is less than five grams of crack cocaine, trafficking in cocaine 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 one of those ranges and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine 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 equals or exceeds ten grams but is 385
less than one hundred grams of cocaine that is not crack cocaine 386
or equals or exceeds five grams but is less than ten grams of 387
crack cocaine, trafficking in cocaine is a felony of the third 388
degree, and the court shall impose as a mandatory prison term one 389
of the prison terms prescribed for a felony of the third degree. 390
If the amount of the drug involved is within one of those ranges 391
and if the offense was committed in the vicinity of a school or in 392
the vicinity of a juvenile, trafficking in cocaine is a felony of 393
the second degree, and the court shall impose as a mandatory 394
prison term one of the prison terms prescribed for a felony of the 395
second degree. 396

(e) Except as otherwise provided in this division, if the 397
amount of the drug involved equals or exceeds one hundred grams 398
but is less than five hundred grams of cocaine that is not crack 399
cocaine or equals or exceeds ten grams but is less than 400
twenty-five grams of crack cocaine, trafficking in cocaine is a 401
felony of the second degree, and the court shall impose as a 402
mandatory prison term one of the prison terms prescribed for a 403
felony of the second degree. If the amount of the drug involved is 404
within one of those ranges and if the offense was committed in the 405
vicinity of a school or in the vicinity of a juvenile, trafficking 406
in cocaine is a felony of the first degree, and the court shall 407
impose as a mandatory prison term one of the prison terms 408
prescribed for a felony of the first degree. 409

(f) If the amount of the drug involved equals or exceeds five 410
hundred grams but is less than one thousand grams of cocaine that 411
is not crack cocaine or equals or exceeds twenty-five grams but is 412
less than one hundred grams of crack cocaine and regardless of 413
whether the offense was committed in the vicinity of a school or 414
in the vicinity of a juvenile, trafficking in cocaine is a felony 415
of the first degree, and the court shall impose as a mandatory 416

prison term one of the prison terms prescribed for a felony of the
first degree.

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(g) If the amount of the drug involved equals or exceeds one
thousand grams of cocaine that is not crack cocaine or equals or
exceeds one hundred grams of crack cocaine and regardless of
whether the offense was committed in the vicinity of a school or
in the vicinity of a juvenile, trafficking in cocaine is a felony
of the first degree, the offender is a major drug offender, 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.

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

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(a) Except as otherwise provided in division (C)(5)(b), (c),
(d), (e), (f), or (g) of this section, trafficking in L.S.D. 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.

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(b) Except as otherwise provided in division (C)(5)(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 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.

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(c) Except as otherwise provided in this division, if the
amount of the drug involved equals or exceeds ten unit doses but

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is less than fifty unit doses of L.S.D. in a solid form or equals 448
or exceeds one gram but is less than five grams of L.S.D. in a 449
liquid concentrate, liquid extract, or liquid distillate form, 450
trafficking in L.S.D. is a felony of the fourth degree, and there 451
is a presumption for a prison term for the offense. If the amount 452
of the drug involved is within that range and if the offense was 453
committed in the vicinity of a school or in the vicinity of a 454
juvenile, trafficking in L.S.D. is a felony of the third degree, 455
and there is a presumption for a prison term for the offense. 456

(d) Except as otherwise provided in this division, if the 457
amount of the drug involved equals or exceeds fifty unit doses but 458
is less than two hundred fifty unit doses of L.S.D. in a solid 459
form or equals or exceeds five grams but is less than twenty-five 460
grams of L.S.D. in a liquid concentrate, liquid extract, or liquid 461
distillate form, trafficking in L.S.D. is a felony of the third 462
degree, and the court shall impose as a mandatory prison term one 463
of the prison terms prescribed for a felony of the third degree. 464
If the amount of the drug involved is within that range and if the 465
offense was committed in the vicinity of a school or in the 466
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 467
second degree, and the court shall impose as a mandatory prison 468
term one of the prison terms prescribed for a felony of the second 469
degree. 470

(e) Except as otherwise provided in this division, if the 471
amount of the drug involved equals or exceeds two hundred fifty 472
unit doses but is less than one thousand unit doses of L.S.D. in a 473
solid form or equals or exceeds twenty-five grams but is less than 474
one hundred grams of L.S.D. in a liquid concentrate, liquid 475
extract, or liquid distillate form, trafficking in L.S.D. is a 476
felony of the second degree, and the court shall impose as a 477
mandatory prison term one of the prison terms prescribed for a 478
felony of the second degree. If the amount of the drug involved is 479

within that range and if the offense was committed in the vicinity 480
of a school or in the vicinity of a juvenile, trafficking in 481
L.S.D. is a felony of the first degree, and the court shall impose 482
as a mandatory prison term one of the prison terms prescribed for 483
a felony of the first degree. 484

(f) If the amount of the drug involved equals or exceeds one 485
thousand unit doses but is less than five thousand unit doses of 486
L.S.D. in a solid form or equals or exceeds one hundred grams but 487
is less than five hundred grams of L.S.D. in a liquid concentrate, 488
liquid extract, or liquid distillate form and regardless of 489
whether the offense was committed in the vicinity of a school or 490
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 491
of the first degree, and the court shall impose as a mandatory 492
prison term one of the prison terms prescribed for a felony of the 493
first degree. 494

(g) If the amount of the drug involved equals or exceeds five 495
thousand unit doses of L.S.D. in a solid form or equals or exceeds 496
five hundred grams of L.S.D. in a liquid concentrate, liquid 497
extract, or liquid distillate form and regardless of whether the 498
offense was committed in the vicinity of a school or in the 499
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 500
first degree, the offender is a major drug offender, and the court 501
shall impose as a mandatory prison term the maximum prison term 502
prescribed for a felony of the first degree and may impose an 503
additional mandatory prison term prescribed for a major drug 504
offender under division (D)(3)(b) of section 2929.14 of the 505
Revised Code. 506

(6) If the drug involved in the violation is heroin or a 507
compound, mixture, preparation, or substance containing heroin, 508
whoever violates division (A) of this section is guilty of 509
trafficking in heroin. The penalty for the offense shall be 510
determined as follows: 511

(a) Except as otherwise provided in division (C)(6)(b), (c), 512
(d), (e), (f), or (g) of this section, trafficking in heroin is a 513
felony of the fifth degree, and division (C) of section 2929.13 of 514
the Revised Code applies in determining whether to impose a prison 515
term on the offender. 516

(b) Except as otherwise provided in division (C)(6)(c), (d), 517
(e), (f), or (g) of this section, if the offense was committed in 518
the vicinity of a school or in the vicinity of a juvenile, 519
trafficking in heroin is a felony of the fourth degree, and 520
division (C) of section 2929.13 of the Revised Code applies in 521
determining whether to impose a prison term on the offender. 522

(c) Except as otherwise provided in this division, if the 523
amount of the drug involved equals or exceeds ten unit doses but 524
is less than fifty unit doses or equals or exceeds one gram but is 525
less than five grams, trafficking in heroin is a felony of the 526
fourth degree, and there is a presumption for a prison term for 527
the offense. If the amount of the drug involved is within that 528
range and if the offense was committed in the vicinity of a school 529
or in the vicinity of a juvenile, trafficking in heroin is a 530
felony of the third degree, and there is a presumption for a 531
prison term for the offense. 532

(d) Except as otherwise provided in this division, if the 533
amount of the drug involved equals or exceeds fifty unit doses but 534
is less than one hundred unit doses or equals or exceeds five 535
grams but is less than ten grams, trafficking in heroin is a 536
felony of the third degree, and there is a presumption for a 537
prison term for the offense. If the amount of the drug involved is 538
within that range and if the offense was committed in the vicinity 539
of a school or in the vicinity of a juvenile, trafficking in 540
heroin is a felony of the second degree, and there is a 541
presumption for a prison term for the offense. 542

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one hundred unit doses but is less than five hundred unit doses or equals or exceeds ten grams but is less than fifty grams, trafficking in heroin 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 heroin 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 equals or exceeds five hundred unit doses but is less than two thousand five hundred unit doses or equals or exceeds fifty grams but is less than two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin 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 equals or exceeds two thousand five hundred unit doses or equals or exceeds two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, the offender is a major drug offender, 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.

(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 575
trafficking in hashish. The penalty for the offense shall be 576
determined as follows: 577

(a) Except as otherwise provided in division (C)(7)(b), (c), 578
(d), (e), or (f) of this section, trafficking in hashish is a 579
felony of the fifth degree, and division (C) of section 2929.13 of 580
the Revised Code applies in determining whether to impose a prison 581
term on the offender. 582

(b) Except as otherwise provided in division (C)(7)(c), (d), 583
(e), or (f) of this section, if the offense was committed in the 584
vicinity of a school or in the vicinity of a juvenile, trafficking 585
in hashish is a felony of the fourth degree, and division (C) of 586
section 2929.13 of the Revised Code applies in determining whether 587
to impose a prison term on the offender. 588

(c) Except as otherwise provided in this division, if the 589
amount of the drug involved equals or exceeds ten grams but is 590
less than fifty grams of hashish in a solid form or equals or 591
exceeds two grams but is less than ten grams of hashish in a 592
liquid concentrate, liquid extract, or liquid distillate form, 593
trafficking in hashish is a felony of the fourth degree, and 594
division (C) of section 2929.13 of the Revised Code applies in 595
determining whether to impose a prison term on the offender. If 596
the amount of the drug involved is within that range and if the 597
offense was committed in the vicinity of a school or in the 598
vicinity of a juvenile, trafficking in hashish is a felony of the 599
third degree, and division (C) of section 2929.13 of the Revised 600
Code applies in determining whether to impose a prison term on the 601
offender. 602

(d) Except as otherwise provided in this division, if the 603
amount of the drug involved equals or exceeds fifty grams but is 604
less than two hundred fifty grams of hashish in a solid form or 605

equals or exceeds ten grams but is less than 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.

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(e) Except as otherwise provided in this division, if the
amount of the drug involved equals or exceeds two hundred fifty
grams but is less than one thousand grams of hashish in a solid
form or equals or exceeds fifty grams but is less than 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.

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(f) Except as otherwise provided in this division, if the
amount of the drug involved equals or exceeds one thousand grams
of hashish in a solid form or equals 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 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

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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.

(2) The court shall revoke or suspend the driver's or

commercial driver's license or permit of the offender in 670
accordance with division (G) of this section. 671

(3) If the offender is a professionally licensed person or a 672
person who has been admitted to the bar by order of the supreme 673
court in compliance with its prescribed and published rules, the 674
court forthwith shall comply with section 2925.38 of the Revised 675
Code. 676

(E) When a person is charged with the sale of or offer to 677
sell a bulk amount or a multiple of a bulk amount of a controlled 678
substance, the jury, or the court trying the accused, shall 679
determine the amount of the controlled substance involved at the 680
time of the offense and, if a guilty verdict is returned, shall 681
return the findings as part of the verdict. In any such case, it 682
is unnecessary to find and return the exact amount of the 683
controlled substance involved, and it is sufficient if the finding 684
and return is to the effect that the amount of the controlled 685
substance involved is the requisite amount, or that the amount of 686
the controlled substance involved is less than the requisite 687
amount. 688

(F)(1) Notwithstanding any contrary provision of section 689
3719.21 of the Revised Code and except as provided in division (H) 690
of this section, the clerk of the court shall pay any mandatory 691
fine imposed pursuant to division (D)(1) of this section and any 692
fine other than a mandatory fine that is imposed for a violation 693
of this section pursuant to division (A) or (B)(5) of section 694
2929.18 of the Revised Code to the county, township, municipal 695
corporation, park district, as created pursuant to section 511.18 696
or 1545.04 of the Revised Code, or state law enforcement agencies 697
in this state that primarily were responsible for or involved in 698
making the arrest of, and in prosecuting, the offender. However, 699
the clerk shall not pay a mandatory fine so imposed to a law 700
enforcement agency unless the agency has adopted a written 701

internal control policy under division (F)(2) of this section that 702
addresses the use of the fine moneys that it receives. Each agency 703
shall use the mandatory fines so paid to subsidize the agency's 704
law enforcement efforts that pertain to drug offenses, in 705
accordance with the written internal control policy adopted by the 706
recipient agency under division (F)(2) of this section. 707

(2)(a) Prior to receiving any fine moneys under division 708
(F)(1) of this section or division (B)(5) of section 2925.42 of 709
the Revised Code, a law enforcement agency shall adopt a written 710
internal control policy that addresses the agency's use and 711
disposition of all fine moneys so received and that provides for 712
the keeping of detailed financial records of the receipts of those 713
fine moneys, the general types of expenditures made out of those 714
fine moneys, and the specific amount of each general type of 715
expenditure. The policy shall not provide for or permit the 716
identification of any specific expenditure that is made in an 717
ongoing investigation. All financial records of the receipts of 718
those fine moneys, the general types of expenditures made out of 719
those fine moneys, and the specific amount of each general type of 720
expenditure by an agency are public records open for inspection 721
under section 149.43 of the Revised Code. Additionally, a written 722
internal control policy adopted under this division is such a 723
public record, and the agency that adopted it shall comply with 724
it. 725

(b) Each law enforcement agency that receives in any calendar 726
year any fine moneys under division (F)(1) of this section or 727
division (B)(5) of section 2925.42 of the Revised Code shall 728
prepare a report covering the calendar year that cumulates all of 729
the information contained in all of the public financial records 730
kept by the agency pursuant to division (F)(2)(a) of this section 731
for that calendar year, and shall send a copy of the cumulative 732
report, no later than the first day of March in the calendar year 733

following the calendar year covered by the report, to the attorney
general. Each report received by the attorney general is a public
record open for inspection under section 149.43 of the Revised
Code. Not later than the fifteenth day of April in the calendar
year in which the reports are received, the attorney general shall
send to the president of the senate and the speaker of the house
of representatives a written notification that does all of the
following:

(i) Indicates that the attorney general has received from law
enforcement agencies reports of the type described in this
division that cover the previous calendar year and indicates that
the reports were received under this division;

(ii) Indicates that the reports are open for inspection under
section 149.43 of the Revised Code;

(iii) Indicates that the attorney general will provide a copy
of any or all of the reports to the president of the senate or the
speaker of the house of representatives upon request.

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

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

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

(G) When required under division (D)(2) of this section, the
court either shall revoke or, if it does not revoke, shall suspend
for not less than six months or more than five years, the driver's
or commercial driver's license or permit of any person who is
convicted of or pleads guilty to a violation of this section that
is a felony of the first degree and shall suspend for not less
than six months or more than five years the driver's or commercial
driver's license or permit of any person who is convicted of or

pleads guilty to any other violation of this section. If an
offender's driver's or commercial driver's license or permit is
revoked pursuant to this division, the offender, at any time after
the expiration of two years from the day on which the offender's
sentence was imposed or from the day on which the offender finally
was released from a prison term under the sentence, whichever is
later, may file a motion with the sentencing court requesting
termination of the revocation; upon the filing of such a motion
and the court's finding of good cause for the termination, the
court may terminate the revocation.

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(H)(1) 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, in addition to any other penalty or sanction
imposed for the offense under this section or sections 2929.11 to
2929.18 of the Revised Code, and in addition to the forfeiture of
property in connection with the offense as prescribed in sections
2925.42 to 2925.45 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 may impose upon the offender an
additional fine specified for the offense in division (B)(4) of
section 2929.18 of the Revised Code. A fine imposed under division
(H)(1) of this section is not subject to division (F) of this
section and shall be used solely for the support of one or more
eligible alcohol and drug addiction programs in accordance with
divisions (H)(2) and (3) of this section.

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(2) The court that imposes a fine under division (H)(1) of
this section shall specify in the judgment that imposes the fine
one or more eligible alcohol and drug addiction programs for the
support of which the fine money is to be used. No alcohol and drug
addiction program shall receive or use money paid or collected in
satisfaction of a fine imposed under division (H)(1) of this
section unless the program is specified in the judgment that

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imposes the fine. No alcohol and drug addiction program shall be 796
specified in the judgment unless the program is an eligible 797
alcohol and drug addiction program and, except as otherwise 798
provided in division (H)(2) of this section, unless the program is 799
located in the county in which the court that imposes the fine is 800
located or in a county that is immediately contiguous to the 801
county in which that court is located. If no eligible alcohol and 802
drug addiction program is located in any of those counties, the 803
judgment may specify an eligible alcohol and drug addiction 804
program that is located anywhere within this state. 805

(3) Notwithstanding any contrary provision of section 3719.21 806
of the Revised Code, the clerk of the court shall pay any fine 807
imposed under division (H)(1) of this section to the eligible 808
alcohol and drug addiction program specified pursuant to division 809
(H)(2) of this section in the judgment. The eligible alcohol and 810
drug addiction program that receives the fine moneys shall use the 811
moneys only for the alcohol and drug addiction services identified 812
in the application for certification under section 3793.06 of the 813
Revised Code or in the application for a license under section 814
3793.11 of the Revised Code filed with the department of alcohol 815
and drug addiction services by the alcohol and drug addiction 816
program specified in the judgment. 817

(4) Each alcohol and drug addiction program that receives in 818
a calendar year any fine moneys under division (H)(3) of this 819
section shall file an annual report covering that calendar year 820
with the court of common pleas and the board of county 821
commissioners of the county in which the program is located, with 822
the court of common pleas and the board of county commissioners of 823
each county from which the program received the moneys if that 824
county is different from the county in which the program is 825
located, and with the attorney general. The alcohol and drug 826
addiction program shall file the report no later than the first 827

day of March in the calendar year following the calendar year in 828
which the program received the fine moneys. The report shall 829
include statistics on the number of persons served by the alcohol 830
and drug addiction program, identify the types of alcohol and drug 831
addiction services provided to those persons, and include a 832
specific accounting of the purposes for which the fine moneys 833
received were used. No information contained in the report shall 834
identify, or enable a person to determine the identity of, any 835
person served by the alcohol and drug addiction program. Each 836
report received by a court of common pleas, a board of county 837
commissioners, or the attorney general is a public record open for 838
inspection under section 149.43 of the Revised Code. 839

(5) As used in divisions (H)(1) to (5) of this section: 840

(a) "Alcohol and drug addiction program" and "alcohol and 841
drug addiction services" have the same meanings as in section 842
3793.01 of the Revised Code. 843

(b) "Eligible alcohol and drug addiction program" means an 844
alcohol and drug addiction program that is certified under section 845
3793.06 of the Revised Code or licensed under section 3793.11 of 846
the Revised Code by the department of alcohol and drug addiction 847
services. 848

Sec. 2925.11. (A) No person shall knowingly obtain, possess, 849
or use a controlled substance. 850

(B) This section does not apply to any of the following: 851

(1) Manufacturers, licensed health professionals authorized 852
to prescribe drugs, pharmacists, owners of pharmacies, and other 853
persons whose conduct was in accordance with Chapters 3719., 854
4715., 4723., 4729., 4731., and 4741. ~~or section 4723.56~~ of the 855
Revised Code; 856

(2) If the offense involves an anabolic steroid, any person 857

who is conducting or participating in a research project involving 858
the use of an anabolic steroid if the project has been approved by 859
the United States food and drug administration; 860

(3) Any person who sells, offers for sale, prescribes, 861
dispenses, or administers for livestock or other nonhuman species 862
an anabolic steroid that is expressly intended for administration 863
through implants to livestock or other nonhuman species and 864
approved for that purpose under the "Federal Food, Drug, and 865
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 866
and is sold, offered for sale, prescribed, dispensed, or 867
administered for that purpose in accordance with that act; 868

(4) Any person who obtained the controlled substance pursuant 869
to a prescription issued by a licensed health professional 870
authorized to prescribe drugs. 871

(C) Whoever violates division (A) of this section is guilty 872
of one of the following: 873

(1) If the drug involved in the violation is a compound, 874
mixture, preparation, or substance included in schedule I or II, 875
with the exception of marihuana, cocaine, L.S.D., heroin, and 876
hashish, whoever violates division (A) of this section is guilty 877
of aggravated possession of drugs. The penalty for the offense 878
shall be determined as follows: 879

(a) Except as otherwise provided in division (C)(1)(b), (c), 880
(d), or (e) of this section, aggravated possession of drugs is a 881
felony of the fifth degree, and division (B) of section 2929.13 of 882
the Revised Code applies in determining whether to impose a prison 883
term on the offender. 884

(b) If the amount of the drug involved equals or exceeds the 885
bulk amount but is less than five times the bulk amount, 886
aggravated possession of drugs is a felony of the third degree, 887
and there is a presumption for a prison term for the offense. 888

(c) If the amount of the drug involved equals or exceeds five 889
times the bulk amount but is less than fifty times the bulk 890
amount, aggravated possession of drugs is a felony of the second 891
degree, and the court shall impose as a mandatory prison term one 892
of the prison terms prescribed for a felony of the second degree. 893

(d) If the amount of the drug involved equals or exceeds 894
fifty times the bulk amount but is less than one hundred times the 895
bulk amount, aggravated possession of drugs is a felony of the 896
first degree, and the court shall impose as a mandatory prison 897
term one of the prison terms prescribed for a felony of the first 898
degree. 899

(e) If the amount of the drug involved equals or exceeds one 900
hundred times the bulk amount, aggravated possession of drugs is a 901
felony of the first degree, the offender is a major drug offender, 902
and the court shall impose as a mandatory prison term the maximum 903
prison term prescribed for a felony of the first degree and may 904
impose an additional mandatory prison term prescribed for a major 905
drug offender under division (D)(3)(b) of section 2929.14 of the 906
Revised Code. 907

(2) If the drug involved in the violation is a compound, 908
mixture, preparation, or substance included in schedule III, IV, 909
or V, whoever violates division (A) of this section is guilty of 910
possession of drugs. The penalty for the offense shall be 911
determined as follows: 912

(a) Except as otherwise provided in division (C)(2)(b), (c), 913
or (d) of this section, possession of drugs is a misdemeanor of 914
the third degree or, if the offender previously has been convicted 915
of a drug abuse offense, a misdemeanor of the second degree. If 916
the drug involved in the violation is an anabolic steroid included 917
in schedule III and if the offense is a misdemeanor of the third 918
degree under this division, in lieu of sentencing the offender to 919

a term of imprisonment in a detention facility, the court may 920
place the offender on conditional probation pursuant to division 921
(F) of section 2951.02 of the Revised Code. 922

(b) If the amount of the drug involved equals or exceeds the 923
bulk amount but is less than five times the bulk amount, 924
possession of drugs is a felony of the fourth degree, and division 925
(C) of section 2929.13 of the Revised Code applies in determining 926
whether to impose a prison term on the offender. 927

(c) If the amount of the drug involved equals or exceeds five 928
times the bulk amount but is less than fifty times the bulk 929
amount, possession of drugs is a felony of the third degree, and 930
there is a presumption for a prison term for the offense. 931

(d) If the amount of the drug involved equals or exceeds 932
fifty times the bulk amount, possession of drugs is a felony of 933
the second degree, and the court shall impose upon the offender as 934
a mandatory prison term one of the prison terms prescribed for a 935
felony of the second degree. 936

(3) If the drug involved in the violation is marihuana or a 937
compound, mixture, preparation, or substance containing marihuana 938
other than hashish, whoever violates division (A) of this section 939
is guilty of possession of marihuana. The penalty for the offense 940
shall be determined as follows: 941

(a) Except as otherwise provided in division (C)(3)(b), (c), 942
(d), (e), or (f) of this section, possession of marihuana is a 943
minor misdemeanor. 944

(b) If the amount of the drug involved equals or exceeds one 945
hundred grams but is less than two hundred grams, possession of 946
marihuana is a misdemeanor of the fourth degree. 947

(c) If the amount of the drug involved equals or exceeds two 948
hundred grams but is less than one thousand grams, possession of 949

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.

