

**As Reported by the Senate Health, Human Services and Aging
Committee**

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Sub. S. B. No. 19

Senators Drake, Prentiss

A B I L L

To amend sections 3701.07, 4723.03, 4723.04, 4723.28, 1
4723.32, 4723.341, 4723.40, and 4723.99 and to 2
enact sections 3701.90, 4113.512, 4723.031, 3
4723.321, and 4723.33 of the Revised Code with 4
regard to the unauthorized practice of nursing, 5
delegation of nursing tasks, and issues relating 6
to patient safety. 7

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

Section 1. That sections 3701.07, 4723.03, 4723.04, 4723.28, 8
4723.32, 4723.341, 4723.40, and 4723.99 be amended and sections 9
3701.90, 4113.512, 4723.031, 4723.321, and 4723.33 of the Revised 10
Code be enacted to read as follows: 11

Sec. 3701.07. (A) The public health council shall adopt rules 12
in accordance with Chapter 119. of the Revised Code defining and 13
classifying hospitals and dispensaries and providing for the 14
reporting of ~~classification~~ information by hospitals and 15
dispensaries. The rules ~~may require each hospital to report~~ 16
~~information in the following categories, shall limit the~~ 17
~~information to information necessary to classify hospitals and~~ 18
~~dispensaries as general or specialty facilities, and providing for~~ 19

the reporting of information shall not include require inclusion 20
of any confidential patient data or any information concerning the 21
financial condition, income, expenses, or net worth of the 22
facilities other than that financial information already contained 23
in those portions of the medicare or medicaid cost report that is 24
necessary for the department of health to certify the per diem 25
cost under section 3701.62 of the Revised Code. The rules may 26
require the reporting of information in the following categories: 27

(1) Information needed to identify and classify the 28
institution; 29

(2) Information on facilities and type and volume of services 30
provided by the institution; 31

(3) The number of beds listed by category of care provided; 32

(4) The number of licensed or certified professional 33
employees by classification; 34

(5) The number of births that occurred at the institution the 35
previous calendar year; 36

(6) Any other information that the council considers relevant 37
to the safety of patients served by the institution. 38

Every hospital and dispensary, public or private, annually 39
shall register with and report to the department of health ~~on~~ 40
~~forms~~. Reports shall be submitted in the manner prescribed in 41
rules adopted under this division. 42

(B) Every governmental entity or private nonprofit 43
corporation or association whose employees or representatives are 44
defined as residents' rights advocates under divisions (E)(1) and 45
(2) of section 3721.10 or division (A)(10) of section 3722.01 of 46
the Revised Code shall register with the department of health 47
on forms furnished by the director of health and shall provide such 48
reasonable identifying information as the director may prescribe. 49

The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code and to adult care facility managers as defined in section 3722.01 of the Revised Code.

(C) Every governmental entity or private nonprofit corporation or association whose employees or representatives act as residents' rights advocates for community alternative homes pursuant to section 3724.08 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, and associations registering under this division and shall update the list annually. Copies of the list shall be made available to operators or residence managers of community alternative homes as defined in section 3724.01 of the Revised Code.

Sec. 3701.90. The department of health shall make available a toll-free patient safety telephone line and accept calls from any person reporting an action or failure to act that a prudent person possessing an average knowledge of medicine and health would reasonably believe is likely to result in harm to a patient. The department may make the toll-free patient safety telephone line available by maintaining a separate toll-free telephone line or by using a toll-free telephone line that the department maintains for accepting calls for other purposes.

A person submitting a report under this section is not required to provide any information to the department that could

reveal the person's identity. Information provided by a person 81
under this section is not a public record as defined in section 82
149.43 of the Revised Code. 83

Sec. 4113.512. The employer of an employee whose duties 84
include performing or supervising the performance of services 85
related to the health care of individuals shall make information 86
available to the employee explaining the employee's duty to make 87
reports pursuant to section 4113.52 of the Revised Code, as well 88
as the employee's opportunity to make reports regarding patient 89
safety pursuant to section 3701.90 of the Revised Code. 90

Sec. 4723.03. (A) No person shall engage in the practice of 91
nursing as a registered nurse, ~~hold herself or himself out as~~ 92
~~being~~ represent that the person is a registered nurse, or use the 93
title "registered nurse," the initials "R.N.," or any other title 94
implying that the person is a registered nurse, for a fee, salary, 95
or other consideration, or as a volunteer, without holding a 96
current, valid license as a registered nurse under this chapter. 97

