

AN ACT

To amend sections 121.22, 2317.02, 3705.05, 3705.25, 3719.121, 3793.07, 4725.16, 4725.17, 4725.34, 4729.07, 4729.11, 4729.12, 4729.16, 4729.39, and 4729.55 and to enact sections 4725.171 and 4729.19 of the Revised Code to extend the physician-patient testimonial privilege to include certain communications from physicians to pharmacists and between patients and pharmacists, to revise the law governing consult agreements between physicians and pharmacists, to prohibit withdrawing an application for licensure without the approval of the State Board of Pharmacy, to make other changes to the law governing the practice of pharmacy, to allow the health commissioners of the health districts that constitute a combined primary registration district to jointly appoint the local registrar of vital statistics for the combined district, to allow a board of health, on a recommendation of the health commissioner, to remove from office the local registrar of vital statistics, to require the Department of Alcohol and Drug Addiction Services to establish a process for the certification or credentialing of chemical dependency professionals, to make changes in the laws pertaining to the reinstatement and late renewal of licenses to practice optometry, to amend the version of section 121.22 of the Revised Code that is scheduled to take effect December 24, 2000, to continue the provisions of this act on and after that effective date to enact new section 3793.07 and to repeal section 3793.07 of the Revised Code to terminate certain provisions of this act

by restoring prior law on July 1, 2002.

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

SECTION 1. That sections 121.22, 2317.02, 3705.05, 3705.25, 3719.121, 3793.07, 4725.16, 4725.17, 4725.34, 4729.07, 4729.11, 4729.12, 4729.16, 4729.39, and 4729.55 be amended and sections 4725.171 and 4729.19 of the Revised Code be enacted to read as follows:

Sec. 121.22. (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.

(B) As used in this section:

(1) "Public body" means any of the following:

(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational institution;

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.

(C) All meetings of any public body are declared to be public meetings

open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

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

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;

(7) The board of nursing when determining whether to suspend a license without a prior hearing pursuant to division (B) of section 4723.181 of the Revised Code;

(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;

(9) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code.

(E) The controlling board, the development financing advisory council, the industrial technology and enterprise advisory council, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the

possible investment of public funds, by unanimous vote of all board, council, or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, council, or board from the applicant:

- (1) Marketing plans;
- (2) Specific business strategy;
- (3) Production techniques and trade secrets;
- (4) Financial projections;
- (5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority, council, or board to accept or reject the application, as well as all proceedings of the authority, council, or board not subject to this division, shall be open to the public and governed by this section.

(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(G) Except as provided in division (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

- (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except

as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or regulations or state statutes;

(6) Specialized details of security arrangements if disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;

(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of

the Revised Code.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section.

(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the injunction or not award attorney's fees to that party if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of violation or threatened violation that was the basis of the injunction, a well-informed public body reasonably would believe that the public body was not violating or threatening to violate this section;

(ii) That a well-informed public body reasonably would believe that the conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.

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

(A) An attorney, concerning a communication made to the attorney by a client in that relation or the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is

deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client and except that, if the client voluntarily testifies or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject;

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

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

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

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

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

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

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

(c) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or

permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made.

(3)(a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician or dentist may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician or dentist by the patient in question in that relation, or the

physician's or dentist's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

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

(4) The testimonial privilege described in division (B)(1) of this section is not waived when a communication is made by a physician to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient relation.

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

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

~~(5)(6)~~ Divisions (B)(1), (2), (3), ~~and (4)~~, and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

~~(6)(7)~~ Nothing in divisions (B)(1) to ~~(5)(6)~~ of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 or 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the

employee in accordance with division (B) of that section. As used in division (B)(6)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(C) A member of the clergy, rabbi, priest, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect, when the member of the clergy, rabbi, priest, or minister remains accountable to the authority of that church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the member of the clergy, rabbi, priest, or minister for a religious counseling purpose in the member of the clergy's, rabbi's, priest's, or minister's professional character; however, the member of the clergy, rabbi, priest, or minister may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust;

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

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

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

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, or independent social worker, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies:

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

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

(c) If the client is deceased, the surviving spouse or the executor or

administrator of the estate of the deceased client gives express consent.

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

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

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

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

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

(I) A communications assistant, acting within the scope of the communication assistant's authority, when providing telecommunications relay service pursuant to section 4931.35 of the Revised Code or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding.