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(d) If the amount of the drug involved equals or exceeds one
thousand grams but is less than 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.

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(e) If the amount of the drug involved equals or exceeds five
thousand grams but is less than 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.

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(f) If the amount of the drug involved equals or 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.

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(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:

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(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.

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(b) If the amount of the drug involved equals or exceeds five
grams but is less than twenty-five grams of cocaine that is not
crack cocaine or equals or exceeds one gram but is less than five

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979
980

grams of crack cocaine, possession of cocaine is a felony of the 981
fourth degree, and there is a presumption for a prison term for 982
the offense. 983

(c) If the amount of the drug involved equals or exceeds 984
twenty-five grams but is less than one hundred grams of cocaine 985
that is not crack cocaine or equals or exceeds five grams but is 986
less than ten grams of crack cocaine, possession of cocaine is a 987
felony of the third degree, and the court shall impose as a 988
mandatory prison term one of the prison terms prescribed for a 989
felony of the third degree. 990

(d) If the amount of the drug involved equals or exceeds one 991
hundred grams but is less than five hundred grams of cocaine that 992
is not crack cocaine or equals or exceeds ten grams but is less 993
than twenty-five grams of crack cocaine, possession of cocaine is 994
a felony of the second degree, and the court shall impose as a 995
mandatory prison term one of the prison terms prescribed for a 996
felony of the second degree. 997

(e) If the amount of the drug involved equals or exceeds five 998
hundred grams but is less than one thousand grams of cocaine that 999
is not crack cocaine or equals or exceeds twenty-five grams but is 1000
less than one hundred grams of crack cocaine, possession of 1001
cocaine is a felony of the first degree, and the court shall 1002
impose as a mandatory prison term one of the prison terms 1003
prescribed for a felony of the first degree. 1004

(f) If the amount of the drug involved equals or exceeds one 1005
thousand grams of cocaine that is not crack cocaine or equals or 1006
exceeds one hundred grams of crack cocaine, possession of cocaine 1007
is a felony of the first degree, the offender is a major drug 1008
offender, and the court shall impose as a mandatory prison term 1009
the maximum prison term prescribed for a felony of the first 1010
degree and may impose an additional mandatory prison term 1011

prescribed for a major drug offender under division (D)(3)(b) of 1012
section 2929.14 of the Revised Code. 1013

(5) If the drug involved in the violation is L.S.D., whoever 1014
violates division (A) of this section is guilty of possession of 1015
L.S.D. The penalty for the offense shall be determined as follows: 1016
1017

(a) Except as otherwise provided in division (C)(5)(b), (c), 1018
(d), (e), or (f) of this section, possession of L.S.D. is a felony 1019
of the fifth degree, and division (B) of section 2929.13 of the 1020
Revised Code applies in determining whether to impose a prison 1021
term on the offender. 1022

(b) If the amount of L.S.D. involved equals or exceeds ten 1023
unit doses but is less than fifty unit doses of L.S.D. in a solid 1024
form or equals or exceeds one gram but is less than five grams of 1025
L.S.D. in a liquid concentrate, liquid extract, or liquid 1026
distillate form, possession of L.S.D. is a felony of the fourth 1027
degree, and division (C) of section 2929.13 of the Revised Code 1028
applies in determining whether to impose a prison term on the 1029
offender. 1030

(c) If the amount of L.S.D. involved equals or exceeds fifty 1031
unit doses, but is less than two hundred fifty unit doses of 1032
L.S.D. in a solid form or equals or exceeds five grams but is less 1033
than twenty-five grams of L.S.D. in a liquid concentrate, liquid 1034
extract, or liquid distillate form, possession of L.S.D. is a 1035
felony of the third degree, and there is a presumption for a 1036
prison term for the offense. 1037

(d) If the amount of L.S.D. involved equals or exceeds two 1038
hundred fifty unit doses but is less than one thousand unit doses 1039
of L.S.D. in a solid form or equals or exceeds twenty-five grams 1040
but is less than one hundred grams of L.S.D. in a liquid 1041
concentrate, liquid extract, or liquid distillate form, possession 1042

of L.S.D. is a felony of the second degree, and the court shall 1043
impose as a mandatory prison term one of the prison terms 1044
prescribed for a felony of the second degree. 1045

(e) If the amount of L.S.D. involved equals or exceeds one 1046
thousand unit doses but is less than five thousand unit doses of 1047
L.S.D. in a solid form or equals or exceeds one hundred grams but 1048
is less than five hundred grams of L.S.D. in a liquid concentrate, 1049
liquid extract, or liquid distillate form, possession of L.S.D. is 1050
a felony of the first degree, and the court shall impose as a 1051
mandatory prison term one of the prison terms prescribed for a 1052
felony of the first degree. 1053

(f) If the amount of L.S.D. involved equals or exceeds five 1054
thousand unit doses of L.S.D. in a solid form or equals or exceeds 1055
five hundred grams of L.S.D. in a liquid concentrate, liquid 1056
extract, or liquid distillate form, possession of L.S.D. is a 1057
felony of the first degree, the offender is a major drug offender, 1058
and the court shall impose as a mandatory prison term the maximum 1059
prison term prescribed for a felony of the first degree and may 1060
impose an additional mandatory prison term prescribed for a major 1061
drug offender under division (D)(3)(b) of section 2929.14 of the 1062
Revised Code. 1063

(6) If the drug involved in the violation is heroin or a 1064
compound, mixture, preparation, or substance containing heroin, 1065
whoever violates division (A) of this section is guilty of 1066
possession of heroin. The penalty for the offense shall be 1067
determined as follows: 1068

(a) Except as otherwise provided in division (C)(6)(b), (c), 1069
(d), (e), or (f) of this section, possession of heroin is a felony 1070
of the fifth degree, and division (B) of section 2929.13 of the 1071
Revised Code applies in determining whether to impose a prison 1072
term on the offender. 1073

(b) If the amount of the drug involved equals or exceeds ten 1074
unit doses but is less than fifty unit doses or equals or exceeds 1075
one gram but is less than five grams, possession of heroin is a 1076
felony of the fourth degree, and division (C) of section 2929.13 1077
of the Revised Code applies in determining whether to impose a 1078
prison term on the offender. 1079

(c) If the amount of the drug involved equals or exceeds 1080
fifty unit doses but is less than one hundred unit doses or equals 1081
or exceeds five grams but is less than ten grams, possession of 1082
heroin is a felony of the third degree, and there is a presumption 1083
for a prison term for the offense. 1084

(d) If the amount of the drug involved equals or exceeds one 1085
hundred unit doses but is less than five hundred unit doses or 1086
equals or exceeds ten grams but is less than fifty grams, 1087
possession of heroin is a felony of the second degree, and the 1088
court shall impose as a mandatory prison term one of the prison 1089
terms prescribed for a felony of the second degree. 1090

(e) If the amount of the drug involved equals or exceeds five 1091
hundred unit doses but is less than two thousand five hundred unit 1092
doses or equals or exceeds fifty grams but is less than two 1093
hundred fifty grams, possession of heroin is a felony of the first 1094
degree, and the court shall impose as a mandatory prison term one 1095
of the prison terms prescribed for a felony of the first degree. 1096

(f) If the amount of the drug involved equals or exceeds two 1097
thousand five hundred unit doses or equals or exceeds two hundred 1098
fifty grams, possession of heroin is a felony of the first degree, 1099
the offender is a major drug offender, and the court shall impose 1100
as a mandatory prison term the maximum prison term prescribed for 1101
a felony of the first degree and may impose an additional 1102
mandatory prison term prescribed for a major drug offender under 1103
division (D)(3)(b) of section 2929.14 of the Revised Code. 1104

(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 possession of 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, possession of hashish is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(c) If the amount of the drug involved equals or exceeds ten grams but is less than fifty grams of hashish in a solid form or equals or exceeds two grams but is less than 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.

(d) If the amount of the drug involved equals or exceeds fifty grams but is less than two hundred fifty grams of hashish in a solid form or equals or exceeds ten grams but is less than 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.

(e) If the amount of the drug involved equals or exceeds two hundred fifty grams but is less than one thousand grams of hashish

in a solid form or equals or exceeds fifty grams but is less than 1136
two hundred grams of hashish in a liquid concentrate, liquid 1137
extract, or liquid distillate form, possession of hashish is a 1138
felony of the third degree, and there is a presumption that a 1139
prison term shall be imposed for the offense. 1140

(f) If the amount of the drug involved equals or exceeds one 1141
thousand grams of hashish in a solid form or equals or exceeds two 1142
hundred grams of hashish in a liquid concentrate, liquid extract, 1143
or liquid distillate form, possession of hashish is a felony of 1144
the second degree, and the court shall impose as a mandatory 1145
prison term the maximum prison term prescribed for a felony of the 1146
second degree. 1147

(D) Arrest or conviction for a minor misdemeanor violation of 1148
this section does not constitute a criminal record and need not be 1149
reported by the person so arrested or convicted in response to any 1150
inquiries about the person's criminal record, including any 1151
inquiries contained in any application for employment, license, or 1152
other right or privilege, or made in connection with the person's 1153
appearance as a witness. 1154

(E) In addition to any prison term authorized or required by 1155
division (C) of this section and sections 2929.13 and 2929.14 of 1156
the Revised Code and in addition to any other sanction that is 1157
imposed for the offense under this section or sections 2929.11 to 1158
2929.18 of the Revised Code, the court that sentences an offender 1159
who is convicted of or pleads guilty to a violation of division 1160
(A) of this section shall do all of the following that are 1161
applicable regarding the offender: 1162

(1)(a) If the violation is a felony of the first, second, or 1163
third degree, the court shall impose upon the offender the 1164
mandatory fine specified for the offense under division (B)(1) of 1165
section 2929.18 of the Revised Code unless, as specified in that 1166

division, the court determines that the offender is indigent. 1167

(b) Notwithstanding any contrary provision of section 3719.21 1168
of the Revised Code, the clerk of the court shall pay a mandatory 1169
fine or other fine imposed for a violation of this section 1170
pursuant to division (A) of section 2929.18 of the Revised Code in 1171
accordance with and subject to the requirements of division (F) of 1172
section 2925.03 of the Revised Code. The agency that receives the 1173
fine shall use the fine as specified in division (F) of section 1174
2925.03 of the Revised Code. 1175

(c) If a person is charged with a violation of this section 1176
that is a felony of the first, second, or third degree, posts 1177
bail, and forfeits the bail, the clerk shall pay the forfeited 1178
bail pursuant to division (E)(1)(b) of this section as if it were 1179
a mandatory fine imposed under division (E)(1)(a) of this section. 1180

(2) The court shall suspend for not less than six months or 1181
more than five years the driver's or commercial driver's license 1182
or permit of any person who is convicted of or has pleaded guilty 1183
to a violation of this section. 1184

(3) If the offender is a professionally licensed person or a 1185
person who has been admitted to the bar by order of the supreme 1186
court in compliance with its prescribed and published rules, in 1187
addition to any other sanction imposed for a violation of this 1188
section, the court forthwith shall comply with section 2925.38 of 1189
the Revised Code. 1190

(F) It is an affirmative defense, as provided in section 1191
2901.05 of the Revised Code, to a charge of a fourth degree felony 1192
violation under this section that the controlled substance that 1193
gave rise to the charge is in an amount, is in a form, is 1194
prepared, compounded, or mixed with substances that are not 1195
controlled substances in a manner, or is possessed under any other 1196
circumstances, that indicate that the substance was possessed 1197

solely for personal use. Notwithstanding any contrary provision of 1198
this section, if, in accordance with section 2901.05 of the 1199
Revised Code, an accused who is charged with a fourth degree 1200
felony violation of division (C)(2), (4), (5), or (6) of this 1201
section sustains the burden of going forward with evidence of and 1202
establishes by a preponderance of the evidence the affirmative 1203
defense described in this division, the accused may be prosecuted 1204
for and may plead guilty to or be convicted of a misdemeanor 1205
violation of division (C)(2) of this section or a fifth degree 1206
felony violation of division (C)(4), (5), or (6) of this section 1207
respectively. 1208

(G) When a person is charged with possessing a bulk amount or 1209
multiple of a bulk amount, division (E) of section 2925.03 of the 1210
Revised Code applies regarding the determination of the amount of 1211
the controlled substance involved at the time of the offense. 1212

Sec. 2925.12. (A) No person shall knowingly make, obtain, 1213
possess, or use any instrument, article, or thing the customary 1214
and primary purpose of which is for the administration or use of a 1215
dangerous drug, other than marihuana, when the instrument involved 1216
is a hypodermic or syringe, whether or not of crude or 1217
extemporized manufacture or assembly, and the instrument, article, 1218
or thing involved has been used by the offender to unlawfully 1219
administer or use a dangerous drug, other than marihuana, or to 1220
prepare a dangerous drug, other than marihuana, for unlawful 1221
administration or use. 1222

(B) This section does not apply to manufacturers, licensed 1223
health professionals authorized to prescribe drugs, pharmacists, 1224
owners of pharmacies, and other persons whose conduct was in 1225
accordance with Chapters 3719., 4715., 4723., 4729., 4731., and 1226
4741. ~~or section 4723.56~~ of the Revised Code. 1227

(C) Whoever violates this section is guilty of possessing 1228

drug abuse instruments, a misdemeanor of the second degree. If the
offender previously has been convicted of a drug abuse offense, a
violation of this section is a misdemeanor of the first degree.

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

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

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

(2) A kit for manufacturing, compounding, converting,	1260
producing, processing, or preparing a controlled substance;	1261
(3) An isomerization device for increasing the potency of any	1262
species of a plant that is a controlled substance;	1263
(4) Testing equipment for identifying, or analyzing the	1264
strength, effectiveness, or purity of, a controlled substance;	1265
(5) A scale or balance for weighing or measuring a controlled	1266
substance;	1267
(6) A diluent or adulterant, such as quinine hydrochloride,	1268
mannitol, mannite, dextrose, or lactose, for cutting a controlled	1269
substance;	1270
(7) A separation gin or sifter for removing twigs and seeds	1271
from, or otherwise cleaning or refining, marihuana;	1272
(8) A blender, bowl, container, spoon, or mixing device for	1273
compounding a controlled substance;	1274
(9) A capsule, balloon, envelope, or container for packaging	1275
small quantities of a controlled substance;	1276
(10) A container or device for storing or concealing a	1277
controlled substance;	1278
(11) A hypodermic syringe, needle, or instrument for	1279
parenterally injecting a controlled substance into the human body;	1280
(12) An object, instrument, or device for ingesting,	1281
inhaling, or otherwise introducing into the human body, marihuana,	1282
cocaine, hashish, or hashish oil, such as a metal, wooden,	1283
acrylic, glass, stone, plastic, or ceramic pipe, with or without a	1284
screen, permanent screen, hashish head, or punctured metal bowl;	1285
water pipe; carburetion tube or device; smoking or carburetion	1286
mask; roach clip or similar object used to hold burning material,	1287
such as a marihuana cigarette, that has become too small or too	1288
short to be held in the hand; miniature cocaine spoon, or cocaine	1289

vial; chamber pipe; carburetor pipe; electric pipe; air driver	1290
pipe; chillum; bong; or ice pipe or chiller.	1291
(B) In determining if an object is drug paraphernalia, a	1292
court or law enforcement officer shall consider, in addition to	1293
other relevant factors, the following:	1294
(1) Any statement by the owner, or by anyone in control, of	1295
the object, concerning its use;	1296
(2) The proximity in time or space of the object, or of the	1297
act relating to the object, to a violation of any provision of	1298
this chapter;	1299
(3) The proximity of the object to any controlled substance;	1300
(4) The existence of any residue of a controlled substance on	1301
the object;	1302
(5) Direct or circumstantial evidence of the intent of the	1303
owner, or of anyone in control, of the object, to deliver it to	1304
any person whom the owner or person in control of the object knows	1305
intends to use the object to facilitate a violation of any	1306
provision of this chapter. A finding that the owner, or anyone in	1307
control, of the object, is not guilty of a violation of any other	1308
provision of this chapter does not prevent a finding that the	1309
object was intended or designed by the offender for use as drug	1310
paraphernalia.	1311
(6) Any oral or written instruction provided with the object	1312
concerning its use;	1313
(7) Any descriptive material accompanying the object and	1314
explaining or depicting its use;	1315
(8) National or local advertising concerning the use of the	1316
object;	1317
(9) The manner and circumstances in which the object is	1318
displayed for sale;	1319

(10) Direct or circumstantial evidence of the ratio of the sales of the object to the total sales of the business enterprise; (1320-1321)

(11) The existence and scope of legitimate uses of the object in the community; (1322-1323)

(12) Expert testimony concerning the use of the object. (1324)

(C)(1) No person shall knowingly use, or possess with purpose to use, drug paraphernalia. (1325-1326)

(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. (1327-1330)

(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. (1331-1337)

(D) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 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. (1338-1344)

(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 (1345-1349)

(D)(8) of section 2933.41 of the Revised Code.	1350
(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.	1351 1352 1353
(2) Except as provided in division (F)(3) of this section, whoever violates division (C)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.	1354 1355 1356
(3) Whoever violates division (C)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.	1357 1358 1359
(4) Whoever violates division (C)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.	1360 1361 1362
(G) In addition to any other sanction imposed for a violation of this section, the court shall suspend for not less than six months or more than five years the driver's or commercial driver's license or permit of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules, in addition to any other sanction imposed for a violation of this section, the court forthwith shall comply with section 2925.38 of the Revised Code.	1363 1364 1365 1366 1367 1368 1369 1370 1371 1372 1373
Sec. 2925.23. (A) No person shall knowingly make a false statement in any prescription, order, report, or record required by Chapter 3719. or 4729. of the Revised Code.	1374 1375 1376
(B) No person shall intentionally make, utter, or sell, or knowingly possess any of the following that is a false or forged:	1377 1378
(1) Prescription;	1379

(2) Uncompleted preprinted prescription blank used for writing a prescription;	1380 1381
(3) Official written order;	1382
(4) License for a terminal distributor of dangerous drugs as required in section 4729.60 of the Revised Code;	1383 1384
(5) Registration certificate for a wholesale distributor of dangerous drugs as required in section 4729.60 of the Revised Code.	1385 1386 1387
(C) No person, by theft as defined in section 2913.02 of the Revised Code, shall acquire any of the following:	1388 1389
(1) A prescription;	1390
(2) An uncompleted preprinted prescription blank used for writing a prescription;	1391 1392
(3) An official written order;	1393
(4) A blank official written order;	1394
(5) A license or blank license for a terminal distributor of dangerous drugs as required in section 4729.60 of the Revised Code;	1395 1396 1397
(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.	1398 1399 1400
(D) No person shall knowingly make or affix any false or forged label to a package or receptacle containing any dangerous drugs.	1401 1402 1403
(E) Divisions (A) and (D) of this section do not apply to licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723. , 4725., 4729., 4731., and 4741. of the Revised Code or section 4723.56 of the	1404 1405 1406 1407 1408

~~Revised Code.~~ 1409

(F) Whoever violates this section is guilty of illegal 1410
processing of drug documents. If the offender violates division 1411
(B)(2), (4), or (5) or division (C)(2), (4), (5), or (6) of this 1412
section, illegal processing of drug documents is a felony of the 1413
fifth degree. If the offender violates division (B)(1) or (3), 1414
division (C)(1) or (3), or division (D) of this section, the 1415
penalty for illegal processing of drug documents shall be 1416
determined as follows: 1417

(1) If the drug involved is a compound, mixture, preparation, 1418
or substance included in schedule I or II, with the exception of 1419
marihuana, illegal processing of drug documents is a felony of the 1420
fourth degree, and division (C) of section 2929.13 of the Revised 1421
Code applies in determining whether to impose a prison term on the 1422
offender. 1423

(2) If the drug involved is a dangerous drug or a compound, 1424
mixture, preparation, or substance included in schedule III, IV, 1425
or V or is marihuana, illegal processing of drug documents is a 1426
felony of the fifth degree, and division (C) of section 2929.13 of 1427
the Revised Code applies in determining whether to impose a prison 1428
term on the offender. 1429

