

**As Reported by the Senate Medicaid Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. H. B. No. 116**

**Representatives Brown, Ginter**

**Cosponsors: Representatives Becker, Kuhns, Kraus, Lepore-Hagan, Huffman, Barnes, Bishoff, Duffey, Ramos, Anielski, Antonio, Baker, Blessing, Boyce, Boyd, Buchy, Burkley, Celebrezze, Clyde, Conditt, Craig, Derickson, Dever, Dovilla, Driehaus, Fedor, Green, Hackett, Hall, Hambley, Hayes, Henne, Hill, Howse, Johnson, G., Kunze, Landis, Leland, Maag, Manning, McClain, O'Brien, M., Patterson, Pelanda, Reece, Rogers, Romanchuk, Ruhl, Ryan, Schaffer, Scherer, Schuring, Sears, Sheehy, Slaby, Slesnick, Smith, K., Smith, R., Sprague, Stinziano, Strahorn, Sweeney, Sykes, Terhar, Young, Speaker Rosenberger  
Senators Tavares, Williams**

---

**A BILL**

To amend sections 1739.05, 3719.04, 3719.07, 1  
3719.121, 3719.21, 4729.281, 4729.39, 4729.571, 2  
4730.11, 4730.49, and 5167.12 and to enact 3  
sections 1751.68, 3923.602, 4729.20, 4729.561, 4  
and 5164.7511 of the Revised Code regarding 5  
insurance and Medicaid coverage of medication 6  
synchronization, professional discipline for 7  
actions involving dangerous drugs, consult 8  
agreements between pharmacists and physicians, 9  
pharmacists dispensing or selling drugs without 10  
a prescription, prescriptive authority of 11  
physician assistants, and acceptance of a 12  
certificate of need application for a new 13  
nursing home. 14

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

**Section 1.** That sections 1739.05, 3719.04, 3719.07, 15  
3719.121, 3719.21, 4729.281, 4729.39, 4729.571, 4730.11, 16  
4730.49, and 5167.12 be amended and sections 1751.68, 3923.602, 17  
4729.20, 4729.561, and 5164.7511 of the Revised Code be enacted 18  
to read as follows: 19

**Sec. 1739.05.** (A) A multiple employer welfare arrangement 20  
that is created pursuant to sections 1739.01 to 1739.22 of the 21  
Revised Code and that operates a group self-insurance program 22  
may be established only if any of the following applies: 23

(1) The arrangement has and maintains a minimum enrollment 24  
of three hundred employees of two or more employers. 25

(2) The arrangement has and maintains a minimum enrollment 26  
of three hundred self-employed individuals. 27

(3) The arrangement has and maintains a minimum enrollment 28  
of three hundred employees or self-employed individuals in any 29  
combination of divisions (A) (1) and (2) of this section. 30

(B) A multiple employer welfare arrangement that is 31  
created pursuant to sections 1739.01 to 1739.22 of the Revised 32  
Code and that operates a group self-insurance program shall 33  
comply with all laws applicable to self-funded programs in this 34  
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 35  
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 36  
3902.01 to 3902.14, 3923.24, 3923.282, 3923.30, 3923.301, 37  
3923.38, 3923.581, 3923.602, 3923.63, 3923.80, 3923.85, 38  
3924.031, 3924.032, and 3924.27 of the Revised Code. 39

(C) A multiple employer welfare arrangement created 40  
pursuant to sections 1739.01 to 1739.22 of the Revised Code 41  
shall solicit enrollments only through agents or solicitors 42  
licensed pursuant to Chapter 3905. of the Revised Code to sell 43

or solicit sickness and accident insurance. 44

(D) A multiple employer welfare arrangement created 45  
pursuant to sections 1739.01 to 1739.22 of the Revised Code 46  
shall provide benefits only to individuals who are members, 47  
employees of members, or the dependents of members or employees, 48  
or are eligible for continuation of coverage under section 49  
1751.53 or 3923.38 of the Revised Code or under Title X of the 50  
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 51  
Stat. 227, 29 U.S.C.A. 1161, as amended. 52

**Sec. 1751.68.** (A) As used in this section: 53

(1) "Cost-sharing" means the cost to an enrollee under an 54  
individual or group health insuring corporation policy, 55  
contract, or agreement according to any coverage limit, 56  
copayment, coinsurance, deductible, or other out-of-pocket 57  
expense requirements imposed by the policy, contract, or 58  
agreement. 59

(2) "Drug" has the same meaning as in section 4729.01 of 60  
the Revised Code. 61