(B) No person shall engage in the practice of nursing as a 98
licensed practical nurse, ~~hold herself or himself out as being~~ 99
~~represent that the person is~~ a licensed practical nurse, or use 100
the title "licensed practical nurse," the initials "L.P.N.," or 101
any other title implying that the person is a licensed practical 102
nurse, for a fee, salary, or other consideration, or as a 103
volunteer, without holding a current, valid license as a practical 104
nurse under this chapter. 105

(C) No person shall use the titles or initials "graduate 106
nurse," "G.N.," "professional nurse," "P.N.," "graduate practical 107
nurse," "G.P.N.," "practical nurse," "P.N.," "trained nurse," 108
"T.N.," or any other statement, title, or initials that would 109
imply or represent to the public that the person is authorized to 110

practice nursing in this state, except as follows:	111
(1) A person licensed under this chapter to practice nursing	112
as a registered nurse may use that title and the initials "R.N.";	113
(2) A person licensed under this chapter to practice nursing	114
as a licensed practical nurse may use that title and the initials	115
"L.P.N.";	116
(3) A person authorized under this chapter to practice	117
nursing as a certified registered nurse anesthetist may use that	118
title, the initials "C.R.N.A." or "N.A.," and any other title or	119
initials approved by the board of nursing;	120
(4) A person authorized under this chapter to practice	121
nursing as a clinical nurse specialist may use that title, the	122
initials "C.N.S.," and any other title or initials approved by the	123
board;	124
(5) A person authorized under this chapter to practice	125
nursing as a certified nurse-midwife may use that title, the	126
initials "C.N.M.," and any other title or initials approved by the	127
board;	128
(6) A person authorized under this chapter to practice	129
nursing as a certified nurse practitioner may use that title, the	130
initials "C.N.P.," and any other title or initials approved by the	131
board.	132
(D) No person shall employ a person not licensed as a	133
registered nurse under this chapter to engage in the practice of	134
nursing as a registered nurse. No person shall employ a person not	135
licensed as a practical nurse under this chapter to engage in the	136
practice of nursing as a licensed practical nurse.	137
(E) No person shall sell or fraudulently obtain or furnish	138
any nursing diploma, license, certificate, renewal, or record, or	139
aid or abet such acts.	140

(F) No person shall delegate nursing tasks included in the practice of nursing as a registered nurse or practice of nursing as a licensed practical nurse, unless the tasks are delegated at the direction of a registered nurse acting in accordance with section 4723.321 of the Revised Code.

Sec. 4723.031. Division (F) of section 4723.03 of the Revised Code does not prohibit either of the following:

(A) An individual from acting in accordance with the individual's professional practice established by holding a license, certificate, or registration authorizing the practice of a health profession in this state that is regulated by a board or other state agency that takes disciplinary actions against the individuals it regulates;

(B) An individual from engaging in any activity performed for a handicapped child as a service needed to meet the educational needs of the child, as identified in the individualized education program developed for the child under Chapter 3323. of the Revised Code.

Sec. 4723.04. The state nurses' board shall be known as the board of nursing. The board shall assume and exercise all the powers and perform all the duties conferred and imposed on it by this chapter concerning nurses and nursing and the regulation thereof. The board shall consist of thirteen members who shall be citizens of the United States and residents of Ohio. Eight members shall be registered nurses, each of whom shall be a graduate of an approved program of nursing education that prepares persons for licensure as a registered nurse, shall hold a currently active license issued under this chapter to practice nursing as a registered nurse, and shall have been actively engaged in the practice of nursing as a registered nurse for the five years