(G) In addition to any prison term authorized or required by 1430
division (F) of this section and sections 2929.13 and 2929.14 of 1431
the Revised Code and in addition to any other sanction imposed for 1432
the offense under this section or sections 2929.11 to 2929.18 of 1433
the Revised Code, the court that sentences an offender who is 1434
convicted of or pleads guilty to any violation of divisions (A) to 1435
(D) of this section shall do both of the following: 1436

(1) The court shall suspend for not less than six months or 1437
more than five years the driver's or commercial driver's license 1438
or permit of any person who is convicted of or has pleaded guilty 1439

to a violation of this section. 1440

(2) If the offender is a professionally licensed person or a 1441
person who has been admitted to the bar by order of the supreme 1442
court in compliance with its prescribed and published rules, in 1443
addition to any other sanction imposed for a violation of this 1444
section, the court forthwith shall comply with section 2925.38 of 1445
the Revised Code. 1446

(H) Notwithstanding any contrary provision of section 3719.21 1447
of the Revised Code, the clerk of court shall pay a fine imposed 1448
for a violation of this section pursuant to division (A) of 1449
section 2929.18 of the Revised Code in accordance with and subject 1450
to the requirements of division (F) of section 2925.03 of the 1451
Revised Code. The agency that receives the fine shall use the fine 1452
as specified in division (F) of section 2925.03 of the Revised 1453
Code. 1454

Sec. 2925.36. (A) No person shall knowingly furnish another a 1455
sample drug. 1456

(B) Division (A) of this section does not apply to 1457
manufacturers, wholesalers, pharmacists, owners of pharmacies, 1458
~~dentists, doctors of medicine and surgery, doctors of osteopathic~~ 1459
~~medicine and surgery, doctors of podiatry, veterinarians~~ licensed 1460
health professionals authorized to prescribe drugs, and other 1461
persons whose conduct is in accordance with Chapters 3719., 4715., 1462
4723., 4725., 4729., 4731., and 4741. of the Revised Code ~~or to~~ 1463
~~optometrists whose conduct is in accordance with a valid~~ 1464
~~therapeutic pharmaceutical agents certificate issued under Chapter~~ 1465
~~4725. of the Revised Code.~~ 1466

(C)(1) Whoever violates this section is guilty of illegal 1467
dispensing of drug samples. 1468

(2) If the drug involved in the offense is a compound, 1469

mixture, preparation, or substance included in schedule I or II, 1470
with the exception of marihuana, the penalty for the offense shall 1471
be determined as follows: 1472

(a) Except as otherwise provided in division (C)(2)(b) of 1473
this section, illegal dispensing of drug samples is a felony of 1474
the fifth degree, and, subject to division (E) of this section, 1475
division (C) of section 2929.13 of the Revised Code applies in 1476
determining whether to impose a prison term on the offender. 1477

(b) If the offense was committed in the vicinity of a school 1478
or in the vicinity of a juvenile, illegal dispensing of drug 1479
samples is a felony of the fourth degree, and, subject to division 1480
(E) of this section, division (C) of section 2929.13 of the 1481
Revised Code applies in determining whether to impose a prison 1482
term on the offender. 1483

(3) If the drug involved in the offense is a dangerous drug 1484
or a compound, mixture, preparation, or substance included in 1485
schedule III, IV, or V, or is marihuana, the penalty for the 1486
offense shall be determined as follows: 1487

(a) Except as otherwise provided in division (C)(3)(b) of 1488
this section, illegal dispensing of drug samples is a misdemeanor 1489
of the second degree. 1490

(b) If the offense was committed in the vicinity of a school 1491
or in the vicinity of a juvenile, illegal dispensing of drug 1492
samples is a misdemeanor of the first degree. 1493

(D) In addition to any prison term authorized or required by 1494
division (C) or (E) of this section and sections 2929.13 and 1495
2929.14 of the Revised Code and in addition to any other sanction 1496
imposed for the offense under this section or sections 2929.11 to 1497
2929.18 of the Revised Code, the court that sentences an offender 1498
who is convicted of or pleads guilty to a violation of division 1499
(A) of this section shall do both of the following: 1500

(1) The court shall suspend for not less than six months or 1501
more than five years the driver's or commercial driver's license 1502
or permit of any person who is convicted of or has pleaded guilty 1503
to a violation of this section. 1504

(2) If the offender is a professionally licensed person or a 1505
person who has been admitted to the bar by order of the supreme 1506
court in compliance with its prescribed and published rules, in 1507
addition to any other sanction imposed for a violation of this 1508
section, the court forthwith shall comply with section 2925.38 of 1509
the Revised Code. 1510

(E) Notwithstanding the prison term authorized or required by 1511
division (C) of this section and sections 2929.13 and 2929.14 of 1512
the Revised Code, if the violation of division (A) of this section 1513
involves the sale, offer to sell, or possession of a schedule I or 1514
II controlled substance, with the exception of marihuana, and if 1515
the court imposing sentence upon the offender finds that the 1516
offender as a result of the violation is a major drug offender and 1517
is guilty of a specification of the type described in section 1518
2941.1410 of the Revised Code, the court, in lieu of the prison 1519
term otherwise authorized or required, shall impose upon the 1520
offender the mandatory prison term specified in division (D)(3)(a) 1521
of section 2929.14 of the Revised Code and may impose an 1522
additional prison term under division (D)(3)(b) of that section. 1523
1524

(F) Notwithstanding any contrary provision of section 3719.21 1525
of the Revised Code, the clerk of the court shall pay a fine 1526
imposed for a violation of this section pursuant to division (A) 1527
of section 2929.18 of the Revised Code in accordance with and 1528
subject to the requirements of division (F) of section 2925.03 of 1529
the Revised Code. The agency that receives the fine shall use the 1530
fine as specified in division (F) of section 2925.03 of the 1531
Revised Code. 1532

Sec. 3719.06. (A)(1) A licensed health professional 1533
authorized to prescribe drugs, if acting in the course of 1534
professional practice, in accordance with the laws regulating the 1535
professional's practice, and in accordance with rules adopted by 1536
the state board of pharmacy, may, except as provided in division 1537
(A)(2) of this section, do the following: 1538

~~(1)~~(a) Prescribe schedule II, III, IV, and V controlled 1539
substances; 1540

~~(2)~~(b) Administer or personally furnish to patients schedule 1541
II, III, IV, and V controlled substances; 1542

~~(3)~~(c) Cause schedule II, III, IV, and V controlled 1543
substances to be administered under the prescriber's direction and 1544
supervision. 1545

(2) A licensed health professional authorized to prescribe 1546
drugs who is a clinical nurse specialist, certified nurse-midwife, 1547
or certified nurse practitioner is subject to both of the 1548
following: 1549

(a) A schedule II controlled substance may be prescribed only 1550
for a patient with a terminal condition, as defined in section 1551
2133.01 of the Revised Code, only if the nurse's collaborating 1552
physician initially prescribed the substance for the patient, and 1553
only in an amount that does not exceed the amount necessary for 1554
the patient's use in a single, twenty-four-hour period. 1555

(b) No controlled substance shall be personally furnished to 1557
any patient. 1558

(B) No licensed health professional authorized to prescribe 1559
drugs shall prescribe, administer, or personally furnish a 1560
schedule III anabolic steroid for the purpose of human muscle 1561
building or enhancing human athletic performance and no pharmacist 1562

shall dispense a schedule III anabolic steroid for either purpose, 1563
unless it has been approved for that purpose under the "Federal 1564
Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 1565
301, as amended. 1566

(C) Each written prescription shall be properly executed, 1567
dated, and signed by the prescriber on the day when issued and 1568
shall bear the full name and address of the person for whom, or 1569
the owner of the animal for which, the controlled substance is 1570
prescribed and the full name, address, and registry number under 1571
the federal drug abuse control laws of the prescriber. If the 1572
prescription is for an animal, it shall state the species of the 1573
animal for which the controlled substance is prescribed. 1574

Sec. 3719.81. (A) A person may furnish another a sample of 1575
any drug of abuse, or of any drug or pharmaceutical preparation 1576
that would be hazardous to health or safety if used without the 1577
supervision of a licensed health professional authorized to 1578
prescribe drugs, if all of the following apply: 1579

(1) The sample is furnished by a manufacturer, manufacturer's 1580
representative, or wholesale dealer in pharmaceuticals to a 1581
licensed health professional authorized to prescribe drugs, or is 1582
furnished by such a professional to a patient for use as 1583
medication; 1584

(2) The drug is in the original container in which it was 1585
placed by the manufacturer, and the container is plainly marked as 1586
a sample; 1587

(3) Prior to its being furnished, the drug sample has been 1588
stored under the proper conditions to prevent its deterioration or 1589
contamination; 1590

(4) If the drug is of a type which deteriorates with time, 1591
the sample container is plainly marked with the date beyond which 1592

the drug sample is unsafe to use, and the date has not expired on 1593
the sample furnished. Compliance with the labeling requirements of 1594
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 1595
21 U.S.C.A. 301, as amended, shall be deemed compliance with this 1596
section. 1597

(5) The drug is distributed, stored, or discarded in such a 1598
way that the drug sample may not be acquired or used by any 1599
unauthorized person, or by any person, including a child, for whom 1600
it may present a health or safety hazard. 1601

(B) Division (A) of this section does not do any of the 1602
following: 1603

(1) Apply to or restrict the furnishing of any sample of a 1604
nonnarcotic substance if the substance may, under the "Federal 1605
Food, Drug, and Cosmetic Act" and under the laws of this state, 1606
otherwise be lawfully sold over the counter without a 1607
prescription; 1608

(2) Authorize ~~an~~ A LICENSED HEALTH PROFESSIONAL AUTHORIZED TO 1609
PRESCRIBE DRUGS WHO IS A CLINICAL NURSE SPECIALIST, CERTIFIED 1610
NURSE-MIDWIFE, CERTIFIED NURSE PRACTITIONER, OR advanced practice 1611
nurse to furnish a sample of ~~any a~~ drug that is not a drug the 1612
nurse is authorized to prescribe; 1613

(3) Authorize an optometrist to furnish a sample of a drug 1614
that is not a drug the optometrist is authorized to prescribe. 1615

(C) The state board of pharmacy shall, in accordance with 1616
Chapter 119. of the Revised Code, adopt rules as necessary to give 1617
effect to this section. 1618

Sec. 4723.02. As used in this chapter: 1619

(A) "Registered nurse" means an individual who holds a 1620
current, valid license issued under this chapter that authorizes 1621
the practice of nursing as a registered nurse. 1622

(B) "Practice of nursing as a registered nurse" means 1623
providing to individuals and groups nursing care requiring 1624
specialized knowledge, judgment, and skill derived from the 1625
principles of biological, physical, behavioral, social, and 1626
nursing sciences. Such nursing care includes: 1627

(1) Identifying patterns of human responses to actual or 1628
potential health problems amenable to a nursing regimen; 1629

(2) Executing a nursing regimen through the selection, 1630
performance, management, and evaluation of nursing actions; 1631

(3) Assessing health status for the purpose of providing 1632
nursing care; 1633

(4) Providing health counseling and health teaching; 1634

(5) Administering medications, treatments, and executing 1635
regimens ~~prescribed by licensed physicians; dentists;~~ 1636
~~optometrists; podiatrists; or, until January 1, 2010, advanced~~ 1637
~~practice nurses authorized to prescribe under section 4723.56 of~~ 1638
~~the Revised Code~~ authorized by an individual who is authorized to 1639
practice in this state and is acting within the course of the 1640
individual's professional practice; 1641

(6) Teaching, administering, supervising, delegating, and 1642
evaluating nursing practice. 1643

(C) "Nursing regimen" may include preventative, restorative, 1644
and health-promotion activities. 1645

(D) "Assessing health status" means the collection of data 1646
through nursing assessment techniques, which may include 1647
interviews, observation, and physical evaluations for the purpose 1648
of providing nursing care. 1649

(E) "Licensed practical nurse" means an individual who holds 1650
a current, valid license issued under this chapter that authorizes 1651
the practice of nursing as a licensed practical nurse. 1652

(F) "The practice of nursing as a licensed practical nurse" 1653
means providing to individuals and groups nursing care requiring 1654
the application of basic knowledge of the biological, physical, 1655
behavioral, social, and nursing sciences at the direction of a 1656
licensed physician, dentist, podiatrist, optometrist, or 1657
registered nurse. Such nursing care includes: 1658

(1) Observation, patient teaching, and care in a diversity of 1659
health care settings; 1660

(2) Contributions to the planning, implementation, and 1661
evaluation of nursing; 1662

(3) Administration of medications and treatments ~~prescribed~~ 1663
~~by a licensed physician; dentist; optometrist; podiatrist; or,~~ 1664
~~until January 1, 2010, an advanced practice nurse authorized to~~ 1665
~~prescribe under section 4723.56 of the Revised Code~~ authorized by 1666
an individual who is authorized to practice in this state and is 1667
acting within the course of the individual's professional 1668
practice, except that administration of intravenous therapy shall 1669
be performed only in accordance with section ~~4723.48~~ 4723.17 of 1670
the Revised Code. Medications may be administered by a licensed 1671
practical nurse upon proof of completion of a course in medication 1672
administration approved by the board of nursing. 1673

(4) Administration to an adult of intravenous therapy 1674
~~prescribed by a licensed physician; dentist; optometrist;~~ 1675
~~podiatrist; or, until January 1, 2010, an advanced practice nurse~~ 1676
~~authorized to prescribe under section 4723.56 of the Revised Code~~ 1677
authorized by an individual who is authorized to practice in this 1678
state and is acting within the course of the individual's 1679
professional practice, on the condition that the licensed 1680
practical nurse is authorized by the board of nursing pursuant to 1681
section ~~4723.48~~ 4723.17 of the Revised Code to perform intravenous 1682
therapy and performs intravenous therapy only in accordance with 1683

section ~~4723.48~~ 4723.17 of the Revised Code. 1684

(G) "Certified registered nurse anesthetist" means a 1685
registered nurse who holds a valid certificate of authority issued 1686
under this chapter that authorizes the practice of nursing as a 1687
certified registered nurse anesthetist in accordance with section 1688
4723.43 of the Revised Code and rules adopted by the board of 1689
nursing. 1690

(H) "Clinical nurse specialist" means a registered nurse who 1691
holds a valid certificate of authority issued under this chapter 1692
that authorizes the practice of nursing as a clinical nurse 1693
specialist in accordance with section 4723.43 of the Revised Code 1694
and rules adopted by the board of nursing. 1695

(I) "Certified nurse-midwife" means a registered nurse who 1696
holds a valid certificate of authority issued under this chapter 1697
that authorizes the practice of nursing as a certified 1698
nurse-midwife in accordance with section 4723.43 of the Revised 1699
Code and rules adopted by the board of nursing. 1700

(J) "Certified nurse practitioner" means a registered nurse 1701
who holds a valid certificate of authority issued under this 1702
chapter that authorizes the practice of nursing as a certified 1703
nurse practitioner in accordance with section 4723.43 of the 1704
Revised Code and rules adopted by the board of nursing. 1705

(K) "Physician" means an individual ~~who holds a certificate~~ 1706
~~issued~~ authorized under Chapter 4731. of the Revised Code 1707
~~authorizing the~~ to practice of medicine and surgery or osteopathic 1708
medicine and surgery ~~and is practicing in this state.~~ 1709

(L) ~~"Dentist" means an individual who is licensed under~~ 1710
~~Chapter 4715. of the Revised Code to practice dentistry and is~~ 1711
~~practicing in this state.~~ 1712

(M) ~~"Podiatrist" means an individual who holds a certificate~~ 1713
~~issued under Chapter 4731. of the Revised Code authorizing the~~ 1714

~~practice of podiatry and is practicing in this state.~~ 1715

~~(N)~~ "Collaboration" or "collaborating" means the following: 1716

(1) In the case of a clinical nurse specialist, except as 1717
provided in division ~~(N)~~(L)(3) of this section, or a certified 1718
nurse practitioner, that ~~a podiatrist~~ one or more podiatrists 1719
acting within the ~~podiatrist's~~ scope of practice of podiatry in 1720
accordance with section 4731.51 of the Revised Code and with whom 1721
the nurse has entered into a standard care arrangement or 1722
~~physician~~ one or more physicians with whom the nurse has entered 1723
into a standard care arrangement ~~is~~ are continuously available to 1724
communicate with the clinical nurse specialist or certified nurse 1725
practitioner either in person or by radio, telephone, or other 1726
form of telecommunication; 1727

(2) In the case of a certified nurse-midwife, that a 1728
~~physician~~ one or more physicians with whom the certified 1729
nurse-midwife has entered into a standard care arrangement ~~is~~ are 1730
continuously available to communicate with the certified 1731
nurse-midwife either in person or by radio, telephone, or other 1732
form of telecommunication; 1733

(3) In the case of a clinical nurse specialist ~~whose~~ who 1734
practices the nursing specialty ~~is~~ of mental health or psychiatric 1735
mental health without being authorized to prescribe drugs and 1736
therapeutic devices, that ~~a physician is~~ one or more physicians 1737
are continuously available to communicate with the nurse either in 1738
person or by radio, telephone, or other form of telecommunication. 1739

~~(O)~~(M) "Supervision," as it pertains to a certified 1740
registered nurse anesthetist, means that a the certified 1741
registered nurse anesthetist is under the direction of a 1742
podiatrist acting within the podiatrist's scope of practice in 1743
accordance with section 4731.51 of the Revised Code, a dentist 1744
acting within the dentist's scope of practice in accordance with 1745

Chapter 4715. of the Revised Code, or a physician, and, when 1746
administering anesthesia, the certified registered nurse 1747
anesthetist is in the immediate presence of the podiatrist, 1748
dentist, or physician. 1749

~~(P)~~(N) "Standard care arrangement," except as it pertains to 1750
an advanced practice nurse, means a written, formal guide for 1751
planning and evaluating a patient's health care that is developed 1752
by a one or more collaborating ~~physician~~ physicians or ~~podiatrist~~ 1753
podiatrists and a clinical nurse specialist, certified 1754
nurse-midwife, or certified nurse practitioner and meets the 1755
requirements of section 4723.431 of the Revised Code. 1756

(O) "Advanced practice nurse," until three years and eight 1757
months after this amendment, means a registered nurse who is 1758
approved by the board of nursing under section 4723.55 of the 1759
Revised Code to practice as an advanced practice nurse. 1760

Sec. 4723.04. The state nurses' board shall be known as the 1761
board of nursing. The board shall assume and exercise all the 1762
powers and perform all the duties conferred and imposed on it by 1763
this chapter concerning nurses and nursing and the regulation 1764
thereof. The board shall consist of thirteen members who shall be 1765
citizens of the United States and residents of Ohio. Eight members 1766
shall be registered nurses, each of whom shall be a graduate of an 1767
approved program of nursing education that prepares persons for 1768
licensure as a registered nurse, shall hold a currently active 1769
license issued under this chapter to practice nursing as a 1770
registered nurse, and shall have been actively engaged in the 1771
practice of nursing as a registered nurse for the five years 1772
immediately preceding the member's initial appointment to the 1773
board. Of the eight members who are registered nurses, at least 1774
one shall hold a valid certificate of authority issued under this 1775
chapter that authorizes the practice of nursing as a certified 1776

registered nurse anesthetist, clinical nurse specialist, certified 1777
nurse-midwife, or certified nurse practitioner. Four members shall 1778
be licensed practical nurses, each of whom shall be a graduate of 1779
an approved program of nursing education that prepares persons for 1780
licensure as a practical nurse, shall hold a currently active 1781
license issued under this chapter to practice nursing as a 1782
licensed practical nurse, and shall have been actively engaged in 1783
the practice of nursing as a licensed practical nurse for the five 1784
years immediately preceding the member's initial appointment to 1785
the board. One member shall represent the interests of consumers 1786
of health care. Neither this member nor any person in the member's 1787
immediate family shall be a member of or associated with a health 1788
care provider or profession or shall have a financial interest in 1789
the delivery or financing of health care. Representation of 1790
nursing service and nursing education and of the various 1791
geographical areas of the state shall be considered in making 1792
appointments. As the term of any member of the board expires, a 1793
successor shall be appointed who has the qualifications the 1794
vacancy requires. Terms of office shall be for five years, 1795
commencing on the first day of January and ending on the 1796
thirty-first day of December. Each member shall hold office from 1797
the date of appointment until the end of the term for which the 1798
member was appointed. The term of a member shall expire if the 1799
member ceases to meet any requirement of this section for the 1800
member's position on the board. Any member appointed to fill a 1801
vacancy occurring prior to the expiration of the term for which 1802
~~her~~ the member's predecessor was appointed shall hold office for 1803
the remainder of such term. A person who has served a full term on 1804
the board or more than thirty months of the remainder of the term 1805
of a predecessor shall not be eligible for a subsequent 1806
appointment to the board. Any member shall continue in office 1807
subsequent to the expiration date of ~~her~~ the member's term until 1808

~~her~~ the member's successor takes office, or until a period of 1809
sixty days has elapsed, whichever occurs first. Nursing 1810
organizations of this state may each submit to the governor the 1811
names of not more than five nominees for each position to be 1812
filled on the board. From the names so submitted or from others, 1813
at ~~his~~ the governor's discretion, the governor with the advice and 1814
consent of the senate shall make such appointments. 1815

Any member of the board may be removed by the governor for 1816
neglect of any duty required by law or for incompetency or 1817
unprofessional or dishonorable conduct, after a hearing as 1818
provided in Chapter 119. of the Revised Code. Seven members of the 1819
board including at least four registered nurses and at least one 1820
licensed practical nurse shall at all times constitute a quorum. 1821

Each member of the board shall receive an amount fixed 1823
pursuant to division (J) of section 124.15 of the Revised Code for 1824
each day in attendance at board meetings and in discharge of 1825
official duties, and in addition thereto, necessary expense 1826
incurred in the performance of such duties. 1827

The board shall elect one of its nurse members as president 1828
and one as vice-president. 1829