(3) "Medication synchronization" means a pharmacy service 62  
that synchronizes the filling or refilling of prescriptions in a 63  
manner that allows the dispensed drugs to be obtained on the 64  
same date each month. 65

(4) "Prescriber" has the same meaning as in section 66  
4729.01 of the Revised Code. 67

(5) "Prescription" means a written, electronic, or oral 68  
order issued by a prescriber for drugs or combinations or 69  
mixtures of drugs to be used by a particular individual. 70

(B) Notwithstanding section 3901.71 of the Revised Code, 71

each health insuring corporation policy, contract, or agreement 72  
that provides prescription drug coverage shall provide for 73  
medication synchronization for an enrollee if all of the 74  
following conditions are met: 75

(1) The enrollee elects to participate in medication 76  
synchronization; 77

(2) The enrollee, the prescriber, and a pharmacist at a 78  
network pharmacy agree that medication synchronization is in the 79  
best interest of the enrollee; 80

(3) The prescription drug to be included in the medication 81  
synchronization meets the requirements of division (C) of this 82  
section. 83

(C) To be eligible for inclusion in medication 84  
synchronization for an enrollee, a prescription drug must meet 85  
all of the following requirements: 86

(1) Be covered by the policy, contract, or agreement; 87

(2) Be prescribed for the treatment and management of a 88  
chronic disease or condition and be subject to refills; 89

(3) Satisfy all relevant prior authorization criteria; 90

(4) Not have quantity limits, dose optimization criteria, 91  
or other requirements that would be violated if synchronized; 92

(5) Not have special handling or sourcing needs, as 93  
determined by the policy, contract, or agreement, that require a 94  
single, designated pharmacy to fill or refill the prescription; 95

(6) Be formulated so that the quantity or amount dispensed 96  
can be effectively divided in order to achieve synchronization; 97

(7) Not be a schedule II controlled substance, opiate, or 98

benzodiazepine, as those terms are defined in section 3719.01 of 99  
the Revised Code. 100

(D) (1) To provide for medication synchronization under 101  
division (B) of this section, a policy, contract, or agreement 102  
shall authorize coverage of a prescription drug subject to 103  
medication synchronization when the drug is dispensed in a 104  
quantity or amount that is less than a thirty-day supply. 105

(2) The requirement of division (D) (1) of this section 106  
applies only once for each prescription drug subject to 107  
medication synchronization for the same enrollee, except when 108  
either of the following occurs: 109

(a) The prescriber changes the dosage or frequency of 110  
administration of the prescription drug subject to medication 111  
synchronization. 112

(b) The prescriber prescribes a different drug. 113

(E) (1) A policy, contract, or agreement that provides for 114  
medication synchronization under division (B) of this section 115  
shall permit and apply a prorated daily cost-sharing rate for a 116  
supply of a prescription drug subject to medication 117  
synchronization that is dispensed at a network pharmacy. 118

(2) Division (E) (1) of this section does not require a 119  
policy, contract, or agreement to waive any cost-sharing 120  
requirement in its entirety. 121

(F) A policy, contract, or agreement that provides for 122  
medication synchronization under division (B) of this section 123  
shall not use payment structures that incorporate dispensing 124  
fees that are determined by calculating the days' supply of 125  
drugs dispensed. Dispensing fees shall be based exclusively on 126  
the total number of prescriptions that are filled or refilled. 127

(G) This section does not require a health insuring 128  
corporation to provide to a network pharmacy or a pharmacist at 129  
a network pharmacy any monetary or other financial incentive for 130  
the purpose of encouraging the pharmacy or pharmacist to 131  
recommend medication synchronization to an enrollee. 132

**Sec. 3719.04.** (A) A licensed manufacturer or wholesaler of 133  
controlled substances may sell at wholesale controlled 134  
substances to any of the following persons and subject to the 135  
following conditions: 136

(1) To a licensed manufacturer or wholesaler of controlled 137  
substances, or a terminal distributor of dangerous drugs having 138  
a category III license; 139

(2) To a person in the employ of the United States 140  
government or of any state, territorial, district, county, 141  
municipal, or insular government, purchasing, receiving, 142  
possessing, or dispensing controlled substances by reason of ~~his~~ 143  
official duties; 144

(3) To a master of a ship or a person in charge of any 145  
aircraft upon which no physician is regularly employed, for the 146  
actual medical needs of persons on board the ship or aircraft, 147  
when not in port; provided such controlled substances shall be 148  
sold to the master of the ship or person in charge of the 149  
aircraft only in pursuance of a special official written order 150  
approved by a commissioned medical officer or acting assistant 151  
surgeon of the United States public health service; 152