immediately preceding the member's initial appointment to the 171
board. Four members shall be licensed practical nurses, each of 172
whom shall be a graduate of an approved program of nursing 173
education that prepares persons for licensure as a practical 174
nurse, shall hold a currently active license issued under this 175
chapter to practice nursing as a licensed practical nurse, and 176
shall have been actively engaged in the practice of nursing as a 177
licensed practical nurse for the five years immediately preceding 178
the member's initial appointment to the board. One member shall 179
represent the interests of consumers of health care. Neither this 180
member nor any person in the member's immediate family shall be a 181
member of or associated with a health care provider or profession 182
or shall have a financial interest in the delivery or financing of 183
health care. Representation of nursing service and nursing 184
education and of the various geographical areas of the state shall 185
be considered in making appointments. As the term of any member of 186
the board expires, a successor shall be appointed who has the 187
qualifications the vacancy requires. Terms of office shall be for 188
five years, commencing on the first day of January and ending on 189
the thirty-first day of December. Each member shall hold office 190
from the date of appointment until the end of the term for which 191
the member was appointed. The term of a member shall expire if the 192
member ceases to meet any requirement of this section for the 193
member's position on the board. Any member appointed to fill a 194
vacancy occurring prior to the expiration of the term for which 195
~~her~~ the member's predecessor was appointed shall hold office for 196
the remainder of such term. A person who has served a full term on 197
the board or more than thirty months of the remainder of the term 198
of a predecessor shall not be eligible for a subsequent 199
appointment to the board. Any member shall continue in office 200
subsequent to the expiration date of ~~her~~ the member's term until 201
~~her~~ the member's successor takes office, or until a period of 202

sixty days has elapsed, whichever occurs first. Nursing 203
organizations of this state may each submit to the governor the 204
names of not more than five nominees for each position to be 205
filled on the board. From the names so submitted or from others, 206
at ~~his~~ the governor's discretion, the governor with the advice and 207
consent of the senate shall make such appointments. 208

Any member of the board may be removed by the governor for 209
neglect of any duty required by law or for incompetency or 210
unprofessional or dishonorable conduct, after a hearing as 211
provided in Chapter 119. of the Revised Code. Seven members of the 212
board including at least four registered nurses and at least one 213
licensed practical nurse shall at all times constitute a quorum. 214
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Each member of the board shall receive an amount fixed 216
pursuant to division (J) of section 124.15 of the Revised Code for 217
each day in attendance at board meetings and in discharge of 218
official duties, and in addition thereto, necessary expense 219
incurred in the performance of such duties. 220

The board shall elect one of its nurse members as president 221
and one as vice-president. The board shall elect one of its 222
registered nurse members to serve as the supervising member for 223
disciplinary matters. 224

The board may establish advisory groups to serve in 225
consultation with the board or the executive director. Each 226
advisory group shall be given a specific charge in writing and 227
shall report to the board. Members of advisory groups shall serve 228
without compensation but shall receive their actual and necessary 229
expenses incurred in the performance of their official duties. 230

Sec. 4723.28. As used in this section, "dangerous drug" and 231
"prescription" have the same meanings as in section 4729.01 of the 232

Revised Code.	233
(A) The board of nursing, pursuant to an adjudication	234
conducted under Chapter 119. of the Revised Code and by a vote of	235
a quorum, may revoke or may refuse to grant a license or	236
certificate to a person found by the board to have committed fraud	237
in passing the examination or to have committed fraud,	238
misrepresentation, or deception in applying for or securing any	239
license or certificate issued by the board.	240
(B) The board of nursing, pursuant to an adjudication	241
conducted under Chapter 119. of the Revised Code and by a vote of	242
a quorum, may impose one or more of the following sanctions: deny,	243
revoke permanently, suspend, or place restrictions on any license	244
or certificate issued by the board; reprimand or otherwise	245
discipline a holder of a license or certificate; or impose a fine	246
of not more than <u>one thousand</u> five hundred dollars per violation.	247
The sanctions may be imposed for any of the following:	248
(1) Denial, revocation, suspension, or restriction of a	249
license to practice nursing, for any reason other than a failure	250
to renew, in another state or jurisdiction; or denial, revocation,	251
suspension, or restriction of a license to practice a health care	252
occupation other than nursing, for any reason other than a failure	253
to renew, in Ohio or another state or jurisdiction;	254
(2) Engaging in the practice of nursing, having failed to	255
renew a license issued under this chapter, or while a license is	256
under suspension;	257
(3) Conviction of, a plea of guilty to, or a judicial finding	258
of guilt of a misdemeanor committed in the course of practice;	259
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(4) Conviction of, a plea of guilty to, or a judicial finding	261
of guilt of any felony or of any crime involving gross immorality	262