The board may establish advisory groups to serve in 1830
consultation with the board or the executive director. Each 1831
advisory group shall be given a specific charge in writing and 1832
shall report to the board. Members of advisory groups shall serve 1833
without compensation but shall receive their actual and necessary 1834
expenses incurred in the performance of their official duties. 1835

Sec. 4723.06. (A) The board of nursing shall: 1836

(1) Administer and enforce the provisions of this chapter, 1837
including the taking of disciplinary action for violations of 1838

section 4723.28 of the Revised Code, any other provisions of this 1839
chapter, or rules promulgated under Chapter 119. of the Revised 1840
Code; 1841

(2) Examine applicants for licensure to practice as a 1842
registered nurse or as a licensed practical nurse; 1843

(3) Issue and renew licenses as provided in this chapter; 1844

(4) Define the minimum curricula and standards for 1845
educational programs of the schools of professional nursing and 1846
schools of practical nursing in this state; 1847

(5) Survey, inspect, and grant full approval to prelicensure 1848
nursing education programs that meet the standards established by 1849
rules adopted under section 4723.07 of the Revised Code. 1850
Prelicensure nursing education programs include, but are not 1851
limited to, associate degree, baccalaureate degree, diploma, and 1852
doctor of nursing programs leading to initial licensure to 1853
practice nursing as a registered nurse and practical nurse 1854
programs leading to initial licensure to practice nursing as a 1855
licensed practical nurse. 1856

(6) Grant conditional approval, by a vote of a quorum of the 1857
board, to a new prelicensure nursing education program or a 1858
program that is being reestablished after having ceased to 1859
operate, if the program meets and maintains the minimum standards 1860
of the board established by rules adopted under section 4723.07 of 1861
the Revised Code. If the board does not grant conditional 1862
approval, it shall hold a hearing under Chapter 119. of the 1863
Revised Code to consider conditional approval of the program. If 1864
the board grants conditional approval, at its first meeting after 1865
the first class has completed the program, the board shall 1866
determine whether to grant full approval to the program. If the 1867
board does not grant full approval or if it appears that the 1868
program has failed to meet and maintain standards established by 1869

rules adopted under section 4723.07 of the Revised Code, the board 1870
shall hold a hearing under Chapter 119. of the Revised Code to 1871
consider the program. Based on results of the hearing, the board 1872
may continue or withdraw conditional approval, or grant full 1873
approval. 1874

(7) Place on provisional approval, for a period of time 1875
specified by the board, a program that has ceased to meet and 1876
maintain the minimum standards of the board established by rules 1877
adopted under section 4723.07 of the Revised Code. At the end of 1878
the period, the board shall reconsider whether the program meets 1879
the standards and shall grant full approval if it does. If it does 1880
not, the board may withdraw approval, pursuant to a hearing under 1881
Chapter 119. of the Revised Code. 1882

(8) Approve continuing nursing education programs and courses 1883
under standards established in rules adopted under section 4723.07 1884
of the Revised Code; 1885

(9) Approve peer support programs for nurses under rules 1886
adopted under section 4723.07 of the Revised Code; 1887

(10) Establish the alternative program for chemically 1888
dependent nurses in accordance with section 4723.35 of the Revised 1889
Code; 1890

(11) Establish the practice intervention and improvement 1891
program in accordance with section 4723.282 of the Revised Code; 1892

(12) Issue and renew certificates of authority to practice 1893
nursing as a certified registered nurse anesthetist, clinical 1894
nurse specialist, certified nurse-midwife, or certified nurse 1895
practitioner; 1896

(13) Approve under section 4723.46 of the Revised Code 1897
national certifying organizations for examination and 1898
certification of certified registered nurse anesthetists, clinical 1899

nurse specialists, certified nurse-midwives, or certified nurse practitioners;	1900 1901
(14) <u>Issue and renew certificates to prescribe in accordance with sections 4723.48 and 4723.484 of the Revised Code;</u>	1902 1903
(15) <u>Grant approval to the planned classroom and clinical study required by section 4723.483 of the Revised Code to be eligible for a certificate to prescribe;</u>	1904 1905 1906
(16) <u>Make an annual edition of the formulary established in rules adopted under section 4723.50 of the Revised Code available to the public either in printed form or by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public in printed form or by electronic means;</u>	1907 1908 1909 1910 1911 1912
<u>(17)</u> Make an annual report to the governor, which shall be open for public inspection;	1913 1914
(15) (18) Maintain and have open for public inspection the following records:	1915 1916
(a) A record of all its meetings and proceedings;	1917
(b) A file of applicants for and holders of licenses, registrations, and certificates granted under this chapter. The file shall be maintained in the form prescribed by rule of the board.	1918 1919 1920 1921
(c) A list of prelicensure nursing education programs approved by the board;	1922 1923
(d) A list of approved peer support programs for nurses.	1924
(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under division (F) of section 4723.07 of the Revised Code to approve continuing nursing education programs and courses. Persons so authorized shall approve	1925 1926 1927 1928 1929

continuing nursing education programs and courses in accordance 1930
with standards established in rules adopted under division (E) of 1931
section 4723.07 of the Revised Code. 1932

Persons seeking authorization to approve continuing nursing 1933
education programs and courses shall apply to the board and pay 1934
the appropriate fee established under section 4723.08 of the 1935
Revised Code. Authorizations to approve continuing nursing 1936
education programs and courses shall expire at the end of the 1937
two-year period beginning the date of issuance and may be renewed 1938
by the board. 1939

Sec. 4723.08. (A) The board of nursing may impose fees not to 1940
exceed the following limits: 1941

(1) For application for licensure by examination to practice 1942
nursing as a registered nurse or as a licensed practical nurse, 1943
fifty dollars; 1944

(2) For application for licensure by endorsement to practice 1945
nursing as a registered nurse or as a licensed practical nurse, 1946
fifty dollars; 1947

(3) For application for a certificate of authority to 1948
practice nursing as a certified registered nurse anesthetist, 1949
clinical nurse specialist, certified nurse-midwife, or certified 1950
nurse practitioner, one hundred dollars; 1951

(4) For application for a certificate to prescribe, fifty 1952
dollars; 1953

(5) For verification of a license or certificate to another 1954
jurisdiction, fifteen dollars; 1955

~~(5)~~(6) For providing a replacement copy of a license or 1956
certificate, fifteen dollars; 1957

~~(6)~~(7) For biennial renewal of any license, thirty-five 1958

dollars;	1959
(7) (8) For biennial renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, one hundred dollars;	1960 1961 1962 1963
(8) (9) <u>For renewal of a certificate to prescribe, fifty dollars;</u>	1964 1965
(10) For processing a late application for renewal of any license or certificate, fifty dollars;	1966 1967
(9) (11) For application for authorization to approve continuing nursing education programs and courses from an applicant accredited by a national accreditation system for nursing, five hundred dollars;	1968 1969 1970 1971
(10) (12) For application for authorization to approve continuing nursing education programs and courses from an applicant not accredited by a national accreditation system for nursing, one thousand dollars;	1972 1973 1974 1975
(11) (13) For each year for which authorization to approve continuing nursing education programs and courses is renewed, one hundred fifty dollars;	1976 1977 1978
(12) (14) For written verification of a license or certificate, other than verification to another jurisdiction, five dollars. The board may contract for services pertaining to this verification process and the collection of the fee, and may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.	1979 1980 1981 1982 1983 1984
(B) Each quarter, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding quarter and the amount equal to that number times five dollars.	1985 1986 1987 1988

Sec. 4723.151. (A) Medical diagnosis, prescription of medical measures, and the practice of medicine or surgery or any of its branches by a nurse are prohibited.

~~Nothing in (B) Division (A) of this section prohibits~~ does not prohibit a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner from practicing within the nurse's scope of practice in accordance with section 4723.43 of the Revised Code. Division (A) of this section does not prohibit a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code from prescribing drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

(C) Notwithstanding division (B) of this section, nothing in this chapter shall be construed as authorizing any nurse to prescribe any drug or device to perform or induce an abortion, or to otherwise perform or induce an abortion.

Sec. ~~4723.48~~ 4723.17. (A) The board of nursing may authorize a licensed practical nurse to administer to an adult intravenous therapy ~~prescribed by a licensed physician; dentist; optometrist; podiatrist; or, until January 1, 2010, an advanced practice nurse authorized to prescribe under section 4723.56 of the Revised Code~~ authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, if all of the following are true of the licensed practical nurse:

(1) The nurse has a current, valid license issued under this chapter that includes authorization to administer medications.

(2) The nurse has successfully completed a course in intravenous administration approved by the board of nursing that

includes both of the following:	2019
(a) A minimum of forty hours of training that includes all of the following:	2020 2021
(i) The curriculum established by rules adopted by the board of nursing and in effect on January 1, 1999;	2022 2023
(ii) Training in the anatomy and physiology of the cardiovascular system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for management of these complications;	2024 2025 2026 2027
(iii) Any other training or instruction the board considers appropriate.	2028 2029
(b) A testing component that includes three venipunctures supervised by a physician or registered nurse in a health care setting.	2030 2031 2032
(B) A licensed practical nurse may perform intravenous therapy only if authorized by the board of nursing pursuant to division (A) of this section and only if it is performed in accordance with this section.	2033 2034 2035 2036
A licensed practical nurse authorized to perform intravenous therapy may perform an intravenous therapy procedure only at the direction of one of the following:	2037 2038 2039
(1) A licensed physician, dentist, optometrist, or podiatrist who, except as provided in division (C)(2) of this section, is present and readily available at the facility where the intravenous therapy procedure is performed;	2040 2041 2042 2043
(2) A registered nurse in accordance with division (C) of this section.	2044 2045
(C)(1) Except as provided in division (C)(2) of this section, when a licensed practical nurse authorized to perform intravenous therapy performs an intravenous therapy procedure at the direction	2046 2047 2048

of a registered nurse, the registered nurse or another registered
nurse shall be readily available at the site where the intravenous
therapy is performed, and before the licensed practical nurse
initiates the intravenous therapy, the registered nurse shall
personally perform an on-site assessment of the individual who is
to receive the intravenous therapy.

(2) When a licensed practical nurse authorized to perform
intravenous therapy performs an intravenous therapy procedure in a
home as defined in section 3721.10 of the Revised Code, or in an
intermediate care facility for the mentally retarded as defined in
section 5111.20 of the Revised Code, at the direction of a
registered nurse or licensed physician, dentist, optometrist, or
podiatrist, a registered nurse shall be on the premises of the
home or facility or accessible by some form of telecommunication.

(D) No licensed practical nurse shall perform any of the
following intravenous therapy procedures:

(1) Initiating or maintaining any of the following:

(a) Blood or blood components;

(b) Solutions for total parenteral nutrition;

(c) Any cancer therapeutic medication including, but not
limited to, cancer chemotherapy or an anti-neoplastic agent;

(d) Solutions administered through any central venous line or
arterial line or any other line that does not terminate in a
peripheral vein, except that a licensed practical nurse may
maintain the solutions specified in division (D)(6) of this
section that are being administered through a central venous line
or peripherally inserted central catheter;

(e) Any investigational or experimental medication.

(2) Initiating intravenous therapy in any vein other than a
vein of the hand, forearm, or antecubital fossa;

(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;	2079 2080
(4) Initiating or discontinuing a peripherally inserted central catheter;	2081 2082
(5) Mixing, preparing, or reconstructing any medication for intravenous therapy, except that a licensed practical nurse authorized to perform intravenous therapy may prepare or reconstitute an antibiotic additive;	2083 2084 2085 2086
(6) Administering medication via the intravenous route including all of the following:	2087 2088
(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized to administer intravenous therapy may initiate an intravenous infusion containing one or more of the following elements:	2089 2090 2091 2092 2093
(i) Dextrose 5%;	2094
(ii) Normal saline;	2095
(iii) Lactated ringers;	2096
(iv) Sodium chloride .45%;	2097
(v) Sodium chloride 0.2%;	2098
(vi) Water.	2099
(b) Initiating or maintaining an intravenous piggyback infusion, except that a licensed practical nurse authorized to administer intravenous therapy may initiate or maintain an intravenous piggyback infusion containing an antibiotic additive;	2100 2101 2102 2103
(c) Injecting medication via a direct intravenous route, except that a licensed practical nurse authorized to administer intravenous therapy may inject heparin or normal saline to flush an intermittent infusion device or heparin lock including, but not	2104 2105 2106 2107

limited to, bolus or push.	2108
(7) Aspirating any intravenous line to maintain patency;	2109
(8) Changing tubing on any line other than one that terminates in a peripheral vein including, but not limited to, an arterial line or a central venous line;	2110 2111 2112
(9) Programming or setting any function of a patient controlled infusion pump.	2113 2114
(E) Notwithstanding division (D) of this section, at the direction of a licensed physician or a registered nurse, a licensed practical nurse authorized to perform intravenous therapy may perform the following activities for the purpose of performing dialysis;	2115 2116 2117 2118 2119
(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan;	2120 2121
(2) The administration of a heparin dose intravenously;	2122
(3) The administration of a heparin dose peripherally via a fistula needle;	2123 2124
(4) The loading and activation of a constant infusion pump or the intermittent injection of a dose of medication prescribed by a licensed physician for dialysis.	2125 2126 2127
(F) No person shall employ or direct a licensed practical nurse to perform an intravenous therapy procedure without first verifying that the licensed practical nurse has been approved by the board of nursing to perform intravenous therapy.	2128 2129 2130 2131
(G) The board of nursing shall maintain a registry of the names of licensed practical nurses authorized pursuant to division (A) of this section to perform intravenous therapy.	2132 2133 2134
Sec. 4723.28. As used in this section, " <u>dangerous drug</u> " and " <u>prescription</u> " have the same meanings as in section 4729.01 of the	2135 2136

Revised Code.	2137
(A) The board of nursing, pursuant to an adjudication	2138
conducted under Chapter 119. of the Revised Code and by a vote of	2139
a quorum, may revoke or may refuse to grant a license or	2140
certificate to a person found by the board to have committed fraud	2141
in passing the examination or to have committed fraud,	2142
misrepresentation, or deception in applying for or securing any	2143
license or certificate issued by the board.	2144
(B) The board of nursing, pursuant to an adjudication	2145
conducted under Chapter 119. of the Revised Code and by a vote of	2146
a quorum, may impose one or more of the following sanctions: deny,	2147
revoke permanently, suspend, or place restrictions on any license	2148
or certificate issued by the board; reprimand or otherwise	2149
discipline a holder of a license or certificate; or impose a fine	2150
of not more than five hundred dollars per violation. The sanctions	2151
may be imposed for any of the following:	2152
(1) Denial, revocation, suspension, or restriction of a	2153
license to practice nursing, for any reason other than a failure	2154
to renew, in another state or jurisdiction; or denial, revocation,	2155
suspension, or restriction of a license to practice a health care	2156
occupation other than nursing, for any reason other than a failure	2157
to renew, in Ohio or another state or jurisdiction;	2158
(2) Engaging in the practice of nursing, having failed to	2159
renew a license issued under this chapter, or while a license is	2160
under suspension;	2161
(3) Conviction of, a plea of guilty to, or a judicial finding	2162
of guilt of a misdemeanor committed in the course of practice;	2163
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(4) Conviction of, a plea of guilty to, or a judicial finding	2165
of guilt of any felony or of any crime involving gross immorality	2166

or moral turpitude;	2167
(5) Selling, giving away, or administering drugs <u>or</u>	2168
<u>therapeutic devices</u> for other than legal and legitimate	2169
therapeutic purposes; or conviction of, a plea of guilty to, or a	2170
judicial finding of guilt of violating any municipal, state,	2171
county, or federal drug law;	2172
(6) Conviction of, a plea of guilty to, or a judicial finding	2173
of guilt of an act in another jurisdiction that would constitute a	2174
felony or a crime of moral turpitude in Ohio;	2175
(7) Conviction of, a plea of guilty to, or a judicial finding	2176
of guilt of an act in the course of practice in another	2177
jurisdiction that would constitute a misdemeanor in Ohio;	2178
(8) Self-administering or otherwise taking into the body any	2179
dangerous drug in any way not in accordance with a legal, valid	2180
prescription;	2181
(9) Habitual indulgence in the use of controlled substances,	2182
other habit-forming drugs, or alcohol or other chemical substances	2183
to an extent that impairs ability to practice;	2184
(10) Impairment of the ability to practice according to	2185
acceptable and prevailing standards of safe nursing care because	2186
of habitual or excessive use of drugs, alcohol, or other chemical	2187
substances that impair the ability to practice;	2188
(11) Impairment of the ability to practice according to	2189
acceptable and prevailing standards of safe nursing care because	2190
of a physical or mental disability;	2191
(12) Assaulting or causing harm to a patient or depriving a	2192
patient of the means to summon assistance;	2193
(13) Obtaining or attempting to obtain money or anything of	2194
value by intentional misrepresentation or material deception in	2195
the course of practice;	2196

(14) Adjudication by a probate court that the license applicant or license holder is mentally ill or mentally incompetent. The board may restore the license upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	2197 2198 2199 2200 2201
(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;	2202 2203 2204
(16) Violation of this chapter or any rules adopted under it;	2205 2206
(17) Violation of any restrictions placed on a license by the board;	2207 2208
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	2209 2210 2211
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care;	2212 2213
(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;	2214 2215 2216
(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;	2217 2218 2219
(22) Aiding and abetting in the unlicensed practice of nursing;	2220 2221
(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:	2222 2223 2224 2225 2226

(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;

(b) Advertising that the nurse will waive 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.

(24) Failure to comply with the terms and conditions of participation in the alternative program for chemically dependent nurses created by section 4723.35 of the Revised Code;

(25) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;

(26) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:

(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;

(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.

(27) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;

(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code; 2257
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(29) Prescribing any drug or device to perform or induce an abortion, or otherwise Performing or inducing an abortion; 2262
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(30) Failure to return to the board a license or certificate issued under this chapter that has lapsed or been suspended or revoked. 2264
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(C) If a criminal action is brought against a license holder for an act or crime described in divisions (B)(3) to (7) of this section and the action is dismissed by the trial court other than on the merits, the board shall hold an adjudication hearing to determine whether the license holder committed the act on which the action was based. If the board determines on the basis of the hearing that the license holder committed the act, or if the license holder fails to participate in the hearing, the board may take action as though the license holder had been convicted of the act. 2267
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If the board takes action on the basis of a conviction, plea of guilty, or a judicial determination of guilt as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the license holder may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall hold an adjudicatory hearing to determine whether the license holder 2277
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committed the act on which the original conviction, plea, or 2288
judicial determination was based. If the board determines on the 2289
basis of the hearing that the license holder committed such act, 2290
or if the license holder does not request a hearing, the board 2291
shall reinstate its action; otherwise, the board shall permanently 2292
rescind its action. 2293

Notwithstanding the provision of division (C)(2) of section 2294
2953.32 of the Revised Code specifying that if records pertaining 2295
to a criminal case are sealed under that section the proceedings 2296
in the case shall be deemed not to have occurred, sealing of the 2297
records of a conviction on which the board has based an action 2298
under this section shall have no effect on the board's action or 2299
any sanction imposed by the board under this section. 2300

(D) In enforcing division (B) of this section, the board may 2301
compel any individual licensed by this chapter or who has applied 2302
for licensure to submit to a mental or physical examination, or 2303
both, as required by the board and at the expense of the 2304
individual. Failure of any individual to submit to a mental or 2305
physical examination when directed constitutes an admission of the 2306
allegations, unless the failure is due to circumstances beyond the 2307
individual's control, and a default and final order may be entered 2308
without the taking of testimony or presentation of evidence. If 2309
the board finds that an individual is impaired, the board shall 2310
require the individual to submit to care, counseling, or treatment 2311
approved or designated by the board, as a condition for initial, 2312
continued, reinstated, or renewed licensure to practice. The 2313
individual shall be afforded an opportunity to demonstrate to the 2314
board that the individual can resume the individual's occupation 2315
in compliance with acceptable and prevailing standards under the 2316
provisions of the individual's license. For the purpose of this 2317
section, any individual who is licensed by this chapter or makes 2318
application for licensure shall be deemed to have given consent to 2319

submit to a mental or physical examination when directed to do so 2320
in writing by the board, and to have waived all objections to the 2321
admissibility of testimony or examination reports that constitute 2322
a privileged communication. 2323

(E) The board shall investigate evidence that appears to show 2324
that any person has violated any provision of this chapter or any 2325
rule of the board. Any person may report to the board any 2326
information the person may have that appears to show a violation 2327
of any provision of this chapter or rule of the board. In the 2328
absence of bad faith, any person who reports such information or 2329
who testifies before the board in any adjudication conducted under 2330
Chapter 119. of the Revised Code shall not be liable for civil 2331
damages as a result of the report or testimony. 2332

Information received by the board pursuant to an 2333
investigation is confidential and not subject to discovery in any 2334
civil action, except that the board may disclose information to 2335
law enforcement officers and government entities investigating a 2336
person licensed by the board. No law enforcement officer or 2337
government entity with knowledge of any information disclosed by 2338
the board pursuant to this division shall divulge the information 2339
to any other person or government entity except for the purpose of 2340
an adjudication by a court or licensing or registration board or 2341
officer to which the person to whom the information relates is a 2342
party. 2343

If the investigation requires a review of patient records, 2344
the investigation and proceeding shall be conducted in such a 2345
manner as to protect patient confidentiality. 2346

All hearings and investigations of the board shall be 2347
considered civil actions for the purposes of section 2305.251 of 2348
the Revised Code. 2349

The hearings of the board shall be conducted in accordance 2350

with Chapter 119. of the Revised Code. The board may appoint a 2351
hearing examiner as provided in section 119.09 to conduct any 2352
hearing the board is empowered to hold under Chapter 119. of the 2353
Revised Code. 2354