(4) To a person in a foreign country, if the federal drug 153  
abuse control laws are complied with. 154

(B) An official written order for any schedule II 155  
controlled substances shall be signed in triplicate by the 156

person giving the order or by ~~his~~ the person's authorized agent. 157  
The original shall be presented to the person who sells or 158  
dispenses the schedule II controlled substances named in the 159  
order and, if that person accepts the order, each party to the 160  
transaction shall preserve ~~his~~ the party's copy of the order for 161  
a period of ~~two~~ three years in such a way as to be readily 162  
accessible for inspection by any public officer or employee 163  
engaged in the enforcement of Chapter 3719. of the Revised Code. 164  
Compliance with the federal drug abuse control laws, respecting 165  
the requirements governing the use of a special official written 166  
order constitutes compliance with this division. 167

**Sec. 3719.07.** (A) As used in this section, "description" 168  
means the dosage form, strength, and quantity, and the brand 169  
name, if any, or the generic name, of a drug or controlled 170  
substance. 171

(B) (1) Every licensed health professional authorized to 172  
prescribe drugs shall keep a record of all controlled substances 173  
received and a record of all controlled substances administered, 174  
dispensed, or used other than by prescription. Every other 175  
person, except a pharmacist, manufacturer, or wholesaler, who is 176  
authorized to purchase and use controlled substances shall keep 177  
a record of all controlled substances purchased and used other 178  
than by prescription. The records shall be kept in accordance 179  
with division (C) (1) of this section. 180

(2) Manufacturers and wholesalers shall keep records of 181  
all controlled substances compounded, mixed, cultivated, grown, 182  
or by any other process produced or prepared by them, and of all 183  
controlled substances received or sold by them. The records 184  
shall be kept in accordance with division (C) (2) of this 185  
section. 186

(3) Every category III terminal distributor of dangerous drugs shall keep records of all controlled substances received or sold. The records shall be kept in accordance with division (C) (3) of this section.

(4) Every person who sells or purchases for resale schedule V controlled substances exempted by section 3719.15 of the Revised Code shall keep a record showing the quantities and kinds thereof received or sold. The records shall be kept in accordance with divisions (C) (1), (2), and (3) of this section.

(C) (1) The records required by divisions (B) (1) and (4) of this section shall contain the following:

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

(b) The description of controlled substances administered, dispensed, purchased, sold, or used; the date of administering, dispensing, purchasing, selling, or using; the name and address of the person to whom, or for whose use, or the owner and species of the animal for which the controlled substance was administered, dispensed, purchased, sold, or used.

(2) The records required by divisions (B) (2) and (4) of this section shall contain the following:

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

(b) The description of controlled substances sold, the name and address of each person to whom a controlled substance is sold, the amount of the controlled substance sold to each person, and the date it was sold.

|  |   |
|--|---|
| (3) The records required by divisions (B) (3) and (4) of this section shall contain the following:   | 216<br>217  |
| (a) The description of controlled substances received, the name and address of the person from whom controlled substances are received, and the date of receipt;   | 218<br>219<br>220   |
| (b) The name and place of residence of each person to whom controlled substances, including those otherwise exempted by section 3719.15 of the Revised Code, are sold, the description of the controlled substances sold to each person, and the date the controlled substances are sold to each person.   | 221<br>222<br>223<br>224<br>225                             |
| (D) Every record required by this section shall be kept for a period of <del>two</del> <u>three</u> years.   | 226<br>227  |
| The keeping of a record required by or under the federal drug abuse control laws, containing substantially the same information as specified in this section, constitutes compliance with this section.  | 228<br>229<br>230<br>231                                    |
| Every person who purchases for resale or who sells controlled substance preparations exempted by section 3719.15 of the Revised Code shall keep the record required by or under the federal drug abuse control laws.   | 232<br>233<br>234<br>235                                    |
| <b>Sec. 3719.121.</b> (A) Except as otherwise provided in section 4723.28, 4723.35, 4730.25, 4731.22, 4734.39, or 4734.41 of the Revised Code, the license, certificate, or registration of any dentist, chiropractor, physician, 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 | 236<br>237<br>238<br>239<br>240<br>241<br>242<br>243<br>244 |

the board that the person no longer is addicted to the use of 245  
controlled substances. 246