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

Sec. 3705.05. In each primary registration district, the board of health of

the health district, on the recommendation of the health commissioner, shall appoint the local registrar of vital statistics. When a state hospital or other public institution has been made a primary registration district, the superintendent, or other person in charge thereof, shall be the local registrar of such district. When two or more primary registration districts have been combined into one primary registration district, the ~~director of health commissioners of the health districts that constitute the combined primary registration district~~ shall ~~designate~~ jointly appoint the local registrar who is to act as local registrar for the combined primary registration district. If the health commissioners fail to appoint the local registrar for the combined primary registration district, the director of health shall appoint the local registrar.

With the approval of the director of health, each local registrar shall appoint a deputy registrar who, in case of the absence, illness, or disability of the local registrar, shall act in ~~his~~ the local registrar's stead. Acceptance of appointment as deputy registrar shall be in writing and shall be filed with the director. No funeral director or embalmer shall serve either as a local registrar or as a deputy registrar.

In a city registration district, all the records of vital statistics shall be kept in the office of the board of health of the city health district. In a general health district, all the records of vital statistics shall be kept at the office of the board of health of such district.

Sec. 3705.25. A local registrar of vital statistics, deputy registrar, or sub-registrar who fails to discharge ~~the official duties of his office~~ shall, on a recommendation of the health commissioner, forthwith be removed from ~~his office by the director board of health of the health district that constitutes the primary registration district or, in the case of a local registrar serving a combined primary registration district, by the joint action of the boards of health of the health districts that constitute the combined district.~~

Sec. 3719.121. (A) Except as otherwise provided in section 4723.28, 4723.35, 4730.25, or 4731.22 of the Revised Code, the license, certificate, or registration of any dentist, doctor of medicine or osteopathic medicine, podiatrist, registered nurse, licensed practical nurse, physician assistant, pharmacist, pharmacy intern, optometrist, or veterinarian who is or becomes addicted to the use of controlled substances shall be suspended by the board that authorized the person's license, certificate, or registration until the person offers satisfactory proof to the board that the person no longer is addicted to the use of controlled substances.

(B) If the board under which a person has been issued a license, certificate, or evidence of registration determines that there is clear and

convincing evidence that continuation of the person's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person's license, certificate, or registration without a hearing. Except as otherwise provided in sections 4715.30, 4723.281, 4729.16, 4730.25, and 4731.22 of the Revised Code, the board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective, except that if the board does not issue its final adjudication order within ninety days after the hearing, the suspension shall be void on the ninety-first day after the hearing.

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

Sec. 3793.07. (A) As used in this section:

(1) "Medicare program" means the program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(2) "Medicaid program" means the program established under Title XIX of the "Social Security Act."

(B) ~~Except as otherwise provided in this section, the~~ The department of alcohol and drug addiction services shall ~~accept~~ establish and administer a process for the certification or credentials credentialing of an chemical dependency professionals for the purpose of qualifying the services provided by chemical dependency professionals for reimbursement under the medicare or medicaid program. The process shall be made available to any individual who is a member of the profession of alcoholism counseling, drug abuse counseling, or chemical dependency counseling, or an any

individual who is an alcoholism or drug abuse prevention consultant or specialist ~~only if the individual is certified by or holds credentials from the Ohio credentialing board for chemical dependency professionals.~~

~~(C) The department of alcohol and drug addiction services, in cooperation with the department of job and family services and the Ohio credentialing board for chemical dependency professionals, shall prepare and submit to the federal agency responsible for administration of the medicare and medicaid programs a request that the agency accept for the purposes of reimbursement under those programs the certifications made and credentials issued by the Ohio credentialing board for chemical dependency professionals. If the request is denied, the department of alcohol and drug addiction services shall assist the Ohio credentialing board for chemical dependency professionals in any actions taken by the board to establish standards that will be accepted by the federal agency and, in cooperation with the department of job and family services, shall submit additional requests to the federal agency for approval of the board's standards. If the board changes its standards in order to obtain the approval of the federal agency, the changes shall apply only to certifications made and credentials issued after the effective date of the change and shall not affect the validity for the purposes of this section or section 4757.41 of the Revised Code of certifications made or credentials issued prior to that date. Nothing in this section shall be construed as requiring such certification or credentials for services that are not reimbursed by medicare or medicaid.~~