In the absence of fraud or bad faith, neither the board nor 2355
any current or former members, agents, representatives, or 2356
employees of the board shall be held liable in damages to any 2357
person as the result of any act, omission, proceeding, conduct, or 2358
decision related to their official duties undertaken or performed 2359
pursuant to this chapter. If a current or former member, agent, 2360
representative, or employee requests the state to defend the 2361
individual against any claim or action arising out of any act, 2362
omission, proceeding, conduct, or decision related to the 2363
individual's official duties, if the request is made in writing at 2364
a reasonable time before trial, and if the individual requesting 2365
defense cooperates in good faith in the defense of the claim or 2366
action, the state shall provide and pay for such defense and shall 2367
pay any resulting judgment, compromise, or settlement. At no time 2368
shall the state pay that part of a claim or judgment that is for 2369
punitive or exemplary damages. 2370

(F) Any action taken by the board under this section 2371
resulting in a suspension from practice shall be accompanied by a 2372
written statement of the conditions under which the person may be 2373
reinstated to practice. 2374

(G) No unilateral surrender of a license issued under this 2375
chapter shall be effective unless accepted by majority vote of the 2376
board. No application for a license issued under this chapter may 2377
be withdrawn without a majority vote of the board. 2378

(H) Notwithstanding division (B)(23) of this section, 2379
sanctions shall not be imposed against any licensee who waives 2380
deductibles and copayments: 2381

(1) In compliance with the health benefit plan that expressly 2382
allows such a practice. Waiver of the deductibles or copayments 2383
shall be made only with the full knowledge and consent of the plan 2384
purchaser, payer, and third-party administrator. The consent shall 2385
be made available to the board upon request. 2386

(2) For professional services rendered to any other person 2387
licensed pursuant to this chapter to the extent allowed by this 2388
chapter and the rules of the board. 2389

(I) The holder of a license or certificate issued under this 2390
chapter shall return to the board a license or certificate that 2391
has lapsed or been suspended or revoked. 2392

Sec. 4723.41. (A) Each person who desires to practice nursing 2393
as a certified nurse-midwife and has not been authorized to 2394
practice midwifery prior to December 1, 1967, and each person who 2395
desires to practice nursing as a certified registered nurse 2396
anesthetist, clinical nurse specialist, or certified nurse 2397
practitioner shall file with the board of nursing a written 2398
application for authorization to practice nursing in the desired 2399
specialty, under oath, on a form prescribed by the board. 2400

Except as provided in divisions (B), (C), and (D) of this 2401
section, at the time of making application, the applicant shall 2402
meet all of the following requirements: 2403

(1) Be a registered nurse; 2404

(2) Submit documentation satisfactory to the board that the 2405
applicant has earned ~~at least~~ a ~~master's~~ graduate degree with a 2406
major in a nursing specialty or in a related field that qualifies 2407
the applicant to sit for the certification examination of a 2408
national certifying organization listed in division (A)(3) of this 2409
section or approved by the board under section 4723.46 of the 2410
Revised Code; 2411

(3) Submit documentation satisfactory to the board of having 2412
passed the certification examination of one of the following: 2413

(a) If the applicant is applying to practice nursing as a 2414
certified nurse-midwife, the American college of nurse-midwives or 2415
another national certifying organization approved by the board 2416
under section 4723.46 of the Revised Code to examine and certify 2417
nurse-midwives; 2418

(b) If the applicant is applying to practice nursing as a 2419
certified registered nurse anesthetist, the national council on 2420
certification of nurse anesthetists of the American association of 2421
nurse anesthetists, the national council on recertification of 2422
nurse anesthetists of the American association of nurse 2423
anesthetists, or another national certifying organization approved 2424
by the board under section 4723.46 of the Revised Code to examine 2425
and certify registered nurse anesthetists; 2426

(c) If the applicant is applying to practice nursing as a 2427
clinical nurse specialist, the American nurses credentialing 2428
center or another national certifying organization approved by the 2429
board under section 4723.46 of the Revised Code to examine and 2430
certify clinical nurse specialists; 2431

(d) If the applicant is applying to practice nursing as a 2432
certified nurse practitioner, the American nurses credentialing 2433
center, the national certification corporation, the national board 2434
of pediatric nurse practitioners and associates, or another 2435
national certifying organization approved by the board under 2436
section 4723.46 of the Revised Code to examine and certify nurse 2437
practitioners. 2438

(4) Submit an affidavit with the application that states all 2439
of the following: 2440

(a) That the applicant is the person named in the documents 2441
submitted under divisions (A)(2) and (3) of this section and is 2442

the lawful possessor thereof; 2443

(b) The applicant's age, residence, the school at which the 2444
applicant obtained education in the applicant's nursing specialty, 2445
and any other facts that the board requires; 2446

(c) If the applicant is already engaged in the practice of 2447
nursing as a certified registered nurse anesthetist, clinical 2448
nurse specialist, certified nurse-midwife, or certified nurse 2449
practitioner, the period during which and the place where the 2450
applicant is engaged; 2451

(d) If the applicant is already engaged in the practice of 2452
nursing as a clinical nurse specialist, certified nurse-midwife, 2453
or certified nurse practitioner, the names and business addresses 2454
of the applicant's current collaborating physicians and 2455
podiatrists. If the applicant is not yet engaged in the practice 2456
of nursing as a clinical nurse specialist, certified 2457
nurse-midwife, or certified nurse practitioner, the applicant 2458
shall submit the names and business addresses of the applicant's 2459
collaborating physicians or podiatrists not later than thirty days 2460
after first engaging in the practice. The applicant shall give 2461
written notice to the board of any additions or deletions to the 2462
affidavit of collaborating physicians or podiatrists not later 2463
than thirty days after the change takes effect. 2464

(B) On or before December 31, 2000, the board shall issue to 2465
an applicant a certificate of authority to practice nursing as a 2466
certified registered nurse anesthetist, certified nurse-midwife, 2467
or certified nurse practitioner if the applicant complies with all 2468
requirements of this section, other than the requirement that the 2469
applicant has earned ~~at least~~ a ~~master's~~ graduate degree with a 2470
major in a nursing specialty or in a related field that qualifies 2471
the applicant to sit for the certification examination of a 2472
national certifying organization listed in division (A)(3) of this 2473

section or approved by the board under section 4723.46 of the Revised Code. 2474
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(C) On or before December 31, 2000, the board shall issue to an applicant a certificate of authority to practice nursing as a clinical nurse specialist if one of the following applies: 2476
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(1) The applicant holds a ~~master's or higher~~ graduate degree with a major in a clinical area of nursing from an educational institution accredited by a national or regional accrediting organization and complies with all requirements of this section, other than the requirement of having passed a certification examination. 2479
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(2) The applicant holds a ~~master's or higher~~ graduate degree in nursing or a related field and is certified as a clinical nurse specialist by the American nurses credentialing center or another national certifying organization approved by the board under section 4723.46 of the Revised Code. 2485
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(D) On or before December 31, 2008, the board shall issue to an applicant a certificate of authority to practice nursing as a certified nurse practitioner if the applicant has successfully completed a nurse practitioner certificate program that receives funding under and is employed by a public agency or a private, nonprofit entity that receives funding under Title X of the "Public Health Service Act," 42 U.S.C. 300 and 300a-1 (1991), and complies with all requirements of this section, other than the requirement that the applicant has earned ~~at least a master's~~ graduate degree with a major in a nursing specialty or a related field. 2490
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(E) A certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who is practicing as such in another jurisdiction may apply for a certificate of authority to practice nursing as a 2501
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certified registered nurse anesthetist, clinical nurse specialist, 2505
certified nurse-midwife, or certified nurse practitioner in this 2506
state if the nurse meets the requirements for a certificate of 2507
authority set forth in this section. The application shall be 2508
submitted to the board in the form prescribed by rules of the 2509
board and be accompanied by the application fee required by 2510
section 4723.08 of the Revised Code. The application shall include 2511
evidence that the applicant meets the requirements of this 2512
section, holds a license or certificate to practice nursing as a 2513
certified registered nurse anesthetist, clinical nurse specialist, 2514
certified nurse-midwife, or certified nurse practitioner in good 2515
standing in another jurisdiction granted after meeting 2516
requirements approved by the entity of that jurisdiction that 2517
licenses nurses, and other information required by rules of the 2518
board of nursing. 2519

If the applicant is a certified registered nurse anesthetist, 2520
certified nurse-midwife, or certified nurse practitioner who, on 2521
or before December 31, 2000, met the requirements of this section 2522
to practice as such and has maintained certification in the 2523
applicant's nursing specialty with a national certifying 2524
organization listed in division (A)(3) of section 4723.41 of the 2525
Revised Code or approved by the board under section 4723.46 of the 2526
Revised Code, division (B) of this section shall apply. 2527

If the applicant is a clinical nurse specialist who, on or 2528
before December 31, 2000, met the requirements of this section to 2529
practice as such, division (C) of this section shall apply. 2530

Sec. 4723.42. (A) If the applicant for authorization to 2531
practice nursing as a certified registered nurse anesthetist, 2532
clinical nurse specialist, certified nurse-midwife, or certified 2533
nurse practitioner has met all the requirements of section 4723.41 2534
of the Revised Code and has paid the fee required by section 2535

4723.08 of the Revised Code, the board of nursing shall issue its certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, which shall designate the nursing specialty the nurse is authorized to practice. The certificate entitles its holder to practice nursing in the specialty designated on the certificate.

The board shall issue or deny its certificate not later than sixty days after receiving all of the documents required by section 4723.41 of the Revised Code. ~~Not later than fifteen days after receipt of an application, the board shall provide the applicant with written notice, by mail, of any required documents that remain to be submitted.~~

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

(B) Authorization to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall be renewed biennially according to rules and a schedule adopted by the board. Before a date specified by the board, the board shall mail an application for renewal of a certificate of authority to each certificate holder at the last known address of the holder. Failure of the holder to receive an application for renewal from

the board does not excuse the holder from the requirements of 2567
section 4723.44 of the Revised Code. Not later than the date 2568
specified by the board, the holder shall complete the renewal form 2569
and return it to the board with all of the following: 2570

(1) The renewal fee required by section 4723.08 of the 2571
Revised Code; 2572

(2) Except as provided in division (C) of this section, 2573
documentation satisfactory to the board that the holder has 2574
maintained certification in the nursing specialty with a national 2575
certifying organization listed in division (A)(3) of section 2576
4723.41 of the Revised Code or approved by the board under section 2577
4723.46 of the Revised Code; 2578

(3) A list of the names and business addresses of the 2579
holder's current collaborating physicians and podiatrists, if the 2580
holder is a clinical nurse specialist, certified nurse-midwife, or 2581
certified nurse practitioner; 2582

(4) If the holder's certificate was issued under division (C) 2583
of section 4723.41 of the Revised Code, evidence that the holder 2584
has completed continuing education for a clinical nurse specialist 2585
as required by rule of the board; 2586

(5) If the holder's certificate was issued under division (D) 2587
of section 4723.41 of the Revised Code, verification of continued 2588
employment by a public agency or a private, nonprofit entity that 2589
receives funding under Title X of the "Public Health Service Act," 2590
42 U.S.C. 300 and 300a-1 (1991). 2591

On receipt of the renewal application, fees, and documents, 2592
the board shall verify that the applicant holds a current license 2593
to practice nursing as a registered nurse in this state, and, if 2594
it so verifies, shall renew the certificate. If an applicant 2595
submits the completed renewal application after the date specified 2596
in the board's schedule, but before the expiration of the 2597

certificate, the board shall grant a renewal when the late renewal 2598
fee required by section 4723.08 of the Revised Code is paid. 2599

An applicant for reinstatement of an expired certificate 2600
shall submit the renewal fee and the late renewal fee required by 2601
section 4723.08 of the Revised Code. Any holder of a certificate 2602
who desires inactive status shall give the board written notice to 2603
that effect. 2604

(C) The board shall renew a certificate of authority to 2605
practice nursing as a clinical nurse specialist issued pursuant to 2606
division (C) of section 4723.41 of the Revised Code, if the 2607
certificate holder complies with all renewal requirements of this 2608
section other than the requirement of having maintained 2609
certification in the holder's nursing specialty. 2610

Sec. 4723.43. A certified registered nurse anesthetist, 2611
clinical nurse specialist, certified nurse-midwife, or certified 2612
nurse practitioner may provide to individuals and groups nursing 2613
care that requires knowledge and skill obtained from advanced 2614
formal education and clinical experience. 2615

(A) A nurse authorized to practice as a certified 2616
nurse-midwife, in collaboration with one or more physicians, may 2617
provide the management of preventive services and those primary 2618
care services necessary to provide health care to women 2619
antepartally, intrapartally, postpartally, and gynecologically, 2620
consistent with the nurse's education and certification, and in 2621
accordance with rules adopted by the board. 2622

No certified nurse-midwife may perform version, deliver 2623
breech or face presentation, use forceps, do any obstetric 2624
operation, or treat any other abnormal condition, except in 2625
emergencies. Division (A) of this section does not prohibit a 2626
certified nurse-midwife from performing episiotomies or normal 2627

vaginal deliveries, or repairing vaginal tears. A certified nurse-midwife who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

(B) A nurse authorized to practice as a certified registered nurse anesthetist, with the supervision and in the immediate presence of a physician, podiatrist, or dentist, may administer anesthesia and perform anesthesia induction, maintenance, and emergence, and may perform with supervision preanesthetic preparation and evaluation, postanesthesia care, and clinical support functions, consistent with the nurse's education and certification, and in accordance with rules adopted by the board. A certified registered nurse anesthetist is not required to obtain a certificate to prescribe in order to provide the anesthesia care described in this division.

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

(C) A nurse authorized to practice as a certified nurse practitioner, in collaboration with one or more physicians or podiatrists, may provide preventive and primary care services and evaluate and promote patient wellness within the nurse's nursing

specialty, consistent with the nurse's education and 2660
certification, and in accordance with rules adopted by the board. 2661
~~When~~ A certified nurse practitioner who holds a certificate to 2662
prescribe issued under section 4723.48 of the Revised Code may, in 2663
collaboration with one or more physicians or podiatrists, 2664
prescribe drugs and therapeutic devices in accordance with section 2665
4723.481 of the Revised Code. 2666

When a certified nurse practitioner is collaborating with a 2667
podiatrist, the nurse's scope of practice is limited to the 2668
procedures that the podiatrist has the authority under section 2669
4731.51 of the Revised Code to perform. 2670

(D) A nurse authorized to practice as a clinical nurse 2671
specialist, in collaboration with one or more physicians or 2672
podiatrists, may provide and manage the care of individuals and 2673
groups with complex health problems and provide health care 2674
services that promote, improve, and manage health care within the 2675
nurse's nursing specialty, consistent with the nurse's education 2676
and in accordance with rules adopted by the board. ~~When~~ A clinical 2677
nurse specialist who holds a certificate to prescribe issued under 2678
section 4723.48 of the Revised Code may, in collaboration with one 2679
or more physicians or podiatrists, prescribe drugs and therapeutic 2680
devices in accordance with section 4731.481 of the Revised Code. 2681

When a clinical nurse specialist is collaborating with a 2683
podiatrist, the nurse's scope of practice is limited to the 2684
procedures that the podiatrist has the authority under section 2685
4731.51 of the Revised Code to perform. 2686

Sec. 4723.431. (A) Except as provided in division (C)(1) of 2687
this section, a clinical nurse specialist, certified 2688
nurse-midwife, or certified nurse practitioner may practice only 2689
in accordance with a standard care arrangement entered into with 2690

~~one or more collaborating physicians or podiatrists whose practice~~ 2691
~~each physician or podiatrist with whom the nurse collaborates. A~~ 2692
~~copy of the standard care arrangement shall be retained on file at~~ 2693
~~each site where the nurse practices. Prior approval of the~~ 2694
~~standard care arrangement by the board of nursing is not required,~~ 2695
~~but the board may periodically review it for compliance with this~~ 2696
~~section.~~ 2697

A clinical nurse specialist, certified nurse-midwife, or 2698
certified nurse practitioner may enter into a standard care 2699
arrangement with one or more collaborating physicians or 2700
podiatrists. Each physician or podiatrist must be actively engaged 2701
in direct clinical practice in this state and practicing in a 2702
specialty that is the same as or similar to the nurse's nursing 2703
specialty. ~~The~~ If a collaborating physician or podiatrist enters 2704
into standard care arrangements with more than three nurses who 2705
hold certificates to prescribe issued under section 4723.48 of the 2706
Revised Code, the physician or podiatrist shall not collaborate at 2707
the same time with more than three of the nurses in the 2708
prescribing component of their practices. 2709

(B) A standard care arrangement shall be in writing and, 2710
except as provided in division (C)(2) of this section, shall 2711
contain all of the following: 2712

(1) Criteria for referral of a patient by the clinical nurse 2713
specialist, certified nurse-midwife, or certified nurse 2714
practitioner to a collaborating physician or podiatrist; 2715

(2) A process for the clinical nurse specialist, certified 2716
nurse-midwife, or certified nurse practitioner to obtain a 2717
consultation with ~~the~~ a collaborating physician or podiatrist; 2718

(3) A plan for coverage in instances of emergency or planned 2719
absences of either the clinical nurse specialist, certified 2720
nurse-midwife, or certified nurse practitioner or ~~the~~ a 2721

collaborating physician or podiatrist that provides the means 2722
whereby a physician or podiatrist is available for emergency care; 2723

(4) The process for resolution of disagreements regarding 2724
matters of patient management between the clinical nurse 2725
specialist, certified nurse-midwife, or certified nurse 2726
practitioner and ~~the~~ a collaborating physician or podiatrist; 2727

(5) A procedure for a regular review of the referrals by the 2728
clinical nurse specialist, certified nurse-midwife, or certified 2729
nurse practitioner to other health care professionals and the care 2730
outcomes for a random sample of all patients seen by the nurse; 2731

(6) If the clinical nurse specialist or certified nurse 2732
practitioner regularly provides services to infants, a policy for 2733
care of infants up to age one and recommendations for 2734
collaborating physician visits for children from birth to age 2735
three; 2736

(7) Any other criteria required by rule of the board adopted 2737
pursuant to section 4723.07 or 4723.50 of the Revised Code. 2738

~~(B) The standard care arrangement shall be retained on file 2739
at the site where the clinical nurse specialist, certified 2740
nurse midwife, or certified nurse practitioner practices by the 2741
nurse and the collaborating physician or podiatrist. Prior 2742
approval of the standard care arrangement by the board of nursing 2743
is not required, but the board may periodically review it for 2744
compliance with this section. 2745~~

(C)(1) A clinical nurse specialist who does not hold a 2746
certificate to prescribe and whose nursing specialty is mental 2747
health or psychiatric mental health, as determined by the board, 2748
is not required to enter into a standard care arrangement ~~with a 2749
collaborating physician,~~ but shall practice in collaboration with 2750
one or more physicians. 2751

(2) If a clinical nurse specialist practicing in either of 2752

the specialties specified in division (C)(1) of this section holds 2753
a certificate to prescribe, the nurse shall enter into a standard 2754
care arrangement with one or more physicians. The standard care 2755
arrangement must meet the requirements of division (B) of this 2756
section, but only to the extent necessary to address the 2757
prescribing component of the nurse's practice. 2758

(D) Nothing in this section prohibits a hospital from hiring 2759
a clinical nurse specialist, certified nurse-midwife, or certified 2760
nurse practitioner as an employee and negotiating standard care 2761
arrangements on behalf of the employee as necessary to meet the 2762
requirements of this section. A standard care arrangement between 2763
the hospital's employee and the employee's collaborating physician 2764
is subject to approval by the medical staff and governing body of 2765
the hospital prior to implementation of the arrangement at the 2766
hospital. 2767

Sec. 4723.432. (A) A clinical nurse specialist, certified 2768
nurse-midwife, or certified nurse practitioner shall cooperate 2769
with the state medical board in any investigation the board 2770
conducts with respect to a physician or podiatrist who 2771
collaborates with the nurse. THE NURSE SHALL COOPERATE WITH THE 2772
BOARD IN ANY INVESTIGATION THE BOARD CONDUCTS WITH RESPECT TO THE 2773
UNAUTHORIZED PRACTICE OF MEDICINE BY THE NURSE. 2774

(B) A certified registered nurse anesthetist shall cooperate 2775
with the state medical board or state dental board in any 2776
investigation either board conducts with respect to a physician, 2777
podiatrist, or dentist who permits the nurse to practice with the 2778
supervision of that physician, podiatrist, or dentist. THE NURSE 2779
SHALL COOPERATE WITH EITHER BOARD IN ANY INVESTIGATION IT CONDUCTS 2780
WITH RESPECT TO THE UNAUTHORIZED PRACTICE OF MEDICINE OR DENTISTRY 2781
BY THE NURSE. 2782

Sec. 4723.44. (A) No person shall do any of the following 2783
unless the person holds a current, valid certificate of authority 2784
to practice nursing as a certified registered nurse anesthetist, 2785
clinical nurse specialist, certified nurse-midwife, or certified 2786
nurse practitioner issued by the board of nursing under this 2787
chapter: 2788

(1) Engage in the practice of nursing as a certified 2789
registered nurse anesthetist, clinical nurse specialist, certified 2790
nurse-midwife, or certified nurse practitioner for a fee, salary, 2791
or other consideration, or as a volunteer; 2792

(2) ~~Hold herself or himself out~~ Represent the person as being 2793
a certified registered nurse anesthetist, clinical nurse 2794
specialist, certified nurse-midwife, or certified nurse 2795
practitioner; 2796

(3) Use any title or initials implying that the person is a 2797
certified registered nurse anesthetist, clinical nurse specialist, 2798
certified nurse-midwife, or certified nurse practitioner. 2799

(B) No person who is not certified by the national council on 2800
certification of nurse anesthetists of the American association of 2801
nurse anesthetists, the national council on recertification of 2802
nurse anesthetists of the American association of nurse 2803
anesthetists, or another national certifying organization approved 2804
by the board under section 4723.46 of the Revised Code shall use 2805
the title "certified registered nurse anesthetist" or the initials 2806
"C.R.N.A.," or any other title or initial implying that the person 2807
has been certified by the council or organization. 2808