(B) If the board under which a person has been issued a 247  
license, certificate, or evidence of registration determines 248  
that there is clear and convincing evidence that continuation of 249  
the person's professional practice or method of administering, 250  
prescribing, dispensing, or personally furnishing controlled 251  
substances or other dangerous drugs presents a danger of 252  
immediate and serious harm to others, the board may suspend the 253  
person's license, certificate, or registration without a 254  
hearing. Except as otherwise provided in sections 4715.30, 255  
4723.281, 4729.16, 4730.25, 4731.22, and 4734.36 of the Revised 256  
Code, the board shall follow the procedure for suspension 257  
without a prior hearing in section 119.07 of the Revised Code. 258  
The suspension shall remain in effect, unless removed by the 259  
board, until the board's final adjudication order becomes 260  
effective, except that if the board does not issue its final 261  
adjudication order within ninety days after the hearing, the 262  
suspension shall be void on the ninety-first day after the 263  
hearing. 264

(C) On receiving notification pursuant to section 2929.42 265  
or 3719.12 of the Revised Code, the board under which a person 266  
has been issued a license, certificate, or evidence of 267  
registration immediately shall suspend the license, certificate, 268  
or registration of that person on a plea of guilty to, a finding 269  
by a jury or court of the person's guilt of, or conviction of a 270  
felony drug abuse offense; a finding by a court of the person's 271  
eligibility for intervention in lieu of conviction; a plea of 272  
guilty to, or a finding by a jury or court of the person's guilt 273  
of, or the person's conviction of an offense in another 274  
jurisdiction that is essentially the same as a felony drug abuse 275

offense; or a finding by a court of the person's eligibility for 276  
treatment or intervention in lieu of conviction in another 277  
jurisdiction. The board shall notify the holder of the license, 278  
certificate, or registration of the suspension, which shall 279  
remain in effect until the board holds an adjudicatory hearing 280  
under Chapter 119. of the Revised Code. 281

**Sec. 3719.21.** Except as provided in division (C) of 282  
section 2923.42, division (B) of section 2923.44, divisions (D) 283  
(1), (F), and (H) of section 2925.03, division (D)(1) of section 284  
2925.02, 2925.04, or 2925.05, division (E)(1) of section 285  
2925.11, division ~~(F)~~(E) of section 2925.13, division (F) of 286  
section 2925.36, division (D) of section 2925.22, division (H) 287  
of section 2925.23, division (M) of section 2925.37, division 288  
(B) of section 2925.42, division (B) of section 2929.18, 289  
division (D) of section 3719.99, division (B)(1) of section 290  
4729.65, division (E)(3) of section 4729.99, and division (I)(4) 291  
of section 4729.99 of the Revised Code, the clerk of the court 292  
shall pay all fines or forfeited bail assessed and collected 293  
under prosecutions or prosecutions commenced for violations of 294  
this chapter, section 2923.42 of the Revised Code, or Chapter 295  
2925. of the Revised Code, within thirty days, to the executive 296  
director of the state board of pharmacy, and the executive 297  
director shall deposit the fines into the state treasury to the 298  
credit of the occupational licensing and regulatory fund. 299

**Sec. 3923.602.** (A) As used in this section: 300

(1) "Cost-sharing" means the cost to an insured under a 301  
policy of sickness and accident insurance or a public employee 302  
benefit plan according to any coverage limit, copayment, 303  
coinsurance, deductible, or other out-of-pocket expense 304  
requirements imposed by the policy or plan. 305