~~(D) If the director of alcohol and drug addiction finds that the public interest is not being served by acceptance of certifications and credentials issued by the Ohio credentialing board for chemical dependency professionals, the director shall make a written request to the council on alcohol and drug addiction services for authority for the department to establish a certification or credentialing program or accept certifications or credentials from an entity designated by the department.~~

~~If it determines that there is substantial evidence to support the director's finding, the council, by resolution, shall authorize the department to establish a certification or credentialing program or to accept certifications or credentials from an entity designated by the department, or both. The council shall issue copies of its resolution to the director and to the Ohio credentialing board for chemical dependency professionals.~~

~~On receipt of the resolution, the department shall, by rule adopted pursuant to Chapter 119. of the Revised Code, establish a certification or credentialing program or designate an entity from which it will accept certifications or credentials, or both. The rules are not subject to the~~

~~council's review. The rules shall include standards for certification or issuance of credentials. The rules shall specify the date on which the program established by the department is authorized to certify or issue credentials to individuals or on which the department will accept certification or credentials of the designated entity.~~

(C) The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for the certification or credentialing process. The rules shall include the following:

- (1) Eligibility requirements;
- (2) Application procedures;
- (3) Minimum educational and clinical training requirements that must be met for initial certification or credentialing;
- (4) Continuing education and training requirements for certified or credentialed individuals;
- (5) Application and renewal fees that do not exceed the cost incurred by the department in implementing and administering the process;
- (6) Administration or approval of examinations;
- (7) Investigation of complaints and alleged violations of this section;
- (8) Maintenance of the confidentiality of the department's investigative records;
- (9) Disciplinary actions, including application denial and suspension or revocation of certification or credentials;
- (10) Any other rules the department considers necessary to establish or administer the certification or credentialing process.

(D) The department shall investigate alleged violations of this section or the rules adopted under it. As part of its investigation, the department may issue subpoenas, examine witnesses, and administer oaths. The department shall ensure that all records it holds pertaining to an investigation remain confidential.

(E) With respect to hearings conducted by the department as part of the certification or credentialing process, both of the following apply:

- (1) An individual whose application for certification or credentials issued under this section has been denied by the department may request a hearing in accordance with Chapter 119. of the Revised Code and the rules adopted under this section.
- (2) The department may appoint a referee or hearing examiner to conduct the proceedings and make recommendations to the department as appropriate.

(F) The department shall maintain a record of all fees collected under this section. All fees collected shall be paid into the state treasury to the

credit of the credentialing fund, which is hereby created. Money credited to the fund shall be used solely to pay the costs of establishing and administering the process for certification or credentialing of chemical dependency professionals under this section.

(G) Certifications made and credentials issued by the Ohio credentialing board for chemical dependency professionals prior to ~~that~~ the date the department establishes its certification or credentialing process under this section shall continue to be accepted by the department after that date until, with respect to any particular individual, one of the following occurs:

(1) The individual's certification or credentials from the board have expired.

(2) The individual's certification or credentials from the board would be suspended or revoked by the department if the certification or credentials had been issued by the department under this section.

Sec. 4725.16. (A) Each certificate of licensure, topical ocular pharmaceutical agents certificate, and therapeutic pharmaceutical agents certificate issued by the state board of optometry shall expire annually on the last day of December, and may be renewed in accordance with this section and the standard renewal procedure established under Chapter 4745. of the Revised Code.

(B) All licensed optometrists shall annually complete continuing education in subjects relating to the practice of optometry, to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure comprehensive care to the public. The board shall prescribe by rule the continuing optometric education that licensed optometrists must complete. The length of study shall be determined by the board but shall be not less than six nor more than twenty-five clock hours each year, except that the board shall prescribe an additional five clock hours of instruction in pharmacology to be completed by optometrists who hold topical ocular pharmaceutical agents certificates or therapeutic pharmaceutical agents certificates.

Unless the continuing education required under this division is waived or deferred under division (D) of this section, the continuing education must be completed during the twelve-month period beginning on the first day of October and ending on the last day of September. If the board receives notice from a continuing education program indicating that an optometrist completed the program after the last day of September, and the optometrist wants to use the continuing education completed after that day to renew the license that expires on the last day of December of that year, the optometrist shall pay the penalty specified under section 4725.34 of the Revised Code

for late completion of continuing education.

At least once annually, the board shall mail to each licensed optometrist a list of courses approved in accordance with standards prescribed by board rule. Upon the request of a licensed optometrist, the executive director of the board shall supply a list of additional courses that the board has approved subsequent to the most recent mailing of the list of approved courses.