(C) No certified registered nurse anesthetist, clinical nurse 2809
specialist, certified nurse-midwife, or certified nurse 2810
practitioner shall do any of the following: 2811

(1) Engage, for a fee, salary, or other consideration, or as 2812

a volunteer, in the practice of a nursing specialty other than the
specialty designated on the nurse's current, valid certificate of
authority issued by the board under this chapter;

(2) ~~Hold herself or himself out~~ Represent the person as being
authorized to practice any nursing specialty other than the
specialty designated on the current, valid certificate;

(3) Use the title "certified registered nurse anesthetist" or
the initials "N.A." or "C.R.N.A.," the title "clinical nurse
specialist" or the initials "C.N.S.," the title "certified
nurse-midwife" or the initials "C.N.M.," the title "certified
nurse practitioner" or the initials "C.N.P.," or any other title
or initials implying that the nurse is authorized to practice any
nursing specialty other than the specialty designated on the
nurse's current, valid certificate;

(4) Enter into a standard care arrangement with a physician
or podiatrist whose practice is not the same as or similar to the
nurse's nursing specialty;

(5) Prescribe drugs or therapeutic devices unless the nurse
holds a current, valid certificate to prescribe issued under
section 4723.48 of the Revised Code;

(6) Prescribe drugs or therapeutic devices under a
certificate to prescribe in a manner that does not comply with
section 4723.481 of the Revised Code;

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

(D) No person shall knowingly employ a person to engage in
the practice of nursing as a certified registered nurse
anesthetist, clinical nurse specialist, certified nurse-midwife,
or certified nurse practitioner unless the person so employed
holds a current, valid certificate of authority to engage in that

nursing specialty issued by the board under this chapter. 2843

(E) A certificate certified by the executive director of the 2844
board, under the official seal of the board, to the effect that it 2845
appears from the records that no certificate of authority to 2846
practice nursing as a certified registered nurse anesthetist, 2847
clinical nurse specialist, certified nurse-midwife, or certified 2848
nurse practitioner has been issued to any person specified 2849
therein, or that a certificate, if issued, has been revoked or 2850
suspended, shall be received as prima-facie evidence of the record 2851
in any court or before any officer of the state. 2852

Sec. 4723.47. (A) If a certified registered nurse 2853
anesthetist's, clinical nurse specialist's, certified 2854
nurse-midwife's, or certified nurse practitioner's license to 2855
practice nursing as a registered nurse expires for failure to 2856
renew under section 4723.24 of the Revised Code, the nurse's 2857
certificate of authority to practice nursing as a certified 2858
registered nurse anesthetist, clinical nurse specialist, certified 2859
nurse-midwife, or certified nurse practitioner is ~~automatically~~ 2860
~~suspended~~ lapsed until the license is reinstated. If the license 2861
is revoked under section 4723.28 or 4723.281 of the Revised Code, 2862
the nurse's certificate of authority is automatically revoked. If 2863
the license is suspended under either section, the nurse's 2864
certificate of authority is automatically suspended while the 2865
license remains suspended. 2866

(B) If a clinical nurse specialist, certified nurse-midwife, 2867
or certified nurse practitioner holds a certificate to prescribe 2868
issued under section 4723.48 of the Revised Code and the nurse's 2869
certificate of authority to practice as a clinical nurse 2870
specialist, certified nurse-midwife, or certified nurse 2871
practitioner expires for failure to renew under section 4723.41 of 2872
the Revised Code, the nurse's certificate to prescribe is lapsed 2873

until the certificate of authority is reinstated. If the 2874
certificate of authority becomes inactive in accordance with 2875
section 4723.42 of the Revised Code, the nurse's certificate to 2876
prescribe is lapsed until the certificate of authority becomes 2877
active. If the certificate of authority is revoked under section 2878
4723.28 or 4723.281 of the Revised Code, the nurse's certificate 2879
to prescribe is automatically revoked. If the certificate of 2880
authority is suspended under either section, the nurse's 2881
certificate to prescribe is automatically suspended while the 2882
certificate of authority remains suspended. If a restriction is 2883
placed on the certificate of authority under section 4723.28 of 2884
the Revised Code, the same restriction is placed on the nurse's 2885
certificate to prescribe while the certificate of authority 2886
remains restricted. 2887

Sec. 4723.48. (A) A clinical nurse specialist, certified 2888
nurse-midwife, or certified nurse practitioner seeking authority 2889
to prescribe drugs and therapeutic devices shall file with the 2890
board of nursing a written application for a certificate to 2891
prescribe. The board of nursing shall issue a certificate to 2892
prescribe to each applicant who meets the requirements specified 2893
in section 4723.482 or 4723.484 of the Revised Code. 2894

Except as provided in division (B) of this section, the 2895
initial certificate to prescribe that the board issues to an 2896
applicant shall be issued as an externship certificate. Under an 2897
externship certificate, the nurse may obtain experience in 2898
prescribing drugs and therapeutic devices by participating in an 2899
externship that evaluates the nurse's competence, knowledge, and 2900
skill in pharmacokinetic principles and their clinical application 2901
to the specialty being practiced. During the externship, the nurse 2902
may prescribe drugs and therapeutic devices only when one or more 2903
physicians are providing supervision in accordance with rules 2904
adopted under section 4723.50 of the Revised Code. 2905

After completing the externship, the holder of an externship certificate may apply for a new certificate to prescribe. On receipt of the new certificate, the nurse may prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists. 2906
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(B) In the case of an advanced practice nurse who on the effective date of this section is approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices, the initial certificate to prescribe that the board issues to the nurse under this section shall not be an externship certificate. The nurse shall be issued a certificate to prescribe that permits the nurse to prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists. 2911
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Sec. 4723.481. Under a certificate to prescribe issued under section 4723.48 of the Revised Code, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is subject to all of the following: 2919
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(A) The nurse shall not prescribe any drug or therapeutic device that is not included in the types of drugs and devices listed on the formulary established in rules adopted under section 4723.50 of the Revised Code. 2923
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(B) The nurse's prescriptive authority shall not exceed the prescriptive authority of the collaborating physician or podiatrist. 2927
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(C) The nurse may prescribe a schedule II controlled substance as specified in division (A)(2) of section 3719.06 of the Revised Code, but shall not prescribe a schedule II controlled substance in collaboration with a podiatrist. 2930
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(D) The nurse may personally furnish to a patient a sample of any drug or therapeutic device included in the types of drugs and 2934
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devices listed on the formulary, subject to all of the following: 2936

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(1) The amount of the sample furnished shall not exceed a 2938

seventy-two-hour supply, except when the minimum available 2939

quantity of the sample is packaged in an amount that is greater 2940

than a seventy-two-hour supply, in which case the nurse may 2941

furnish the sample in the packaged amount. 2942

(2) No charge may be imposed for the sample or for furnishing 2943

it. 2944

(3) Samples of controlled substances may not be personally 2945

furnished. 2946

(E) The nurse may personally furnish to a patient a complete 2947

or partial supply of a drug or therapeutic device included in the 2948

types of drugs and devices listed on the formulary, subject to all 2949

of the following: 2950

(1) The nurse shall personally furnish only antibiotics, 2951

antifungals, scabicides, contraceptives, and prenatal vitamins. 2952

(2) The nurse shall not furnish the drugs and devices in 2953

locations other than a health department operated by the board of 2954

health of a city or general health district or the authority 2955

having the duties of a board of health under section 3709.05 of 2956

the Revised Code, a federally funded comprehensive primary care 2957

clinic, or a nonprofit health care clinic or program. 2958

(3) The nurse shall comply with all safety standards for 2959

personally furnishing supplies of drugs and devices, as 2960

established in rules adopted under section 4723.50 of the Revised 2961

Code. 2962

Sec. 4723.482. (A) An applicant shall include with the 2963

application submitted under section 4723.48 of the Revised Code 2964

all of the following: 2965

(1) Subject to section 4723.483 of the Revised Code, evidence of holding a current, valid certificate of authority issued under section 4723.41 of the Revised Code to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner; 2966
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(2) Except for an advanced practice nurse who on the effective date of this section is approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices, evidence of successfully completing the instruction in advanced pharmacology and related topics specified in division (B) of this section; 2971
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(3) The fee required by section 4723.08 of the Revised Code for a certificate to prescribe; 2977
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(4) Any additional information the board requires pursuant to rules adopted under section 4723.50 of the Revised Code. 2979
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(B) All of the following apply to the instruction required under division (A)(2) of this section: 2981
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(1) The instruction must be obtained not longer than three years before the application for the certificate to prescribe is filed. 2983
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(2) The instruction must be obtained through a course of study consisting of planned classroom and clinical study that is approved by the board of nursing in accordance with standards established in rules adopted under section 4723.50 of the Revised Code. 2986
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(3) The content of the instruction must be specific to the applicant's nursing specialty and include all of the following: 2991
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(a) A minimum of thirty contact hours of training in advanced pharmacology that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in the 2993
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<u>prevention of illness and maintenance of health;</u>	2996
(b) <u>Training in the fiscal and ethical implications of prescribing drugs and therapeutic devices;</u>	2997
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(c) <u>Training in the state and federal laws that apply to the authority to prescribe;</u>	2999
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(d) <u>Any additional training required pursuant to rules adopted under section 4723.50 of the Revised Code.</u>	3001
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Sec. 4723.483. <u>In the case of an applicant for an initial certificate to prescribe who received a certificate of authority to practice as a certified nurse-midwife or certified nurse practitioner by meeting the requirements specified in division (B) or (D) of section 4723.41 of the Revised Code, the board of nursing shall not issue a certificate to prescribe to the nurse unless both of the following apply:</u>	3003
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(A) <u>The applicant submits an application for the certificate to prescribe not later than one year after the effective date of the initial rules adopted under section 4723.50 of the Revised Code.</u>	3010
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(B) <u>The applicant submits evidence of having obtained not less than ten years of clinical experience in the practice of a nursing specialty, three years of which were obtained in the five-year period immediately preceding the date the application is submitted.</u>	3014
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Sec. 4723.484. (A) <u>A certificate to prescribe issued under section 4723.48 of the Revised Code as an externship certificate is valid for not more than one year, unless earlier suspended or revoked by the board of nursing. The certificate may be extended for an additional year if the holder submits to the board evidence of continued participation in an externship. If an externship is terminated for any reason, the nurse shall notify the board.</u>	3019
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(B) To be eligible for a certificate to prescribe after receiving an externship certificate, an applicant shall include with the application submitted under section 4723.48 of the Revised Code all of the following: 3026
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(1) A statement from a supervising physician attesting to the applicant's successful completion of the externship; 3030
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(2) The fee required by section 4723.08 of the Revised Code for a certificate to prescribe; 3032
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(3) Any additional information the board requires pursuant to rules adopted under section 4723.50 of the Revised Code. 3034
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Sec. 4723.485. (A) A certificate to prescribe issued under section 4723.48 of the Revised Code that is not issued as an externship certificate is valid for two years, unless otherwise provided in rules adopted under section 4723.50 of the Revised Code or earlier suspended or revoked by the board. The board of nursing shall renew certificates to prescribe according to procedures and a renewal schedule established in rules adopted under section 4723.50 of the Revised Code. 3036
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(B) The board may renew a certificate to prescribe if the holder submits to the board all of the following: 3044
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(1) Evidence of having completed during the previous two years at least twelve hours of continuing education in advanced pharmacology, or, if the certificate has been held for less than a full renewal period, the number of hours required by the board in rules adopted under section 4723.50 of the Revised Code; 3046
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(2) The fee required under section 4723.08 of the Revised Code for renewal of a certificate to prescribe; 3051
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(3) Any additional information the board requires pursuant to rules adopted under section 4723.50 of the Revised Code. 3053
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(C) The continuing education in pharmacology required under 3055
division (B)(1) of this section must be received from an 3056
accredited institution recognized by the board. The hours of 3057
continuing education required are in addition to any other 3058
continuing education requirement that must be completed pursuant 3059
to this chapter. 3060

Sec. 4723.49. (A) There is hereby created the committee on 3061
prescriptive governance. The committee shall consist of the 3062
following members: 3063

(1) A clinical nurse specialist; 3064

(2) A certified nurse-midwife; 3065

(3) A certified nurse practitioner; 3066

(4) A member of the board of nursing who at a minimum is a 3067
registered nurse; 3068

(5) Four physicians who meet the qualifications for 3069
appointment specified in division (B) of this section; 3070

(6) A pharmacist member of the state board of pharmacy; 3071

(7) A pharmacist actively engaged in practice in this state 3072
as a clinical pharmacist. 3073

(B) Except as provided in division (D) of this section, the 3074
board of nursing shall appoint the members who are nurses, the 3075
state medical board shall appoint the members who are physicians, 3076
and the state board of pharmacy shall appoint the members who are 3077
pharmacists. The physician members shall be appointed in such a 3078
manner that the committee at all times includes at least two 3079
physicians who collaborate with clinical nurse specialists, 3080
certified nurse-midwives, or certified nurse practitioners; one 3081
physician certified in family practice by a medical specialty 3082
board of the American medical association or American osteopathic 3083

association; and one physician member of the state medical board. 3084
If the physician member who is a family practice physician or 3085
member of the state medical board is also a collaborating 3086
physician, the member may be counted both as a collaborating 3087
member and as a family practice physician or state medical board 3088
member for purposes of this division. 3089

(C) Initial appointments to the committee shall be made not 3090
later than sixty days after the effective date of this section. Of 3091
the initial appointments the board of nursing must make, two shall 3092
be for terms of three years and two shall be for terms of two 3093
years. Of the initial appointments the state medical board must 3094
make, two shall be for terms of three years and two shall be for 3095
terms of two years. Of the initial appointments the state board of 3096
pharmacy must make, one shall be for a term of three years and one 3097
shall be for a term of two years. Thereafter, terms shall be for 3098
three years, with each term ending on the same day of the same 3099
month as did the term that it succeeds. 3100

When the term of any member expires, a successor shall be 3101
appointed who has the qualifications the vacancy requires. Any 3102
member appointed to fill a vacancy occurring prior to the 3103
expiration of the term for which the member's predecessor was 3104
appointed shall hold office for the remainder of that term. A 3105
member shall continue in office subsequent to the expiration date 3106
of the member's term until the member's successor takes office, or 3107
until a period of sixty days has elapsed, whichever occurs first. 3108
A member may be reappointed. 3109

Recommendations for making initial appointments and filling 3110
vacancies may be submitted to the board of nursing by professional 3111
nursing associations and individuals, to the state medical board 3112
by professional medical associations and individuals, and to the 3113
board of pharmacy by professional pharmacy associations and 3114
individuals. Each board shall appoint initial members and fill 3115

vacancies according to the recommendations it receives. If no 3116
recommendations or an insufficient number of recommendations are 3117
submitted to a board, the board shall proceed on its own advice. 3118

(D) If the state medical board or state board of pharmacy 3119
fails to appoint an initial member prior to sixty days after the 3120
effective date of this section or fails to appoint a successor 3121
prior to sixty days after the expiration of the term for which the 3122
appointment is to be made, the board of nursing shall appoint the 3123
successor. If the board of nursing fails to appoint an initial 3124
member prior to sixty days after the effective date of this 3125
section or fails to appoint a successor prior to sixty days after 3126
the expiration of the term for which the appointment is to be 3127
made, the state medical board shall appoint the member after 3128
consulting with the state board of pharmacy. 3129

Sec. 4723.491. (A) The committee on prescriptive governance 3130
shall organize by selecting a chairperson from among its members 3131
who are nurses or collaborating physicians. The committee may 3132
select a new chairperson at any time. 3133

(B) Five members constitute a quorum for the transaction of 3134
official business. The clinical pharmacist member may participate 3135
in any meeting of the committee, but shall be included as a voting 3136
member only when the committee is considering one of the 3137
following: 3138

(1) The composition of the formulary of drugs and therapeutic 3139
devices that may be prescribed by a clinical nurse specialist, 3140
certified nurse-midwife, or certified nurse practitioner who holds 3141
a certificate to prescribe issued under section 4723.48 of the 3142
Revised Code; 3143

(2) The manner in which a nurse may personally furnish to 3144
patients drugs and therapeutic devices packaged as samples and may 3145

personally furnish partial or complete supplies of other drugs and 3146
therapeutic devices; 3147

(3) Recommendations to be given to the board of nursing for 3148
use in adopting rules under section 4723.50 of the Revised Code 3149
pertaining to the matters specified in divisions (B)(1) and (2) of 3150
this section. 3151

(C) Members shall serve without compensation but shall 3152
receive payment for their actual and necessary expenses incurred 3153
in the performance of their official duties. The expenses shall be 3154
paid by the board of nursing. 3155

Sec. 4723.492. The committee on prescriptive governance shall 3156
develop recommendations regarding the authority to prescribe drugs 3157
and therapeutic devices pursuant to a certificate to prescribe 3158
issued under section 4723.48 of the Revised Code. Not later than 3159
fourteen months after the effective date of this section, the 3160
committee shall submit recommendations to the board of nursing as 3161
necessary for the board to fulfill its duty to adopt rules under 3162
section 4723.50 of the Revised Code. At the board's request, the 3163
committee shall reconsider a recommendation it has submitted and 3164
resubmit the recommendation to the board accordingly. 3165
3166

Sec. 4723.50. (A) In accordance with Chapter 119. of the 3167
Revised Code, the board of nursing shall adopt rules as necessary 3168
to implement the provisions of this chapter pertaining to the 3169
authority of clinical nurse specialists, certified nurse-midwives, 3170
and certified nurse practitioners to prescribe drugs and 3171
therapeutic devices and the issuance and renewal of certificates 3172
to prescribe. Initial rules shall be adopted not later than twenty 3173
months after the effective date of this section. 3174

The board shall adopt rules that are consistent with the 3175

recommendations the board receives from the committee on 3176
prescriptive governance pursuant to section 4723.492 of the 3177
Revised Code. After reviewing a recommendation submitted by the 3178
committee, the board may either adopt the recommendation as a rule 3179
or ask the committee to reconsider and resubmit the 3180
recommendation. The board shall not adopt any rule that does not 3181
conform to a recommendation made by the committee. 3182

(B) The board shall adopt rules under this section that do 3183
the following: 3184

(1) Establish a formulary listing the types of drugs and 3185
therapeutic devices that may be prescribed by a clinical nurse 3186
specialist, certified nurse-midwife, or certified nurse 3187
practitioner. The formulary may include controlled substances, as 3188
defined in section 3719.01 of the Revised Code. The formulary 3189
shall not permit the prescribing of any drug or device to perform 3190
or induce an abortion. 3191

(2) Establish safety standards to be followed by a nurse when 3192
personally furnishing to patients complete or partial supplies of 3193
antibiotics, antifungals, scabicides, contraceptives, and prenatal 3194
vitamins. 3195

(3) Establish criteria for the components of the standard 3196
care arrangements described in section 4723.431 of the Revised 3197
Code that apply to a nurse's authority to prescribe. The rules 3198
shall be consistent with that section and include all of the 3199
following: 3200

(a) Quality assurance standards; 3201

(b) Standards for periodic review by a collaborating 3202
physician or podiatrist of the records of patients treated by the 3203
nurse; 3204

(c) Acceptable travel time between the location at which the 3205

nurse is engaging in the prescribing components of the nurse's 3206
practice and the location of the nurse's collaborating physician 3207
or podiatrist; 3208

(d) Any other criteria recommended by the committee on 3209
prescriptive governance. 3210

(4) Establish standards and procedures for issuance and 3211
renewal of a certificate to prescribe, including specification of 3212
any additional information the board may require under division 3213
(A)(4) of section 4723.482 or division (B)(3) of section 4723.484 3214
of the Revised Code; 3215

(5) Establish requirements for board approval of the 3216
instruction in advanced pharmacology and related topics required 3217
by section 4723.482 of the Revised Code; 3218

(6) Establish standards and procedures for the appropriate 3219
conduct of an externship required by division (B)(1) of section 3220
4723.484 of the Revised Code, including the following: 3221

(a) Standards and procedures to be used in evaluating a 3222
nurse's participation in an externship. Regardless of the method 3223
of evaluation used, a nurse shall not be required to participate 3224
in an externship longer than one thousand eight hundred hours. 3225

(b) Standards and procedures for the supervision that a 3226
physician must provide during an externship, including supervision 3227
provided by working with the nurse and supervision provided by 3228
making timely reviews of the records of patients treated by the 3229
nurse. The manner in which supervision must be provided may vary 3230
according to the location where the nurse is practicing and with 3231
the nurse's level of experience. 3232

Sec. 4723.52. (A) The school of nursing of case western 3233
reserve university, the school of nursing of wright state 3234
university, and the university of Cincinnati college of nursing 3235

and health shall each establish a pilot program to provide access 3236
to health care in underserved areas through the use of advanced 3237
practice nurses. Each pilot program shall be operated by the 3238
nursing faculty of the university at which it is established. Each 3239
pilot program shall cease to exist ~~on January 1, 2010~~ three years 3240
and eight months after the effective date of this amendment. 3241

An advisory committee shall be established for each of the 3242
pilot programs. The dean of the medical school at case western 3243
reserve university shall appoint two physicians to serve on the 3244
advisory committee of the university's pilot program. The dean of 3245
the medical school at wright state university shall appoint two 3246
physicians to serve on the advisory committee of the university's 3247
pilot program. The dean of the medical school at the university of 3248
Cincinnati shall appoint two physicians to serve on the advisory 3249
committee of the university's pilot program. To be appointed, a 3250
physician must have experience working with registered nurses who 3251
are approved as advanced practice nurses under section 4723.55 of 3252
the Revised Code or, until one year after the board of nursing 3253
begins approving nurses under that section, nurses who are 3254
qualified to be approved under that section. 3255