|   |     |
|---|-----|
| <u>(2) "Drug" has the same meaning as in section 4729.01 of</u>         | 306 |
| <u>the Revised Code.</u>  | 307 |
| <u>(3) "Medication synchronization" means a pharmacy service</u>        | 308 |
| <u>that synchronizes the filling or refilling of prescriptions in a</u> | 309 |
| <u>manner that allows the dispensed drugs to be obtained on the</u>     | 310 |
| <u>same date each month.</u>  | 311 |
| <u>(4) "Prescriber" has the same meaning as in section</u>              | 312 |
| <u>4729.01 of the Revised Code.</u>                                     | 313 |
| <u>(5) "Prescription" means a written, electronic, or oral</u>          | 314 |
| <u>order issued by a prescriber for drugs or combinations or</u>        | 315 |
| <u>mixtures of drugs to be used by a particular individual.</u>         | 316 |
| <u>(B) Notwithstanding section 3901.71 of the Revised Code,</u>         | 317 |
| <u>each policy of sickness and accident insurance that provides</u>     | 318 |
| <u>prescription drug coverage and each public employee benefit plan</u> | 319 |
| <u>that provides prescription drug coverage shall provide for</u>       | 320 |
| <u>medication synchronization for an insured if all of the</u>          | 321 |
| <u>following conditions are met:</u>                                    | 322 |
| <u>(1) The insured elects to participate in medication</u>              | 323 |
| <u>synchronization;</u>   | 324 |
| <u>(2) The insured, the prescriber, and a pharmacist at a</u>           | 325 |
| <u>network pharmacy agree that medication synchronization is in the</u> | 326 |
| <u>best interest of the insured;</u>                                    | 327 |
| <u>(3) The prescription drug to be included in the medication</u>       | 328 |
| <u>synchronization meets the requirements of division (C) of this</u>   | 329 |
| <u>section.</u>   | 330 |
| <u>(C) To be eligible for inclusion in medication</u>                   | 331 |
| <u>synchronization for an insured, a prescription drug must meet</u>    | 332 |
| <u>all of the following requirements:</u>                               | 333 |

|   |                                 |
|---|---------------------------------|
| <u>(1) Be covered by the policy or plan;</u>  | 334                             |
| <u>(2) Be prescribed for the treatment and management of a chronic disease or condition and be subject to refills;</u>  | 335<br>336                      |
| <u>(3) Satisfy all relevant prior authorization criteria;</u>   | 337                             |
| <u>(4) Not have quantity limits, dose optimization criteria, or other requirements that would be violated if synchronized;</u>  | 338<br>339                      |
| <u>(5) Not have special handling or sourcing needs, as determined by the policy or plan, that require a single, designated pharmacy to fill or refill the prescription;</u>   | 340<br>341<br>342               |
| <u>(6) Be formulated so that the quantity or amount dispensed can be effectively divided in order to achieve synchronization;</u>   | 343<br>344                      |
| <u>(7) Not be a schedule II controlled substance, opiate, or benzodiazepine, as those terms are defined in section 3719.01 of the Revised Code.</u>   | 345<br>346<br>347               |
| <u>(D) (1) To provide for medication synchronization under division (B) of this section, a policy or plan shall authorize coverage of a prescription drug subject to medication synchronization when the drug is dispensed in a quantity or amount that is less than a thirty-day supply.</u> | 348<br>349<br>350<br>351<br>352 |
| <u>(2) The requirement of division (D) (1) of this section applies only once for each prescription drug subject to medication synchronization for the same insured, except when either of the following occurs:</u>   | 353<br>354<br>355<br>356        |
| <u>(a) The prescriber changes the dosage or frequency of administration of the prescription drug subject to medication synchronization.</u>   | 357<br>358<br>359               |
| <u>(b) The prescriber prescribes a different drug.</u>  | 360                             |

(E) (1) A policy or plan that provides for medication 361  
synchronization under division (B) of this section shall permit 362  
and apply a prorated daily cost-sharing rate for a supply of a 363  
prescription drug subject to medication synchronization that is 364  
dispensed at a network pharmacy. 365

(2) Division (E) (1) of this section does not require a 366  
policy or plan to waive any cost-sharing requirements in its 367  
entirety. 368

(F) A policy or plan that provides for medication 369  
synchronization under division (B) of this section shall not use 370  
payment structures that incorporate dispensing fees that are 371  
determined by calculating the days' supply of drugs dispensed. 372  
Dispensing fees shall be based exclusively on the total number 373  
of prescriptions that are filled or refilled. 374

(G) This section does not require a sickness and accident 375  
insurer or public employee benefit plan to provide to a network 376  
pharmacy or a pharmacist at a network pharmacy any monetary or 377  
other financial incentive for the purpose of encouraging the 378  
pharmacy or pharmacist to recommend medication synchronization 379  
to an insured. 380

**Sec. 4729.20.** As used in this section, "medication 381  
synchronization" means a pharmacy service that synchronizes the 382  
filling or refilling of prescriptions in a manner that allows 383  
the dispensed drugs to be obtained on the same date each month. 384

A pharmacist may dispense a drug in a manner that varies 385  
from the prescription for the drug by dispensing a quantity or 386  
amount of the drug that is less than a thirty-day supply, if the 387  
pharmacist's action is taken solely for the purpose of 388  
medication synchronization pursuant to section 1751.68, 389