or moral turpitude;	263
(5) Selling, giving away, or administering drugs for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, or a judicial finding of guilt of violating any municipal, state, county, or federal drug law;	264 265 266 267
(6) Conviction of, a plea of guilty to, or a judicial finding of guilt of an act in another jurisdiction that would constitute a felony or a crime of moral turpitude in Ohio;	268 269 270
(7) Conviction of, a plea of guilty to, or a judicial finding of guilt of an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio;	271 272 273
(8) Self-administering or otherwise taking into the body any dangerous drug in any way not in accordance with a legal, valid prescription;	274 275 276
(9) Habitual indulgence in the use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs ability to practice;	277 278 279
(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of habitual or excessive use of drugs, alcohol, or other chemical substances that impair the ability to practice;	280 281 282 283
(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of a physical or mental disability;	284 285 286
(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	287 288
(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	289 290 291
(14) Adjudication by a probate court that the license	292

applicant or license holder is mentally ill or mentally	293
incompetent. The board may restore the license upon adjudication	294
by a probate court of the person's restoration to competency or	295
upon submission to the board of other proof of competency.	296
(15) The suspension or termination of employment by the	297
department of defense or the veterans administration of the United	298
States for any act that violates or would violate this chapter;	299
(16) Violation of this chapter or any rules adopted under it;	300
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(17) Violation of any restrictions placed on a license by the	302
board;	303
(18) Failure to use universal blood and body fluid	304
precautions established by rules adopted under section 4723.07 of	305
the Revised Code;	306
(19) Failure to practice in accordance with acceptable and	307
prevailing standards of safe nursing care;	308
(20) In the case of a registered nurse, engaging in	309
activities that exceed the practice of nursing as a registered	310
nurse under section 4723.02 of the Revised Code;	311
(21) In the case of a licensed practical nurse, engaging in	312
activities that exceed the practice of nursing as a licensed	313
practical nurse under section 4723.02 of the Revised Code;	314
(22) Aiding and abetting in the unlicensed practice of	315
nursing;	316
(23) In the case of a certified registered nurse anesthetist,	317
clinical nurse specialist, certified nurse-midwife, or certified	318
nurse practitioner, or a registered nurse approved as an advanced	319
practice nurse under section 4723.55 of the Revised Code, either	320
of the following:	321
(a) Waiving the payment of all or any part of a deductible or	322

copayment that a patient, pursuant to a health insurance or health
care policy, contract, or plan that covers such nursing services,
would otherwise be required to pay if the waiver is used as an
enticement to a patient or group of patients to receive health
care services from that provider;

(b) Advertising that the nurse will waive the payment of all
or any part of a deductible or copayment that a patient, pursuant
to a health insurance or health care policy, contract, or plan
that covers such nursing services, would otherwise be required to
pay.

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

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

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

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

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

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

(28) Failure to make a report required by the board or the

Revised Code when the license holder has reason to believe that an 353
action or failure to act has resulted or is likely to result in 354
harm to a patient, including reports required to be made under 355
section 4113.52 of the Revised Code. 356

(C) If a criminal action is brought against a license holder 357
for an act or crime described in divisions (B)(3) to (7) of this 358
section and the action is dismissed by the trial court other than 359
on the merits, the board shall hold an adjudication hearing to 360
determine whether the license holder committed the act on which 361
the action was based. If the board determines on the basis of the 362
hearing that the license holder committed the act, or if the 363
license holder fails to participate in the hearing, the board may 364
take action as though the license holder had been convicted of the 365
act. 366

If the board takes action on the basis of a conviction, plea 367
of guilty, or a judicial determination of guilt as described in 368
divisions (B)(3) to (7) of this section that is overturned on 369
appeal, the license holder may, on exhaustion of the appeal 370
process, petition the board for reconsideration of its action. On 371
receipt of the petition and supporting court documents, the board 372
shall temporarily rescind its action. If the board determines that 373
the decision on appeal was a decision on the merits, it shall 374
permanently rescind its action. If the board determines that the 375
decision on appeal was not a decision on the merits, it shall hold 376
an adjudicatory hearing to determine whether the license holder 377
committed the act on which the original conviction, plea, or 378
judicial determination was based. If the board determines on the 379
basis of the hearing that the license holder committed such act, 380
or if the license holder does not request a hearing, the board 381
shall reinstate its action; otherwise, the board shall permanently 382
rescind its action. 383

Notwithstanding the provision of division (C)(2) of section 384

2953.32 of the Revised Code specifying that if records pertaining 385
to a criminal case are sealed under that section the proceedings 386
in the case shall be deemed not to have occurred, sealing of the 387
records of a conviction on which the board has based an action 388
under this section shall have no effect on the board's action or 389
any sanction imposed by the board under this section. 390