(B) The advisory committee of each pilot program shall 3256
develop a standard care arrangement in accordance with rules 3257
adopted by the board of nursing under section 4723.54 of the 3258
Revised Code. The standard care arrangement applies only to the 3259
advanced practice nurses included in the pilot program for which 3260
it is developed. Each advisory committee shall submit a copy of 3261
its standard care arrangement to the board of nursing for review 3262
within thirty days after the board adopts final rules under 3263
division (A) of section 4723.54 of the Revised Code. 3264

(C) Each standard care arrangement shall establish conditions 3265
under which an advanced practice nurse must refer a patient to a 3266

physician and procedures for quality assurance reviews of advanced 3267
practice nurses by the advisory committee, and shall comply with 3268
any other requirements established by the board of nursing in 3269
rules adopted under section 4723.54 of the Revised Code. No 3270
standard care arrangement shall permit an advanced practice nurse 3271
to prescribe any drug or device to perform or induce an abortion, 3272
or to otherwise perform or induce an abortion. 3273

(D) Biennially, each pilot program shall submit a written 3274
report of its operation to the governor, the speaker of the house 3275
of representatives, the president of the senate, the board of 3276
nursing, the state medical board, the state board of pharmacy, the 3277
department of health, and the formulary committee for advanced 3278
practice nurses established under section 4723.57 of the Revised 3279
Code. The first report shall be submitted no later than July 1, 3280
1994. 3281

Sec. 4723.561. An advanced practice nurse approved by the 3282
board of nursing under section 4723.56 of the Revised Code to 3283
prescribe drugs and therapeutic devices as part of a pilot program 3284
established under section 4723.52 of the Revised Code may 3285
personally ~~supply~~ furnish to patients the following drugs and 3286
devices that are within the advanced practice nurse's authority to 3287
prescribe: antibiotics, antifungals, scabicides, contraceptives, 3288
and prenatal vitamins. 3289

The advanced practice nurse shall maintain a written record 3290
of drugs and devices personally ~~supplied~~ furnished under this 3291
section. For each drug or device ~~supplied~~ furnished, the 3292
collaborating physician shall review the record within seventy-two 3293
hours after the drug or device is ~~supplied~~ furnished. 3294

Sec. 4723.562. On and after the effective date of this 3295
section, the number of advanced practice nurses with approval to 3296

prescribe drugs and therapeutic devices who are permitted to 3297
participate in a pilot program established under section 4723.52 3298
of the Revised Code shall not exceed the number of nurses with 3299
that approval who were permitted to participate in that program on 3300
the effective date of this section. 3301

Sec. 4723.563. No protocol established between an advanced 3302
practice nurse and a collaborating physician may authorize, and 3303
nothing in this chapter shall be construed as authorizing, an 3304
advanced practice nurse to prescribe any drug or device to perform 3305
or induce an abortion, or to otherwise perform or induce an 3306
abortion. 3307

Sec. 4723.58. (A) In accordance with Chapter 119. of the 3308
Revised Code, the board of nursing shall adopt rules regarding the 3309
approval of advanced practice nurses under section 4723.56 of the 3310
Revised Code to prescribe drugs and therapeutic devices. The rules 3311
shall be consistent with the recommendations of the formulary 3312
committee for advanced practice nurses and shall establish all of 3313
the following: 3314

(1) A formulary listing the drugs and therapeutic devices, 3315
including types and classes where appropriate, that may be 3316
prescribed by advanced practice nurses; 3317

(2) Requirements pertaining to the protocol that is required 3318
to be established between an advanced practice nurse and the 3319
nurse's collaborating physician; 3320

(3) Requirements regarding the pharmacology courses that an 3321
advanced practice nurse is required to complete to receive 3322
approval or renewal of approval to prescribe drugs and therapeutic 3323
devices; 3324

(4) Standards and procedures for approval and renewal of 3325

approval of advanced practice nurses to prescribe drugs and
therapeutic devices;

(5) Any other requirements with regard to advanced practice
nurses approved to prescribe drugs and therapeutic devices.

(B) The drugs included in the formulary shall not include any
~~drug listed on~~ schedule I or II controlled substance, as specified
in section 3719.41 of the Revised Code. The formulary may include
restrictions and requirements for prescriptions and shall include
requirements specific to advanced practice nursing. The formulary
shall not permit the prescribing of any drug or device to perform
or induce an abortion.

Sec. 4723.59. (A) An advanced practice nurse shall practice
as an advanced practice nurse only in accordance with the standard
care arrangement developed under section 4723.52 of the Revised
Code for the pilot program in which the nurse is participating. An
advanced practice nurse who does not follow the standard care
arrangement is guilty of unprofessional conduct and is subject to
disciplinary action under section 4723.28 of the Revised Code for
violation of this chapter and the rules adopted under it.

(B) An advanced practice nurse approved under section 4723.56
of the Revised Code shall prescribe drugs and therapeutic devices
specified in the prescriptive authority protocol established
between the nurse and the collaborating physician only in
accordance with the protocol. An advanced practice nurse approved
under section 4723.56 of the Revised Code shall personally ~~supply~~
furnish drugs and therapeutic devices in accordance with section
4723.561 of the Revised Code. Any advanced practice nurse who does
not follow the protocol or personally ~~supply~~ furnish drugs and
devices in accordance with section 4723.561 of the Revised Code is
guilty of unprofessional conduct and is subject to disciplinary
action under section 4723.28 of the Revised Code for violation of

this chapter and the rules adopted under it. 3357

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(C) Any collaborating physician who does not perform the 3359
responsibilities the physician agreed to perform in the protocol 3360
established between the physician and an advanced practice nurse 3361
in accordance with section 4723.56 of the Revised Code is guilty 3362
of unprofessional conduct and is subject to disciplinary action by 3363
the state medical board. Under this division, the state medical 3364
board may revoke, limit, or suspend the physician's certificate to 3365
practice, pursuant to an adjudicatory hearing under Chapter 119. 3366
of the Revised Code and a vote of not less than six of its 3367
members. 3368

Sec. 4729.01. As used in this chapter: 3369

(A) "Pharmacy," except when used in a context that refers to 3370
the practice of pharmacy, means any area, room, rooms, place of 3371
business, department, or portion of any of the foregoing where the 3372
practice of pharmacy is conducted. 3373

(B) "Practice of pharmacy" means providing pharmacist care 3374
requiring specialized knowledge, judgment, and skill derived from 3375
the principles of biological, chemical, behavioral, social, 3376
pharmaceutical, and clinical sciences. As used in this division, 3377
"pharmacist care" includes the following: 3378

(1) Interpreting prescriptions; 3379

(2) Compounding or dispensing drugs and dispensing drug 3380
therapy related devices; 3381

(3) Counseling individuals with regard to their drug therapy, 3382
recommending drug therapy related devices, and assisting in the 3383
selection of drugs and appliances for treatment of common diseases 3384
and injuries and providing instruction in the proper use of the 3385
drugs and appliances; 3386

(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;	3387 3388 3389
(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;	3390 3391 3392 3393
(6) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;	3394 3395 3396
(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.	3397 3398 3399 3400
(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:	3401 3402 3403
(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;	3404 3405
(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;	3406 3407
(3) As an incident to research, teaching activities, or chemical analysis;	3408 3409
(4) In anticipation of prescription drug orders based on routine, regularly observed dispensing patterns.	3410 3411
(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.	3412 3413 3414 3415 3416

(E) "Drug" means:	3417
(1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	3418 3419 3420 3421
(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	3422 3423 3424
(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;	3425 3426
(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.	3427 3428 3429 3430
(F) "Dangerous drug" means any of the following:	3431
(1) Any drug to which either of the following applies:	3432
(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;	3433 3434 3435 3436 3437 3438 3439
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	3440 3441
(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;	3442 3443 3444
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human	3445 3446

body. 3447

(G) "Federal drug abuse control laws" has the same meaning as 3448
in section 3719.01 of the Revised Code. 3449

(H) "Prescription" means a written, electronic, or oral order 3450
for drugs or combinations or mixtures of drugs to be used by a 3451
particular individual or for treating a particular animal, issued 3452
by a licensed health professional authorized to prescribe drugs. 3453
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(I) "Licensed health professional authorized to prescribe 3455
drugs" or "prescriber" means an individual who is authorized by 3456
law to prescribe drugs or dangerous drugs or drug therapy related 3457
devices in the course of the individual's professional practice, 3458
including only the following: 3459

(1) A dentist licensed under Chapter 4715. of the Revised 3460
Code; 3461

(2) An Until three years and eight months after the effective 3462
date of this amendment, an advanced practice nurse approved under 3463
section 4723.56 of the Revised Code to prescribe drugs and 3464
therapeutic devices; 3465

(3) A clinical nurse specialist, certified nurse-midwife, or 3466
certified nurse practitioner who holds a certificate to prescribe 3467
issued under section 4723.48 of the Revised Code; 3468

(4) An optometrist licensed under Chapter 4725. of the 3469
Revised Code to practice optometry under a therapeutic 3470
pharmaceutical agents certificate; 3471

~~(4)~~(5) A physician authorized under Chapter 4731. of the 3472
Revised Code to practice medicine and surgery, osteopathic 3473
medicine and surgery, or podiatry; 3474

~~(5)~~(6) A veterinarian licensed under Chapter 4741. of the 3475
Revised Code. 3476

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

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

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

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

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

(1) The proprietary name of the drug product;

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

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

(4) The dosage form;

(5) The price charged for a specific quantity of the drug product. The stated price shall include all charges to the

consumer, including, but not limited to, the cost of the drug 3507
product, professional fees, handling fees, if any, and a statement 3508
identifying professional services routinely furnished by the 3509
pharmacy. Any mailing fees and delivery fees may be stated 3510
separately without repetition. The information shall not be false 3511
or misleading. 3512

(O) "Wholesale distributor of dangerous drugs" means a person 3513
engaged in the sale of dangerous drugs at wholesale and includes 3514
any agent or employee of such a person authorized by the person to 3515
engage in the sale of dangerous drugs at wholesale. 3516

(P) "Manufacturer of dangerous drugs" means a person, other 3517
than a pharmacist, who manufactures dangerous drugs and who is 3518
engaged in the sale of those dangerous drugs within this state. 3519

(Q) "Terminal distributor of dangerous drugs" means a person 3520
who is engaged in the sale of dangerous drugs at retail, or any 3521
person, other than a wholesale distributor or a pharmacist, who 3522
has possession, custody, or control of dangerous drugs for any 3523
purpose other than for that person's own use and consumption, and 3524
includes pharmacies, hospitals, nursing homes, and laboratories 3525
and all other persons who procure dangerous drugs for sale or 3526
other distribution by or under the supervision of a pharmacist or 3527
licensed health professional authorized to prescribe drugs. 3528

(R) "Promote to the public" means disseminating a 3529
representation to the public in any manner or by any means, other 3530
than by labeling, for the purpose of inducing, or that is likely 3531
to induce, directly or indirectly, the purchase of a dangerous 3532
drug at retail. 3533

(S) "Person" includes any individual, partnership, 3534
association, limited liability company, or corporation, the state, 3535
any political subdivision of the state, and any district, 3536
department, or agency of the state or its political subdivisions. 3537

(T) "Finished dosage form" has the same meaning as in section 3715.01 of the Revised Code. 3538
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(U) "Generically equivalent drug" has the same meaning as in section 3715.01 of the Revised Code. 3540
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(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. 3542
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(W) "Food" has the same meaning as in section 3715.01 of the Revised Code. 3546
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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: 3548
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(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; 3552
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(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 or place is in effect at the time of the transfer or delivery. 3556
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(B)(1) No registered wholesale distributor of dangerous drugs shall possess for sale, or sell, at wholesale, dangerous drugs to any person other than the following: 3563
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(a) A licensed health professional authorized to prescribe drugs; 3566
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(b) An optometrist licensed under Chapter 4725. of the Revised Code who holds a topical ocular pharmaceutical agents certificate;	3568 3569 3570
(c) A registered wholesale distributor of dangerous drugs;	3571
(d) A manufacturer of dangerous drugs;	3572
(e) A licensed terminal distributor of dangerous drugs, subject to division (B)(2) of this section;	3573 3574
(f) Carriers or warehousemen for the purpose of carriage or storage;	3575 3576
(g) Terminal or wholesale distributors of dangerous drugs who are not engaged in the sale of dangerous drugs within this state;	3577 3578 3579
(h) An individual who holds a current license, certificate, or registration issued under Title 47 of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only with respect to insulin that will be used for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession.	3580 3581 3582 3583 3584 3585 3586 3587 3588
(2) No registered wholesale distributor of dangerous drugs shall possess dangerous drugs for sale at wholesale, or sell such drugs at wholesale, to a licensed terminal distributor of dangerous drugs, except to:	3589 3590 3591 3592
(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;	3593 3594 3595
(b) A terminal distributor who has a category II license, only dangerous drugs described in category I and category II, as	3596 3597

defined in divisions (A)(1) and (2) of section 4729.54 of the Revised Code; 3598
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(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; 3600
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(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. 3604
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(C)(1) Except as provided in division (C)(4) of this section, no person shall sell, at retail, dangerous drugs. 3608
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(2) Except as provided in division (C)(4) of this section, no person shall possess for sale, at retail, dangerous drugs. 3610
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(3) Except as provided in division (C)(4) of this section, no person shall possess dangerous drugs. 3612
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(4) Divisions (C)(1), (2), and (3) of this section do not apply to a registered wholesale distributor of dangerous drugs, a licensed terminal distributor of dangerous drugs, or a person who possesses, or possesses for sale or sells, at retail, a dangerous drug in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4731., and 4741. ~~or section 4723.56~~ of the Revised Code. 3614
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Divisions (C)(1), (2), and (3) of this section do not apply to an individual who holds a current license, certificate, or registration issued under Title 47 XLVII of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only to the extent that the individual possesses insulin or personally supplies insulin solely for the purpose of diabetes education and 3620
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only if diabetes education is within the individual's scope of 3628
practice under statutes and rules regulating the individual's 3629
profession. 3630

(D) No licensed terminal distributor of dangerous drugs shall 3631
purchase for the purpose of resale dangerous drugs from any person 3632
other than a registered wholesale distributor of dangerous drugs, 3633
except as follows: 3634

(1) A licensed terminal distributor of dangerous drugs may 3635
make occasional purchases of dangerous drugs for resale from a 3636
pharmacist who is a licensed terminal distributor of dangerous 3637
drugs or who is employed by a licensed terminal distributor of 3638
dangerous drugs; 3639

(2) A licensed terminal distributor of dangerous drugs having 3640
more than one establishment or place may transfer or receive 3641
dangerous drugs from one establishment or place for which a 3642
license has been issued to the terminal distributor to another 3643
establishment or place for which a license has been issued to the 3644
terminal distributor if the license issued for each establishment 3645
or place is in effect at the time of the transfer or receipt. 3646

(E) No licensed terminal distributor of dangerous drugs shall 3647
engage in the sale or other distribution of dangerous drugs at 3648
retail or maintain possession, custody, or control of dangerous 3649
drugs for any purpose other than the distributor's personal use or 3650
consumption, at any establishment or place other than that or 3651
those described in the license issued by the board of pharmacy to 3652
such terminal distributor. 3653

(F) Nothing in this section shall be construed to interfere 3654
with the performance of official duties by any law enforcement 3655
official authorized by municipal, county, state, or federal law to 3656
collect samples of any drug, regardless of its nature or in whose 3657
possession it may be. 3658

Sec. 4731.22. (A) The state medical board, by an affirmative 3659
vote of not fewer than six of its members, may revoke or may 3660
refuse to grant a certificate to a person found by the board to 3661
have committed fraud during the administration of the examination 3662
for a certificate to practice or to have committed fraud, 3663
misrepresentation, or deception in applying for or securing any 3664
certificate to practice or certificate of registration issued by 3665
the board. 3666

(B) The board, by an affirmative vote of not fewer than six 3667
members, shall, to the extent permitted by law, limit, revoke, or 3668
suspend an individual's certificate to practice, refuse to 3669
register an individual, refuse to reinstate a certificate, or 3670
reprimand or place on probation the holder of a certificate for 3671
one or more of the following reasons: 3672

(1) Permitting one's name or one's certificate to practice or 3673
certificate of registration to be used by a person, group, or 3674
corporation when the individual concerned is not actually 3675
directing the treatment given; 3676

(2) Failure to maintain minimal standards applicable to the 3677
selection or administration of drugs, or failure to employ 3678
acceptable scientific methods in the selection of drugs or other 3679
modalities for treatment of disease; 3680

(3) Selling, giving away, personally furnishing, prescribing, 3681
or administering drugs for other than legal and legitimate 3682
therapeutic purposes or a plea of guilty to, a judicial finding of 3683
guilt of, or a judicial finding of eligibility for treatment in 3684
lieu of conviction of, a violation of any federal or state law 3685
regulating the possession, distribution, or use of any drug; 3686
3687

(4) Willfully betraying a professional confidence. 3688

For purposes of this division, "willfully betraying a professional confidence" does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that

an incurable disease or injury, or other incurable condition, can	3720
be permanently cured;	3721
(8) The obtaining of, or attempting to obtain, money or	3722
anything of value by fraudulent misrepresentations in the course	3723
of practice;	3724
(9) A plea of guilty to, a judicial finding of guilt of, or a	3725
judicial finding of eligibility for treatment in lieu of	3726
conviction for, a felony;	3727
(10) Commission of an act that constitutes a felony in this	3728
state, regardless of the jurisdiction in which the act was	3729
committed;	3730
(11) A plea of guilty to, a judicial finding of guilt of, or	3731
a judicial finding of eligibility for treatment in lieu of	3732
conviction for, a misdemeanor committed in the course of practice;	3733
(12) Commission of an act in the course of practice that	3734
constitutes a misdemeanor in this state, regardless of the	3735
jurisdiction in which the act was committed;	3736
(13) A plea of guilty to, a judicial finding of guilt of, or	3737
a judicial finding of eligibility for treatment in lieu of	3738
conviction for, a misdemeanor involving moral turpitude;	3739
(14) Commission of an act involving moral turpitude that	3740
constitutes a misdemeanor in this state, regardless of the	3741
jurisdiction in which the act was committed;	3742
(15) Violation of the conditions of limitation placed by the	3743
board upon a certificate to practice;	3744
(16) Failure to pay license renewal fees specified in this	3745
chapter;	3746
(17) Except as authorized in section 4731.31 of the Revised	3747
Code, engaging in the division of fees for referral of patients,	3748
or the receiving of a thing of value in return for a specific	3749

referral of a patient to utilize a particular service or business; 3750

(18) Subject to section 4731.226 of the Revised Code, 3751
violation of any provision of a code of ethics of the American 3752
medical association, the American osteopathic association, the 3753
American podiatric medical association, or any other national 3754
professional organizations that the board specifies by rule. The 3755
state medical board shall obtain and keep on file current copies 3756
of the codes of ethics of the various national professional 3757
organizations. The individual whose certificate is being suspended 3758
or revoked shall not be found to have violated any provision of a 3759
code of ethics of an organization not appropriate to the 3760
individual's profession. 3761

For purposes of this division, a "provision of a code of 3762
ethics of a national professional organization" does not include 3763
any provision that would preclude the making of a report by a 3764
physician of an employee's use of a drug of abuse, or of a 3765
condition of an employee other than one involving the use of a 3766
drug of abuse, to the employer of the employee as described in 3767
division (B) of section 2305.33 of the Revised Code. Nothing in 3768
this division affects the immunity from civil liability conferred 3769
by that section upon a physician who makes either type of report 3770
in accordance with division (B) of that section. As used in this 3771
division, "employee," "employer," and "physician" have the same 3772
meanings as in section 2305.33 of the Revised Code. 3773

(19) Inability to practice according to acceptable and 3774
prevailing standards of care by reason of mental illness or 3775
physical illness, including, but not limited to, physical 3776
deterioration that adversely affects cognitive, motor, or 3777
perceptive skills. 3778

In enforcing this division, the board, upon a showing of a 3779
possible violation, may compel any individual authorized to 3780

practice by this chapter or who has submitted an application 3781
pursuant to this chapter to submit to a mental examination, 3782
physical examination, including an HIV test, or both a mental and 3783
a physical examination. The expense of the examination is the 3784
responsibility of the individual compelled to be examined. Failure 3785
to submit to a mental or physical examination or consent to an HIV 3786
test ordered by the board constitutes an admission of the 3787
allegations against the individual unless the failure is due to 3788
circumstances beyond the individual's control, and a default and 3789
final order may be entered without the taking of testimony or 3790
presentation of evidence. If the board finds an individual unable 3791
to practice because of the reasons set forth in this division, the 3792
board shall require the individual to submit to care, counseling, 3793
or treatment by physicians approved or designated by the board, as 3794
a condition for initial, continued, reinstated, or renewed 3795
authority to practice. An individual affected under this division 3796
shall be afforded an opportunity to demonstrate to the board the 3797
ability to resume practice in compliance with acceptable and 3798
prevailing standards under the provisions of the individual's 3799
certificate. For the purpose of this division, any individual who 3800
applies for or receives a certificate to practice under this 3801
chapter accepts the privilege of practicing in this state and, by 3802
so doing, shall be deemed to have given consent to submit to a 3803
mental or physical examination when directed to do so in writing 3804
by the board, and to have waived all objections to the 3805
admissibility of testimony or examination reports that constitute 3806
a privileged communication. 3807

(20) Except when civil penalties are imposed under section 3808
4731.225 or 4731.281 of the Revised Code, and subject to section 3809
4731.226 of the Revised Code, violating or attempting to violate, 3810
directly or indirectly, or assisting in or abetting the violation 3811
of, or conspiring to violate, any provisions of this chapter or 3812

any rule promulgated by the board. 3813

This division does not apply to a violation or attempted 3814
violation of, assisting in or abetting the violation of, or a 3815
conspiracy to violate, any provision of this chapter or any rule 3816
adopted by the board that would preclude the making of a report by 3817
a physician of an employee's use of a drug of abuse, or of a 3818
condition of an employee other than one involving the use of a 3819
drug of abuse, to the employer of the employee as described in 3820
division (B) of section 2305.33 of the Revised Code. Nothing in 3821
this division affects the immunity from civil liability conferred 3822
by that section upon a physician who makes either type of report 3823
in accordance with division (B) of that section. As used in this 3824
division, "employee," "employer," and "physician" have the same 3825
meanings as in section 2305.33 of the Revised Code. 3826