(C) Annually, by the first day of November, the board shall mail to each licensed optometrist a notice regarding license renewal and include with the notice an application for license renewal. The application shall be in such form and require such pertinent professional biographical data as the board may require. An optometrist seeking to continue to practice optometry shall file the renewal application with the board. Filing of the application ~~with the board~~ shall serve as notice by the optometrist that the continuing optometric education requirement has been successfully completed.

If the board finds that ~~the~~ an optometrist has not completed the required continuing optometric education, the board shall disapprove the optometrist's application. ~~All other applications shall be approved.~~ The board's disapproval of renewal is effective without a hearing, unless a hearing is requested pursuant to Chapter 119. of the Revised Code. The board shall refuse to accept an application for renewal from any applicant whose license is not in good standing or who is under disciplinary review pursuant to section 4725.19 of the Revised Code. Notice

~~The board's order of disapproval for renewal shall be effective without a hearing unless a hearing is requested pursuant to Chapter 119. of the Revised Code.~~ Notice of the an applicant's failure to qualify for renewal shall be served upon the applicant by mail, which shall be sent on or before the fifteenth day of November to the address shown in the board's records.

(D) In cases of certified illness or undue hardship, the board may waive or defer for up to twelve months the requirement of continuing optometric education, except that in such cases the board may not waive or defer the continuing education in pharmacology required to be completed by optometrists who hold topical ocular pharmaceutical agents certificates or therapeutic pharmaceutical agents certificates. The board shall waive the requirement of continuing optometric education for any optometrist who is serving in the armed forces of the United States or who has received an initial certificate of licensure during the nine-month period which ended on the last day of September.

(E) The board shall approve all applications for renewal that are not disapproved or refused under division (C) of this section. An optometrist ~~who desires to continue the practice of optometry and whose~~ renewal

application for license renewal has been approved by the board may renew each certificate held by paying to the treasurer of state the fees for renewal specified under section 4725.34 of the Revised Code. ~~The optometrist shall pay the fees on or before the first day of January to the treasurer of state.~~ On payment of the renewal all applicable fees, the board shall issue a renewal of the optometrist's certificate of licensure, topical ocular pharmaceutical agents certificate, and therapeutic pharmaceutical agents certificate, as appropriate.

(F) A notice shall be sent to every licensed optometrist who fails to respond to file the notice renewal application provided under division (C) of this section, at the optometrist's last address, at least one month in advance of the last day of December, which is the date of expiration. A second notice shall be sent in advance of the date of expiration and prior to any action under division (G)(I) of this section to classify the optometrist's certificates as delinquent, to every optometrist failing to respond to the preceding notice.

(G)(4) The failure of an optometrist to apply for license renewal or the failure to pay the applicable annual renewal fees on or before the last day of December date of each year expiration, shall automatically work a forfeiture of the optometrist's authority to practice optometry in this state. The

(H) The board shall accept renewal applications and renewal fees that are submitted from the first day of January to the last day of April of the year next succeeding the date of expiration. An individual who submits such a late renewal application or fee shall pay the late renewal fee specified in Section 4725.34 of the Revised Code.

(I)(1) If the certificates issued by the board to the an individual have expired and the individual has not filed a complete application during the late renewal period, the individual's certificates shall be classified in the board's records as delinquent.

(2) Any optometrist subject to delinquent classification may submit a written application to the board for reinstatement. For reinstatement to occur, the applicant must meet all of the following conditions:

(a) Submit to the board evidence of compliance with board rules requiring continuing optometric education in a sufficient number of hours to make up for any delinquent compliance;

(b) Pay the renewal fees for the year in which application for reinstatement is made and the reinstatement fee specified under division (A)(7)(8) of section 4725.34 of the Revised Code;

(c) Pass all or part of the licensing examination accepted by the board under section 4725.11 of the Revised Code as the board considers

appropriate to determine whether the application for reinstatement should be approved;

(d) If the applicant has been practicing optometry in another state or country, submit evidence that the applicant's license to practice optometry in the other state or country is in good standing.

(3) The board shall approve an application for reinstatement if the conditions specified in division ~~(G)~~(I)(2) of this section are met. An optometrist who receives reinstatement is subject to the continuing education requirements specified under division (B) of this section for the year in which reinstatement occurs.