(D) In enforcing division (B) of this section, the board may 391
compel any individual licensed by this chapter or who has applied 392
for licensure to submit to a mental or physical examination, or 393
both, as required by the board and at the expense of the 394
individual. Failure of any individual to submit to a mental or 395
physical examination when directed constitutes an admission of the 396
allegations, unless the failure is due to circumstances beyond the 397
individual's control, and a default and final order may be entered 398
without the taking of testimony or presentation of evidence. If 399
the board finds that an individual is impaired, the board shall 400
require the individual to submit to care, counseling, or treatment 401
approved or designated by the board, as a condition for initial, 402
continued, reinstated, or renewed licensure to practice. The 403
individual shall be afforded an opportunity to demonstrate to the 404
board that the individual can resume the individual's occupation 405
in compliance with acceptable and prevailing standards under the 406
provisions of the individual's license. For the purpose of this 407
section, any individual who is licensed by this chapter or makes 408
application for licensure shall be deemed to have given consent to 409
submit to a mental or physical examination when directed to do so 410
in writing by the board, and to have waived all objections to the 411
admissibility of testimony or examination reports that constitute 412
a privileged communication. 413

(E) The board shall investigate evidence that appears to show 414
that any person has violated any provision of this chapter or any 415
rule of the board. Any person may report to the board any 416

information the person may have that appears to show a violation 417
of any provision of this chapter or rule of the board. In the 418
absence of bad faith, any person who reports such information or 419
who testifies before the board in any adjudication conducted under 420
Chapter 119. of the Revised Code shall not be liable for civil 421
damages as a result of the report or testimony. 422

Information received by the board pursuant to an 423
investigation is confidential and not subject to discovery in any 424
civil action, except that the board may disclose information to 425
law enforcement officers and government entities investigating a 426
person licensed by the board. No law enforcement officer or 427
government entity with knowledge of any information disclosed by 428
the board pursuant to this division shall divulge the information 429
to any other person or government entity except for the purpose of 430
an adjudication by a court or licensing or registration board or 431
officer to which the person to whom the information relates is a 432
party. 433

If the investigation requires a review of patient records, 434
the investigation and proceeding shall be conducted in such a 435
manner as to protect patient confidentiality. 436

All hearings and investigations of the board shall be 437
considered civil actions for the purposes of section 2305.251 of 438
the Revised Code. 439

The hearings of the board shall be conducted in accordance 440
with Chapter 119. of the Revised Code. The board may appoint a 441
hearing examiner as provided in section 119.09 to conduct any 442
hearing the board is empowered to hold under Chapter 119. of the 443
Revised Code. 444

In the absence of fraud or bad faith, neither the board nor 445
any current or former members, agents, representatives, or 446
employees of the board shall be held liable in damages to any 447

person as the result of any act, omission, proceeding, conduct, or 448
decision related to their official duties undertaken or performed 449
pursuant to this chapter. If a current or former member, agent, 450
representative, or employee requests the state to defend the 451
individual against any claim or action arising out of any act, 452
omission, proceeding, conduct, or decision related to the 453
individual's official duties, if the request is made in writing at 454
a reasonable time before trial, and if the individual requesting 455
defense cooperates in good faith in the defense of the claim or 456
action, the state shall provide and pay for such defense and shall 457
pay any resulting judgment, compromise, or settlement. At no time 458
shall the state pay that part of a claim or judgment that is for 459
punitive or exemplary damages. 460

(F) Any action taken by the board under this section 461
resulting in a suspension from practice shall be accompanied by a 462
written statement of the conditions under which the person may be 463
reinstated to practice. 464

(G) No unilateral surrender of a license issued under this 465
chapter shall be effective unless accepted by majority vote of the 466
board. No application for a license issued under this chapter may 467
be withdrawn without a majority vote of the board. 468

(H) Notwithstanding division (B)(23) of this section, 469
sanctions shall not be imposed against any licensee who waives 470
deductibles and copayments: 471

(1) In compliance with the health benefit plan that expressly 472
allows such a practice. Waiver of the deductibles or copayments 473
shall be made only with the full knowledge and consent of the plan 474
purchaser, payer, and third-party administrator. The consent shall 475
be made available to the board upon request. 476

(2) For professional services rendered to any other person 477
licensed pursuant to this chapter to the extent allowed by this 478

chapter and the rules of the board.