(21) The violation of any abortion rule adopted by the public 3827
health council pursuant to section 3701.341 of the Revised Code; 3828
3829

(22) Any of the following actions taken by the state agency 3830
responsible for regulating the practice of medicine and surgery, 3831
osteopathic medicine and surgery, podiatry, or the limited 3832
branches of medicine in another state, for any reason other than 3833
the nonpayment of fees: the limitation, revocation, or suspension 3834
of an individual's license to practice; acceptance of an 3835
individual's license surrender; denial of a license; refusal to 3836
renew or reinstate a license; imposition of probation; or issuance 3837
of an order of censure or other reprimand; 3838

(23) The violation of section 2919.12 of the Revised Code or 3839
the performance or inducement of an abortion upon a pregnant woman 3840
with actual knowledge that the conditions specified in division 3841
(B) of section 2317.56 of the Revised Code have not been satisfied 3842
or with a heedless indifference as to whether those conditions 3843

have been satisfied, unless an affirmative defense as specified in 3844
division (H)(2) of that section would apply in a civil action 3845
authorized by division (H)(1) of that section; 3846

(24) The revocation, suspension, restriction, reduction, or 3847
termination of clinical privileges by the United States department 3848
of defense or department of veterans affairs or the termination or 3849
suspension of a certificate of registration to prescribe drugs by 3850
the drug enforcement administration of the United States 3851
department of justice; 3852

(25) Termination or suspension from participation in the 3853
medicare or medicaid programs by the department of health and 3854
human services or other responsible agency for any act or acts 3855
that also would constitute a violation of division (B)(2), (3), 3856
(6), (8), or (19) of this section; 3857

(26) Impairment of ability to practice according to 3858
acceptable and prevailing standards of care because of habitual or 3859
excessive use or abuse of drugs, alcohol, or other substances that 3860
impair ability to practice. 3861

For the purposes of this division, any individual authorized 3862
to practice by this chapter accepts the privilege of practicing in 3863
this state subject to supervision by the board. By filing an 3864
application for or holding a certificate to practice under this 3865
chapter, an individual shall be deemed to have given consent to 3866
submit to a mental or physical examination when ordered to do so 3867
by the board in writing, and to have waived all objections to the 3868
admissibility of testimony or examination reports that constitute 3869
privileged communications. 3870

If it has reason to believe that any individual authorized to 3871
practice by this chapter or any applicant for certification to 3872
practice suffers such impairment, the board may compel the 3873
individual to submit to a mental or physical examination, or both. 3874

The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

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

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, the following:

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

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

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by

individuals or providers approved by the board for making the 3906
assessments and shall describe the basis for their determination. 3907

The board may reinstate a certificate suspended under this 3908
division after that demonstration and after the individual has 3909
entered into a written consent agreement. 3910

When the impaired practitioner resumes practice, the board 3911
shall require continued monitoring of the individual. The 3912
monitoring shall include, but not be limited to, compliance with 3913
the written consent agreement entered into before reinstatement or 3914
with conditions imposed by board order after a hearing, and, upon 3915
termination of the consent agreement, submission to the board for 3916
at least two years of annual written progress reports made under 3917
penalty of perjury stating whether the individual has maintained 3918
sobriety. 3919

(27) A second or subsequent violation of section 4731.66 or 3920
4731.69 of the Revised Code; 3921

(28) Except as provided in division (N) of this section: 3922

(a) Waiving the payment of all or any part of a deductible or 3923
copayment that a patient, pursuant to a health insurance or health 3924
care policy, contract, or plan that covers the individual's 3925
services, otherwise would be required to pay if the waiver is used 3926
as an enticement to a patient or group of patients to receive 3927
health care services from that individual; 3928

(b) Advertising that the individual will waive the payment of 3929
all or any part of a deductible or copayment that a patient, 3930
pursuant to a health insurance or health care policy, contract, or 3931
plan that covers the individual's services, otherwise would be 3932
required to pay. 3933

(29) Failure to use universal blood and body fluid 3934
precautions established by rules adopted under section 4731.051 of 3935

the Revised Code;	3936
(30) Failure of a collaborating physician to perform <u>fulfill</u>	3937
the responsibilities agreed to by the physician in the protocol	3938
established between the physician and an advanced practice nurse	3939
in accordance with <u>participating in a pilot program under</u> section	3940
4723.56 <u>4723.52</u> of the Revised Code;	3941
(31) Failure to provide notice to, and receive acknowledgment	3942
of the notice from, a patient when required by section 4731.143 of	3943
the Revised Code prior to providing nonemergency professional	3944
services, or failure to maintain that notice in the patient's	3945
file;	3946
(32) Failure of a physician supervising a physician assistant	3947
to maintain supervision in accordance with the requirements of	3948
Chapter 4730. of the Revised Code and the rules adopted under that	3949
chapter;	3950
(33) Failure of a physician or podiatrist to maintain <u>enter</u>	3951
<u>into</u> a standard care arrangement with a clinical nurse specialist,	3952
certified nurse-midwife, or certified nurse practitioner with whom	3953
the physician or podiatrist is in collaboration pursuant to	3954
section 4731.27 of the Revised Code and practice in accordance	3955
with the arrangement <u>or failure to fulfill the responsibilities of</u>	3956
<u>collaboration after entering into a standard care arrangement;</u>	3957
(34) Failure to comply with the terms of a consult agreement	3958
entered into with a pharmacist pursuant to section 4729.39 of the	3959
Revised Code;	3960
(35) Failure to cooperate in an investigation conducted by	3961
the board under division (F) of this section, including failure to	3962
comply with a subpoena or order issued by the board or failure to	3963
answer truthfully a question presented by the board at a	3964
deposition or in written interrogatories, except that failure to	3965
cooperate with an investigation shall not constitute grounds for	3966

discipline under this section if a court of competent jurisdiction 3967
has issued an order that either quashes a subpoena or permits the 3968
individual to withhold the testimony or evidence in issue. 3969

(C) Disciplinary actions taken by the board under divisions 3970
(A) and (B) of this section shall be taken pursuant to an 3971
adjudication under Chapter 119. of the Revised Code, except that 3972
in lieu of an adjudication, the board may enter into a consent 3973
agreement with an individual to resolve an allegation of a 3974
violation of this chapter or any rule adopted under it. A consent 3975
agreement, when ratified by an affirmative vote of not fewer than 3976
six members of the board, shall constitute the findings and order 3977
of the board with respect to the matter addressed in the 3978
agreement. If the board refuses to ratify a consent agreement, the 3979
admissions and findings contained in the consent agreement shall 3980
be of no force or effect. 3981

(D) For purposes of divisions (B)(10), (12), and (14) of this 3982
section, the commission of the act may be established by a finding 3983
by the board, pursuant to an adjudication under Chapter 119. of 3984
the Revised Code, that the individual committed the act. The board 3985
does not have jurisdiction under those divisions if the trial 3986
court renders a final judgment in the individual's favor and that 3987
judgment is based upon an adjudication on the merits. The board 3988
has jurisdiction under those divisions if the trial court issues 3989
an order of dismissal upon technical or procedural grounds. 3990

(E) The sealing of conviction records by any court shall have 3991
no effect upon a prior board order entered under this section or 3992
upon the board's jurisdiction to take action under this section 3993
if, based upon a plea of guilty, a judicial finding of guilt, or a 3994
judicial finding of eligibility for treatment in lieu of 3995
conviction, the board issued a notice of opportunity for a hearing 3996
prior to the court's order to seal the records. The board shall 3997
not be required to seal, destroy, redact, or otherwise modify its 3998

records to reflect the court's sealing of conviction records. 3999

(F)(1) The board shall investigate evidence that appears to 4000
show that a person has violated any provision of this chapter or 4001
any rule adopted under it. Any person may report to the board in a 4002
signed writing any information that the person may have that 4003
appears to show a violation of any provision of this chapter or 4004
any rule adopted under it. In the absence of bad faith, any person 4005
who reports information of that nature or who testifies before the 4006
board in any adjudication conducted under Chapter 119. of the 4007
Revised Code shall not be liable in damages in a civil action as a 4008
result of the report or testimony. Each complaint or allegation of 4009
a violation received by the board shall be assigned a case number 4010
and shall be recorded by the board. 4011

(2) Investigations of alleged violations of this chapter or 4012
any rule adopted under it shall be supervised by the supervising 4013
member elected by the board in accordance with section 4731.02 of 4014
the Revised Code and by the secretary as provided in section 4015
4731.39 of the Revised Code. The president may designate another 4016
member of the board to supervise the investigation in place of the 4017
supervising member. No member of the board who supervises the 4018
investigation of a case shall participate in further adjudication 4019
of the case. 4020

(3) In investigating a possible violation of this chapter or 4021
any rule adopted under this chapter, the board may administer 4022
oaths, order the taking of depositions, issue subpoenas, and 4023
compel the attendance of witnesses and production of books, 4024
accounts, papers, records, documents, and testimony, except that a 4025
subpoena for patient record information shall not be issued 4026
without consultation with the attorney general's office and 4027
approval of the secretary and supervising member of the board. 4028
Before issuance of a subpoena for patient record information, the 4029
secretary and supervising member shall determine whether there is 4030

probable cause to believe that the complaint filed alleges a 4031
violation of this chapter or any rule adopted under it and that 4032
the records sought are relevant to the alleged violation and 4033
material to the investigation. The subpoena may apply only to 4034
records that cover a reasonable period of time surrounding the 4035
alleged violation. 4036

On failure to comply with any subpoena issued by the board 4037
and after reasonable notice to the person being subpoenaed, the 4038
board may move for an order compelling the production of persons 4039
or records pursuant to the Rules of Civil Procedure. 4040

A subpoena issued by the board may be served by a sheriff, 4041
the sheriff's deputy, or a board employee designated by the board. 4042
Service of a subpoena issued by the board may be made by 4043
delivering a copy of the subpoena to the person named therein, 4044
reading it to the person, or leaving it at the person's usual 4045
place of residence. When the person being served is a person whose 4046
practice is authorized by this chapter, service of the subpoena 4047
may be made by certified mail, restricted delivery, return receipt 4048
requested, and the subpoena shall be deemed served on the date 4049
delivery is made or the date the person refuses to accept 4050
delivery. 4051

A sheriff's deputy who serves a subpoena shall receive the 4052
same fees as a sheriff. Each witness who appears before the board 4053
in obedience to a subpoena shall receive the fees and mileage 4054
provided for witnesses in civil cases in the courts of common 4055
pleas. 4056

(4) All hearings and investigations of the board shall be 4057
considered civil actions for the purposes of section 2305.251 of 4058
the Revised Code. 4059

(5) Information received by the board pursuant to an 4060
investigation is confidential and not subject to discovery in any 4061

civil action. 4062

The board shall conduct all investigations and proceedings in 4063
a manner that protects the confidentiality of patients and persons 4064
who file complaints with the board. The board shall not make 4065
public the names or any other identifying information about 4066
patients or complainants unless proper consent is given or, in the 4067
case of a patient, a waiver of the patient privilege exists under 4068
division (B) of section 2317.02 of the Revised Code, except that 4069
consent or a waiver of that nature is not required if the board 4070
possesses reliable and substantial evidence that no bona fide 4071
physician-patient relationship exists. 4072

The board may share any information it receives pursuant to 4073
an investigation, including patient records and patient record 4074
information, with other licensing boards and governmental agencies 4075
that are investigating alleged professional misconduct and with 4076
law enforcement agencies and other governmental agencies that are 4077
investigating or prosecuting alleged criminal offenses. A board or 4078
agency that receives the information shall comply with the same 4079
requirements regarding confidentiality as those with which the 4080
state medical board must comply, notwithstanding any conflicting 4081
provision of the Revised Code or procedure of the board or agency 4082
that applies when the board or agency is dealing with other 4083
information in its possession. The information may be admitted 4084
into evidence in a criminal trial in accordance with the Rules of 4085
Evidence, but the court shall require that appropriate measures 4086
are taken to ensure that confidentiality is maintained with 4087
respect to any part of the information that contains names or 4088
other identifying information about patients or complainants whose 4089
confidentiality was protected by the state medical board when the 4090
information was in the board's possession. Measures to ensure 4091
confidentiality that may be taken by the court include sealing its 4092
records or deleting specific information from its records. 4093

(6) On a quarterly basis, the board shall prepare a report 4094
that documents the disposition of all cases during the preceding 4095
three months. The report shall contain the following information 4096
for each case with which the board has completed its activities: 4097

(a) The case number assigned to the complaint or alleged 4098
violation; 4099

(b) The type of certificate to practice, if any, held by the 4100
individual against whom the complaint is directed; 4101

(c) A description of the allegations contained in the 4102
complaint; 4103

(d) The disposition of the case. 4104

The report shall state how many cases are still pending and 4105
shall be prepared in a manner that protects the identity of each 4106
person involved in each case. The report shall be a public record 4107
under section 149.43 of the Revised Code. 4108

(G) If the secretary and supervising member determine that 4109
there is clear and convincing evidence that an individual has 4110
violated division (B) of this section and that the individual's 4111
continued practice presents a danger of immediate and serious harm 4112
to the public, they may recommend that the board suspend the 4113
individual's certificate to practice without a prior hearing. 4114
Written allegations shall be prepared for consideration by the 4115
board. 4116

The board, upon review of those allegations and by an 4117
affirmative vote of not fewer than six of its members, excluding 4118
the secretary and supervising member, may suspend a certificate 4119
without a prior hearing. A telephone conference call may be 4120
utilized for reviewing the allegations and taking the vote on the 4121
summary suspension. 4122

The board shall issue a written order of suspension by 4123

certified mail or in person in accordance with section 119.07 of 4124
the Revised Code. The order shall not be subject to suspension by 4125
the court during pendency of any appeal filed under section 119.12 4126
of the Revised Code. If the individual subject to the summary 4127
suspension requests an adjudicatory hearing by the board, the date 4128
set for the hearing shall be within fifteen days, but not earlier 4129
than seven days, after the individual requests the hearing, unless 4130
otherwise agreed to by both the board and the individual. 4131

Any summary suspension imposed under this division shall 4132
remain in effect, unless reversed on appeal, until a final 4133
adjudicative order issued by the board pursuant to this section 4134
and Chapter 119. of the Revised Code becomes effective. The board 4135
shall issue its final adjudicative order within sixty days after 4136
completion of its hearing. A failure to issue the order within 4137
sixty days shall result in dissolution of the summary suspension 4138
order but shall not invalidate any subsequent, final adjudicative 4139
order. 4140

(H) If the board takes action under division (B)(9), (11), or 4141
(13) of this section and the judicial finding of guilt, guilty 4142
plea, or judicial finding of eligibility for treatment in lieu of 4143
conviction is overturned on appeal, upon exhaustion of the 4144
criminal appeal, a petition for reconsideration of the order may 4145
be filed with the board along with appropriate court documents. 4146
Upon receipt of a petition of that nature and supporting court 4147
documents, the board shall reinstate the individual's certificate 4148
to practice. The board may then hold an adjudication under Chapter 4149
119. of the Revised Code to determine whether the individual 4150
committed the act in question. Notice of an opportunity for a 4151
hearing shall be given in accordance with Chapter 119. of the 4152
Revised Code. If the board finds, pursuant to an adjudication held 4153
under this division, that the individual committed the act or if 4154
no hearing is requested, the board may order any of the sanctions 4155

identified under division (B) of this section.

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(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another state for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

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

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

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

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

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

(1) The surrender of a certificate issued under this chapter shall not be effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

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

(N) Sanctions shall not be imposed under division (B)(28) of

this section against any person who waives deductibles and 4219
copayments as follows: 4220

(1) In compliance with the health benefit plan that expressly 4221
allows such a practice. Waiver of the deductibles or copayments 4222
shall be made only with the full knowledge and consent of the plan 4223
purchaser, payer, and third-party administrator. Documentation of 4224
the consent shall be made available to the board upon request. 4225
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(2) For professional services rendered to any other person 4227
authorized to practice pursuant to this chapter, to the extent 4228
allowed by this chapter and rules adopted by the board. 4229

(0) Under the board's investigative duties described in this 4230
section and subject to division (F) of this section, the board 4231
shall develop and implement a quality intervention program 4232
designed to improve through remedial education the clinical and 4233
communication skills of individuals authorized under this chapter 4234
to practice medicine and surgery, osteopathic medicine and 4235
surgery, and podiatry. In developing and implementing the quality 4236
intervention program, the board may do all of the following: 4237

(1) Offer in appropriate cases as determined by the board an 4238
educational and assessment program pursuant to an investigation 4239
the board conducts under this section; 4240

(2) Select providers of educational and assessment services, 4241
including a quality intervention program panel of case reviewers; 4242

(3) Make referrals to educational and assessment service 4243
providers and approve individual educational programs recommended 4244
by those providers. The board shall monitor the progress of each 4245
individual undertaking a recommended individual educational 4246
program. 4247

(4) Determine what constitutes successful completion of an 4248

individual educational program and require further monitoring of 4249
the individual who completed the program or other action that the 4250
board determines to be appropriate; 4251

(5) Adopt rules in accordance with Chapter 119. of the 4252
Revised Code to further implement the quality intervention 4253
program. 4254

An individual who participates in an individual educational 4255
program pursuant to this division shall pay the financial 4256
obligations arising from that educational program. 4257

Sec. 4731.27. (A) As used in this section, "collaboration," 4258
~~and~~ "physician," "standard care arrangement," and "supervision" 4259
have the same meanings as in section 4723.02 of the Revised Code. 4260

(B) Except as provided in division (C)(1) of section 4723.431 4261
of the Revised Code, a physician or podiatrist shall enter into a 4262
standard care arrangement with a each clinical nurse specialist, 4263
certified nurse-midwife, or certified nurse practitioner with whom 4264
the physician or podiatrist is in collaboration ~~and practice~~. The 4265
collaborating physician or podiatrist shall fulfill the 4266
responsibilities of collaboration, as specified in the arrangement 4267
and in accordance with the arrangement division (A) of section 4268
4723.431 of the Revised Code ~~The~~ A copy of the standard care 4269
arrangement shall be retained on file ~~by the physician or~~ 4270
~~podiatrist and nurse~~ at the each site where the nurse practices. 4271
Prior approval of the standard care arrangement by the state 4272
medical board is not required, but the board may periodically 4273
review it. 4274

Nothing in this ~~section~~ division prohibits a hospital from 4275
hiring a clinical nurse specialist, certified nurse-midwife, or 4276
certified nurse practitioner as an employee and negotiating 4277
standard care arrangements on behalf of the employee as necessary 4278

to meet the requirements of this section. A standard care 4279
arrangement between the hospital's employee and the employee's 4280
collaborating physician is subject to approval by the medical 4281
staff and governing body of the hospital prior to implementation 4282
of the arrangement at the hospital. 4283

(D) With respect to a clinical nurse specialist, certified 4284
nurse-midwife, or certified nurse practitioner participating in an 4285
externship pursuant to an initial certificate to prescribe issued 4286
under section 4723.48 of the Revised Code, the physician 4287
responsible for evaluating the externship shall provide the state 4288
medical board with the name of the nurse. If the externship is 4289
terminated for any reason, the physician shall notify the board. 4290

(D) A physician or podiatrist shall cooperate with the board 4291
of nursing in any investigation the board conducts with respect to 4292
a clinical nurse specialist, certified nurse-midwife, or certified 4293
nurse practitioner who collaborates with the physician or 4294
podiatrist or with respect to a certified registered nurse 4295
anesthetist who practices with the supervision of the physician or 4296
podiatrist. 4297

Section 2. That existing sections 2925.02, 2925.03, 2925.11, 4298
2925.12, 2925.14, 2925.23, 2925.36, 3719.06, 3719.81, 4723.02, 4299
4723.04, 4723.06, 4723.08, 4723.151, 4723.28, 4723.41, 4723.42, 4300
4723.43, 4723.431, 4723.44, 4723.47, 4723.48, 4723.52, 4723.561, 4301
4723.58, 4723.59, 4729.01, 4729.51, 4731.22, and 4731.27 and 4302
sections 4723.51 and 5111.74 of the Revised Code are hereby 4303
repealed. 4304

Section 3. That Section 3 of Am. Sub. H.B. 478 of the 119th 4305
General Assembly, as most recently amended by Am. Sub. S.B. 154 of 4306
the 121st General Assembly, be amended to read as follows: 4307

"**Sec. 3.** Sections ~~4723.51~~, 4723.52, 4723.53, 4723.54, 4308

4723.55, 4723.56, 4723.561, 4723.562, 4723.563, 4723.57, 4723.58, 4309
4723.59, and 4723.60 of the Revised Code are hereby repealed, 4310
effective ~~January 1, 2010~~ three years and eight months after the 4311
effective date of this amendment." 4312

Section 4. That existing Section 3 of Am. Sub. H.B. 478 of 4313
the 119th General Assembly, as most recently amended by Am. Sub. 4314
S.B. 154 of the 121st General Assembly, is hereby repealed. 4315

Section 5. The amendment of Section 3 of Am. Sub. H.B. 478 of 4316
the 119th General Assembly, as most recently amended by Am. Sub. 4317
S.B. 154 of the 121st General Assembly, concerning section 4723.51 4318
of the Revised Code is intended to accelerate the repeal of that 4319
section in accordance with its outright repeal by this act. 4320

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Section 6. The amendment of sections 4723.52, 4723.58, and 4322
4723.59 of the Revised Code is not intended to supersede the 4323
earlier repeal, with delayed effective date, of those sections. 4324