Sec. 4725.17. (A) An optometrist who intends not to continue practicing optometry in this state due to retirement or a decision to practice in another state or country may apply to the state board of optometry to have the certificates issued to the optometrist placed on inactive status. Application for inactive status shall consist of a written notice to the board of the optometrist's intention to no longer practice in this state. The board may not accept an application submitted after the applicant's certificate of licensure and any other certificates have expired. The board may approve an application for placement on inactive status only if the applicant's certificates are in good standing and the applicant is not under disciplinary review pursuant to section 4725.19 of the Revised Code.

(B) An individual whose certificates have been placed on inactive status may submit a written application to the board for reinstatement. For reinstatement to occur, the applicant must meet all of the following conditions:

(1) Pay the renewal fees for the year in which application for reinstatement is made and the reinstatement fee specified under division ~~(A)(8)~~(9) of section 4725.34 of the Revised Code;

(2) Pass all or part of the licensing examination accepted by the board under section 4725.11 of the Revised Code as the board considers appropriate, if the board considers examination necessary to determine whether the application for reinstatement should be approved;

(3) If the applicant has been practicing optometry in another state or country, submit evidence of being in the active practice of optometry in the other state or country and evidence that the applicant's license to practice in the other state or country is in good standing.

(C) The board shall approve an application for reinstatement if the conditions specified in division (B) of this section are met. An optometrist who receives reinstatement is subject to the continuing education requirements specified under section 4725.16 of the Revised Code for the

year in which reinstatement occurs.

Sec. 4725.171. (A) An optometrist who discontinued practicing optometry in this state due to retirement or a decision to practice in another state or country before the state board of optometry accepted applications for placement of certificates to practice on inactive status pursuant to section 4725.17 of the Revised Code may apply to the board to have the optometrist's certificates reinstated. The board may accept an application for reinstatement only if, at the time the optometrist's certificates expired, the certificates were in good standing and the optometrist was not under disciplinary review by the board.

(B) For reinstatement to occur, the applicant must meet all of the following conditions:

(1) Pay the renewal fees for the year in which application for reinstatement is made and the reinstatement fee specified under division (A)(10) of section 4725.34 of the Revised Code;

(2) Pass all or part of the licensing examination accepted by the board under section 4725.11 of the Revised Code as the board considers appropriate, if the board considers examination necessary to determine whether the application for reinstatement should be approved;

(3) If the applicant has been practicing optometry in another state or country, submit evidence of being in the active practice of optometry in the other state or country and evidence that the applicant's license to practice in the other state or country is in good standing.

(C) The board shall approve an application for reinstatement if the conditions specified in division (B) of this section are met. An optometrist who receives reinstatement is subject to the continuing education requirements specified under section 4725.16 of the Revised Code for the year in which reinstatement occurs.

Sec. 4725.34. (A) The state board of optometry shall charge the following nonrefundable fees:

(1) One hundred ten dollars for application for a certificate of licensure;

(2) Twenty-five dollars for application for a therapeutic pharmaceutical agents certificate, except when the certificate is to be issued pursuant to division (A)(3) of section 4725.13 of the Revised Code, in which case the fee shall be thirty-five dollars;

(3) One hundred ten dollars for renewal of a certificate of licensure;

(4) Twenty-five dollars for renewal of a topical ocular pharmaceutical agents certificate;

(5) Twenty-five dollars for renewal of a therapeutic pharmaceutical agents certificate;

(6) Seventy-five dollars for late completion of continuing optometric education;

(7) Seventy-five dollars for late renewal of one or more certificates that have expired;

(8) Seventy-five dollars for reinstatement of one or more certificates classified as delinquent under section 4725.16 of the Revised Code, multiplied by the number of years the one or more certificates have been classified as delinquent;

~~(8)~~(9) Seventy-five dollars for reinstatement of one or more certificates placed on inactive status under section 4725.17 of the Revised Code;

~~(9)~~(10) Seventy-five dollars for reinstatement under section 4725.171 of the Revised Code of one or more expired certificates;

(11) Additional fees to cover administrative costs incurred by the board, including fees for replacing licenses issued by the board and providing rosters of currently licensed optometrists. Such fees shall be established at a regular meeting of the board and shall comply with any applicable guidelines or policies set by the department of administrative services or the office of budget and management.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in division (A) of this section if the fees do not exceed the amounts specified by more than fifty per cent.