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Sec. 4723.32. This chapter does not prohibit:

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(A) The practice of nursing by students as an integral part of a program of study leading to initial licensure and approved by the board of nursing;

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(B) The practice of nursing by a person currently licensed in another jurisdiction who is employed by the United States government or any agency thereof while in the discharge of official duties;

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~~(C) The rendering of medical assistance to a licensed physician, licensed dentist, or licensed podiatrist by a person under the direction, supervision, and control of such licensed physician, dentist, or podiatrist~~ A physician from delegating duties to another individual, if the physician is acting in accordance with Chapter 4731. of the Revised Code and the individual performing the duties acts under the direction, supervision, and control of the physician;

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~~(D) The activities of persons employed as nursing aides, attendants, orderlies, or other auxiliary workers in patient homes, nurseries, nursing homes, hospitals, home health agencies, or other similar institutions~~ A dentist from delegating duties to another individual, if the dentist is acting in accordance with Chapter 4715. of the Revised Code and the individual performing the duties acts under the direction, supervision, and control of the dentist;

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(E) The practice of nursing by any registered nurse or licensed practical nurse currently licensed in another jurisdiction who is employed by an individual, agency, or corporation located in that jurisdiction and whose employment responsibilities include transporting patients into, out of, or

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through this jurisdiction, so long as each trip does not exceed 509
forty-eight hours in this state; 510

(F) The provision of nursing services to family members or in 511
emergency situations; 512

(G) The care of the sick when done in connection with the 513
practice of religious tenets of any church and by its members; 514

(H) The practice of nursing as a certified registered nurse 515
anesthetist, clinical nurse specialist, certified nurse-midwife, 516
or certified nurse practitioner by a student as an integral part 517
of a program of study leading to initial authorization by the 518
board to practice nursing in the specialty, if the program 519
qualifies the student to sit for the examination of a national 520
certifying organization listed in division (A)(3) of section 521
4723.41 of the Revised Code or approved by the board under section 522
4723.46 of the Revised Code, or prepares the student to receive a 523
master's degree in accordance with division (A)(2) of section 524
4723.41 of the Revised Code; 525

(I) A registered nurse from delegating nursing tasks in 526
accordance with section 4723.321 of the Revised Code. 527

**Sec. 4723.321. A registered nurse shall delegate nursing 528
tasks in accordance with all of the following:** 529

(A) The delegation shall be made in accordance with rules the 530
board of nursing shall adopt in accordance with Chapter 119. of 531
the Revised Code. 532

(B) The nursing task being delegated shall not involve 533
nursing assessment, analysis, or evaluation. 534

(C) The nursing task of applying an over-the-counter topical 535
medication to intact skin for the purpose of improving a skin 536
condition or providing a barrier shall not be delegated to an 537
individual who does not hold a valid license, certificate, or 538

registration under the Revised Code authorizing the practice of a 539
health profession, unless the individual has been trained to apply 540
the medication. 541

(D) Except when topical medication application is delegated 542
pursuant to division (C) of this section, the nursing task being 543
delegated shall not involve any part of the process of medication 544
administration, unless the delegation occurs pursuant to section 545
3313.713, 4723.61, 4723.62, or 5123.193 or sections 5126.35 to 546
5126.356 of the Revised Code. 547

Sec. 4723.33. A registered nurse or licensed practical nurse 548
who has reason to believe that an action or failure to act has 549
resulted or is likely to result in harm to a patient and makes a 550
report under this chapter, section 3701.90 of the Revised Code, 551
section 4113.52 of the Revised Code, or any other provision of the 552
Revised Code, or participates in any investigation, administrative 553
proceeding, or judicial proceeding resulting from the report, has 554
the full protection against retaliatory action provided by 555
sections 4113.51 to 4113.53 of the Revised Code. 556

Sec. 4723.341. (A) As used in this section, "person" has the 557
same meaning as in section 1.59 of the Revised Code and also 558
includes the board of nursing and its members and employees; 559
health care facilities, associations, and societies; insurers; and 560
individuals. 561

(B) In the absence of fraud or bad faith, no person reporting 562
to the board of nursing or testifying in an adjudication ~~hearing~~ 563
conducted under Chapter 119. of the Revised Code with regard to 564
alleged incidents of negligence or malpractice, or matters subject 565
to section 2301.373 ~~or 4723.28~~ of the Revised Code, ~~violations of~~ 566
~~section 4723.34 of the Revised Code, or the qualifications,~~ 567
~~fitness, or character of a person licensed or applying for a~~ 568