(C) All receipts of the board, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4729.07. An individual desiring to be licensed as a pharmacist shall file with the executive director of the state board of pharmacy a verified application giving such information as the board requires, ~~and appear before the board to.~~ An application filed under this section may not be withdrawn without the approval of the board.

Each applicant shall take an examination to determine fitness to practice pharmacy. Examinations of those applying for licensure as pharmacists shall be held at such times, during each year, and at such places as the board determines. The board may ~~make use of~~ all or any part of the licensure examination of the national association of boards of pharmacy or any other national standardized pharmacy examination that it considers appropriate ~~to perform its duties under this section.~~ The board may require applicants ~~for licensure by examination~~ to purchase the examination and any related materials from the organization providing it.

Sec. 4729.11. The state board of pharmacy shall establish a pharmacy internship program for the purpose of providing the practical experience

necessary to practice as a pharmacist. Any individual who desires to become a pharmacy intern shall apply for licensure to the board, ~~and. An application filed under this section may not be withdrawn without the approval of the board.~~

Each applicant shall be issued an identification card and license as a pharmacy intern if in the opinion of the board the applicant is actively pursuing an educational program in preparation for licensure as a pharmacist and meets the other requirements as determined by the board. An identification card and license shall be valid until the next annual renewal date and shall be renewed only if the intern is meeting the requirements and rules of the board.

The state board of pharmacy may appoint a director of pharmacy internship who is a licensed pharmacist and who is not directly or indirectly connected with a school or college of pharmacy or department of pharmacy of a university. The director of pharmacy internship shall be responsible to the board for the operation and direction of the pharmacy internship program established by the board under this section, and for such other duties as the board may assign.

Sec. 4729.12. An identification card issued by the state board of pharmacy under section 4729.08 of the Revised Code entitles the individual to whom it is issued to practice as a pharmacist or as a pharmacy intern in this state until the next annual renewal date.

Identification cards shall be renewed annually on the fifteenth day of September, according to the standard renewal procedure of Chapter 4745. of the Revised Code.

Each pharmacist and pharmacy intern shall carry the identification card or renewal identification card while engaged in the practice of pharmacy. The license shall be conspicuously exposed at the principal place where the pharmacist or pharmacy intern practices pharmacy.

A pharmacist or pharmacy intern who desires to continue in the practice of pharmacy shall file with the board an application in such form and containing such data as the board may require for renewal of an identification card. An application filed under this section may not be withdrawn without the approval of the board. If the board finds that the applicant's card has not been revoked or placed under suspension and that the applicant has paid the renewal fee, has continued pharmacy education in accordance with the rules of the board, and is entitled to continue in the practice of pharmacy, the board shall issue a renewal identification card to the applicant.

When an identification card has lapsed for more than sixty days but

pplication is made within three years after the expiration of the card, the applicant shall be issued a renewal identification card without further examination if the applicant meets the requirements of this section and pays the fee designated under division (E) of section 4729.15 of the Revised Code.

Sec. 4729.16. (A) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense, or in the case of a violation of a section of the Revised Code that does not bear a penalty, a monetary penalty or forfeiture of not more than five hundred dollars, if the board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, ~~or~~ Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;
- (9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;
- (10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this

chapter or under Chapter 3715. or 3719. of the Revised Code.

(B) Any individual whose identification card is revoked, suspended, or refused, shall return the identification card and license to the offices of the state board of pharmacy within ten days after receipt of notice of such action.

(C) As used in this section:

"Unprofessional conduct in the practice of pharmacy" includes any of the following:

(1) Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading;

(2) Except as provided in section 4729.281 of the Revised Code, the sale of any drug for which a prescription is required, without having received a prescription for the drug;

(3) ~~Willfully and knowingly filling prescriptions or selling drugs for~~ Knowingly dispensing medication pursuant to false or forged prescriptions;

(4) ~~Willfully and knowingly~~ Knowingly failing to maintain complete and accurate records of all ~~controlled substances~~ dangerous drugs received or dispensed in compliance with federal laws and regulations and state laws and rules;

(5) Obtaining any remuneration by fraud, misrepresentation, or deception;

~~(6) Obtaining or attempting to obtain a license issued under this chapter or Chapter 3715. of the Revised Code from the state board of pharmacy by fraud, misrepresentation, or deception.~~

(D) The board may suspend a license or identification card under division (B) of section 3719.121 of the Revised Code by utilizing a telephone conference call to review the allegations and take a vote.

(E) If, pursuant to an adjudication under Chapter 119. of the Revised Code, the board has reasonable cause to believe that a pharmacist or pharmacy intern is physically or mentally impaired, the board may require the pharmacist or pharmacy intern to submit to a physical or mental examination, or both.

Sec. 4729.19. Notwithstanding division (B)(4) of section 2317.02 of the Revised Code, a pharmacist shall cooperate with federal, state, and local government investigations and shall divulge all relevant information when requested by a government agency.

Sec. 4729.39. (A) A pharmacist may enter into a consult agreement with a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. Under a consult agreement, a pharmacist is authorized to manage an individual's drug

therapy, but only to the extent specified in the agreement ~~by the individual's physician and to the extent specified in~~, this section, and the rules adopted under this section.

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

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

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

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

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

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

(6) A consult agreement may not be implemented until it has been signed by the primary pharmacist, the primary physician, and the individual whose drug therapy will be managed or another person who has the authority to provide consent to treatment on behalf of the individual. ~~The physician shall specify in the agreement the extent to which the pharmacist is authorized to manage the drug therapy of the individual specified in the agreement. The~~ Once the agreement is signed by all required parties, the

physician shall include in the individual's medical record the fact that a consult agreement has been entered into with a pharmacist.

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

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

(8) A consult agreement may be terminated by either the pharmacist or physician who entered into the agreement. By withdrawing consent, the individual whose drug therapy is being managed or the individual who consented to the treatment on behalf of the individual may terminate a consult agreement. The pharmacist or physician who receives the individual's withdrawal of consent shall provide written notice to the opposite party. A pharmacist or physician who terminates a consult agreement shall provide written notice to the opposite party and to the individual who consented to treatment under the agreement. The termination of a consult agreement shall be recorded by the pharmacist and physician in the records they maintain on the individual being treated.

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

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

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

the hospital or facility, the policy shall require that another pharmacist and physician be available at the hospital or facility.

(2) The consult agreement shall be made in writing and shall comply with the hospital's or facility's policy on consult agreements.

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

(4) A pharmacist acting under a consult agreement shall maintain in the individual's medical record a record of each action taken under the agreement.

(5) Communication between a pharmacist and physician acting under the consult agreement shall take place at regular intervals specified by the primary physician acting under the agreement.

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

(7) The authority of a pharmacist acting under a consult agreement does not permit the pharmacist to act under the agreement in a hospital or health long-term care facility at which the pharmacist is not authorized to practice.

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

Sec. 4729.55. No license shall be issued to an applicant for licensure as a terminal distributor of dangerous drugs unless the applicant has furnished satisfactory proof to the state board of pharmacy that:

(A) The applicant is equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure approved by the board.

(B) A pharmacist, licensed health professional authorized to prescribe

drugs, animal shelter licensed with the state board of pharmacy under section 4729.531 of the Revised Code, or a laboratory as defined in section 3719.01 of the Revised Code will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant.

(C) Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs.

(D) Adequate safeguards are assured that the applicant will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner.

(E) If the applicant, or any agent or employee of the applicant, has been found guilty of violating section 4729.51 of the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal drug abuse control laws, Chapter 2925., 3715., 3719., or 4729. of the Revised Code, or any rule of the board, adequate safeguards are assured to prevent the recurrence of the violation.

~~(E)~~(F) In the case of an applicant who is a food processor or retail seller of food, the applicant will maintain supervision and control over the possession and custody of nitrous oxide.

~~(F)~~(G) In the case of an applicant who is a retail seller of oxygen in original packages labeled as required by the "Federal Food, Drug, and Cosmetic Act," the applicant will maintain supervision and control over the possession, custody, and retail sale of the oxygen.

~~(G)~~(H) If the application is made on behalf of an animal shelter, at least one of the agents or employees of the animal shelter is certified in compliance with section 4729.532 of the Revised Code.

~~(H)~~(I) In the case of an applicant who is a retail seller of peritoneal dialysis solutions in original packages labeled as required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the applicant will maintain supervision and control over the possession, custody, and retail sale of the peritoneal dialysis solutions.

SECTION 2. That existing sections 121.22, 2317.02, 3705.05, 3705.25, 3719.121, 3793.07, 4725.16, 4725.17, 4725.34, 4729.07, 4729.11, 4729.12, 4729.16, 4729.39, and 4729.55 of the Revised Code are hereby repealed.