~~license to practice nursing as a registered nurse or licensed
practical nurse or this chapter shall be subject to any civil
action or liable for damages as a result of the following based on
making the report or testifying:~~ 569
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571
572

(1) Liability in damages in a civil action for injury, death,
or loss to person or property; 573
574

(2) Discipline or dismissal of an individual by the
individual's employer. 575
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(C) An individual who is disciplined or dismissed in
violation of division (B)(2) of this section has the same rights
and duties accorded an employee under sections 4113.52 and 4113.53
of the Revised Code. 577
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580

(D) In the absence of fraud or bad faith, no professional 581
association of individuals who are licensed under this chapter 582
that sponsors a committee or program to provide peer assistance to 583
nurses with substance abuse problems, no representative or agent 584
of such a committee or program, and no member of the board of 585
nursing shall be liable to any person for damages in a civil 586
action by reason of actions taken to refer a nurse to a treatment 587
provider designated by the board or actions or omissions of the 588
provider in treating a nurse. 589

Sec. 4723.40. ~~In addition to any other remedies provided by~~ 590
~~law, the~~ (A) The board of nursing may apply to an appropriate 591
court for an order enjoining the violation of any provision of 592
this chapter, and, upon. In addition to the board of nursing, the 593
attorney general, a prosecuting attorney, or any other person 594
having knowledge of the unauthorized practice of nursing as a 595
registered nurse or licensed practical nurse or other unlawful 596
activity regarding the practice of nursing may apply to an 597
appropriate court for an order enjoining the practice or activity, 598
except that when knowledge of the practice or activity is 599

possessed by the attorney general, a prosecuting attorney, or any 600
other person, before applying for the injunction, the attorney 601
general, prosecuting attorney, or person shall do all of the 602
following: 603

(1) Notify the board of nursing's supervising member for 604
disciplinary matters of the alleged unauthorized practice or 605
unlawful activity; 606

(2) Provide sufficient information as specified in division 607
(B) of this section; 608

(3) Request that the supervising member provide notice in 609
accordance with division (B) of this section. 610

(B) On receipt of a notice under division (A) of this section 611
that contains sufficient information to determine that a person 612
may have engaged in the unauthorized practice of nursing or other 613
unlawful activity, the supervising member shall notify the alleged 614
offender by registered mail that information has been received 615
alleging the unauthorized practice or unlawful activity. To be 616
considered as containing sufficient information, the notice 617
provided to the supervising member must contain all of the 618
following: 619

(1) A description of the alleged unauthorized practice or 620
unlawful activity; 621

(2) If a particular individual can be identified, the name of 622
the individual involved in the practice or activity; 623

(3) The name and address of the facility, institution, or 624
other place where the practice or activity occurred; 625

(4) The approximate dates that the practice or activity 626
occurred; 627

(5) Any additional information the attorney general, 628
prosecuting attorney, or other person considers relevant. 629

(C) Not later than thirty days after receiving notice from 630
the supervising member, the alleged offender shall respond to the 631
supervising member with respect to the allegations. If the person 632
fails to give a timely and sufficient response, the supervising 633
member shall investigate. Based on the findings of the 634
investigation, the supervising member may request that the 635
attorney general, prosecuting attorney, board of nursing, or other 636
person seeking an injunction proceed as authorized by this 637
section. 638

(D) On the filing of a verified petition in court, the court 639
shall conduct a hearing on the petition and give the same 640
preference to the proceeding as is given all proceedings under 641
Chapter 119. of the Revised Code, irrespective of the position of 642
the proceeding on the calendar of the court. On a showing that any 643
person has violated or is about to violate any provision of this 644
chapter, the court shall grant an order enjoining ~~such~~ the 645
violation. 646

(E) The injunction proceedings provided for by this section 647
are in addition to all penalties and other remedies provided in 648
this chapter. 649

Sec. 4723.99. Whoever violates section 4723.03 or 4723.44 of 650
the Revised Code shall be fined one thousand five hundred dollars 651
or imprisoned not more than ninety one hundred twenty days or 652
both. 653

Section 2. That existing sections 3701.07, 4723.03, 4723.04, 654
4723.28, 4723.32, 4723.341, 4723.40, and 4723.99 of the Revised 655
Code are hereby repealed. 656