SECTION 3. That the version of section 121.22 of the Revised Code that

is scheduled to take effect December 24, 2000, be amended to read as follows:

Sec. 121.22. (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.

(B) As used in this section:

(1) "Public body" means any of the following:

(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational institution;

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of

discussions in executive sessions authorized under division (G) or (J) of this section.

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

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;

(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;

(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;

(9) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code.

(E) The controlling board, the development financing advisory council, the industrial technology and enterprise advisory council, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board, council, or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, council, or board from the applicant:

(1) Marketing plans;

(2) Specific business strategy;

(3) Production techniques and trade secrets;

(4) Financial projections;

(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority, council, or board to accept or reject the application, as well as all proceedings of the authority, council, or board not subject to this division, shall be open to the public and governed by this section.

(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(G) Except as provided in division (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the

executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or regulations or state statutes;

(6) Specialized details of security arrangements if disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;

(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not

hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section.

(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the injunction or not award attorney's fees to that party if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of violation or threatened violation that was the basis of the injunction, a well-informed public body reasonably would believe that the public body was not violating or threatening to violate this section;

(ii) That a well-informed public body reasonably would believe that the conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction

shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.

SECTION 4. That the existing version of section 121.22 of the Revised Code that is scheduled to take effect December 24, 2000, is hereby repealed.

SECTION 5. Sections 3 and 4 of this act shall take effect December 24, 2000.

SECTION 6. That new section 3793.07 of the Revised Code be enacted to read as follows:

Sec. 3793.07. (A) As used in this section:

(1) "Medicare program" means the program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(2) "Medicaid program" means the program established under Title XIX of the "Social Security Act."

(B) Except as otherwise provided in this section, the department of alcohol and drug addiction services shall accept the certification or credentials of an individual who is a member of the profession of alcoholism counseling, drug abuse counseling, or chemical dependency counseling, or an individual who is an alcoholism or drug abuse prevention consultant or specialist only if the individual is certified by or holds credentials from the Ohio credentialing board for chemical dependency professionals.

(C) The department of alcohol and drug addiction services, in cooperation with the department of job and family services and the Ohio credentialing board for chemical dependency professionals, shall prepare and submit to the federal agency responsible for administration of the medicare and medicaid programs a request that the agency accept for the purposes of reimbursement under those programs the certifications made and credentials issued by the Ohio credentialing board for chemical dependency professionals. If the request is denied, the department of alcohol and drug addiction services shall assist the Ohio credentialing board for chemical dependency professionals in any actions taken by the board to establish standards that will be accepted by the federal agency and, in cooperation with the department of job and family services, shall submit additional requests to the federal agency for approval of the board's standards. If the board changes its standards in order to obtain the approval of the federal agency, the changes shall apply only to certifications made and credentials issued after the effective date of the change and shall not affect the validity for the purposes of this section or section 4757.41 of the Revised Code of certifications made or credentials issued prior to that date. Nothing in this section shall be construed as requiring such certification or credentials for services that are not reimbursed by medicare or medicaid.

(D) If the director of alcohol and drug addiction finds that the public interest is not being served by acceptance of certifications and credentials issued by the Ohio credentialing board for chemical dependency professionals, the director shall make a written request to the council on alcohol and drug addiction services for authority for the department to establish a certification or credentialing program or accept certifications or credentials from an entity designated by the department.

If it determines that there is substantial evidence to support the director's finding, the council, by resolution, shall authorize the department to establish a certification or credentialing program or to accept certifications or credentials from an entity designated by the department, or both. The council shall issue copies of its resolution to the director and to the Ohio credentialing board for chemical dependency professionals.

On receipt of the resolution, the department shall, by rule adopted pursuant to Chapter 119. of the Revised Code, establish a certification or credentialing program or designate an entity from which it will accept certifications or credentials, or both. The rules are not subject to the council's review. The rules shall include standards for certification or issuance of credentials. The rules shall specify the date on which the program established by the department is authorized to certify or issue credentials to individuals or on which the department will accept certification or credentials of the designated entity.

Certifications made and credentials issued by the Ohio credentialing board for chemical dependency professionals prior to that date shall continue to be accepted by the department after that date.

SECTION 7. That section 3793.07 of the Revised Code is hereby repealed.

SECTION 8. Sections 6 and 7 of this act shall take effect July 1, 2002.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____