3923.602, 5164.7511, or 5167.12 of the Revised Code. 390

**Sec. 4729.281.** (A) A pharmacist may dispense or sell a 391  
dangerous drug, other than a schedule II controlled substance as 392  
defined in section 3719.01 of the Revised Code, without a 393  
written or oral prescription from a licensed health professional 394  
authorized to prescribe drugs if all of the following conditions 395  
are met: 396

(1) The pharmacy at which the pharmacist works has a 397  
record of a prescription for the drug in the name of the patient 398  
who is requesting it, but the prescription does not provide for 399  
a refill or the time permitted by rules adopted by the state 400  
board of pharmacy for providing refills has elapsed. 401

(2) The pharmacist is unable to obtain authorization to 402  
refill the prescription from the health care professional who 403  
issued the prescription or another health professional 404  
responsible for the patient's care. 405

(3) In the exercise of the pharmacist's professional 406  
judgment: 407

(a) The drug is essential to sustain the life of the 408  
patient or continue therapy for a chronic condition of the 409  
patient. 410

(b) Failure to dispense or sell the drug to the patient 411  
could result in harm to the health of the patient. 412

(4) (a) Except as provided in division (A) (4) (b) of this 413  
section, the amount of the drug that is dispensed or sold under 414  
this section does not exceed a seventy-two-hour supply as 415  
provided in the prescription. 416

(b) (i) Subject to division (A) (4) (b) (ii) of this section, 417

if the drug dispensed or sold ~~or dispensed~~ under this section is 418  
not a controlled substance and the patient has been on a 419  
consistent drug therapy as demonstrated by records maintained by 420  
a pharmacy, the amount of the drug dispensed or sold does not 421  
exceed a thirty-day supply as provided in the prescription or, 422  
if the standard unit of dispensing for the drug exceeds a 423  
thirty-day supply, the amount of the drug dispensed or sold does 424  
not exceed the standard unit of dispensing. The pharmacist shall 425  
exercise professional judgment in determining the amount of the 426  
drug to be dispensed or sold. 427

(ii) A pharmacist shall not dispense or sell a particular 428  
drug to the same patient in an amount described in division (A) 429  
(4) (b) (i) of this section more than once in any twelve-month 430  
period. 431

(B) A pharmacist who dispenses or sells a drug under this 432  
section shall do all of the following: 433

(1) For one year after the date of dispensing or sale, 434  
maintain a record in accordance with this chapter of the drug 435  
dispensed or sold, including the name and address of the patient 436  
and the individual receiving the drug, if the individual 437  
receiving the drug is not the patient, the amount dispensed or 438  
sold, and the original prescription number; 439

(2) Notify the health professional who issued the 440  
prescription described in division (A) (1) of this section or 441  
another health professional responsible for the patient's care 442  
not later than seventy-two hours after the drug is sold or 443  
dispensed; 444

(3) If applicable, obtain authorization for additional 445  
dispensing from one of the health professionals described in 446

division (B) (2) of this section. 447

(C) A pharmacist who dispenses or sells a drug under this 448  
section may do so once for each prescription described in 449  
division (A) (1) of this section. 450

**Sec. 4729.39.** (A) One or more pharmacists may enter into a 451  
consult agreement with one or more physicians authorized under 452  
Chapter 4731. of the Revised Code to practice medicine and 453  
surgery or osteopathic medicine and surgery if all of the 454  
following conditions are met: 455

(1) Each physician has an ongoing physician-patient 456  
relationship with each patient whose drug therapy is being 457  
managed. 458

(2) The diagnosis for which each patient has been 459  
prescribed drug therapy is within the scope of each physician's 460  
practice. 461

(3) Each pharmacist has training and experience related to 462  
the particular diagnosis for which drug therapy is prescribed. 463

(B) With respect to consult agreements, all of the 464  
following apply: 465

(1) Under a consult agreement, a pharmacist is authorized 466  
to do both of the following, but only to the extent specified in 467  
the agreement, this section, and the rules adopted under this 468  
section: 469

(a) Manage drug therapy for treatment of specified 470  
diagnoses or diseases for each patient who is subject to the 471  
agreement, including all of the following: 472

(i) Changing the duration of treatment for the current 473  
drug therapy; 474

|  |     |
|--|-----|
| (ii) Adjusting a drug's strength, dose, dosage form,                   | 475 |
| frequency, <u>of</u> administration, or route of administration;       | 476 |
| (iii) Discontinuing the use of a drug;                                 | 477 |
| (iv) Administering a drug;   | 478 |
| (v) Notwithstanding the definition of "licensed health                 | 479 |
| professional authorized to prescribe drugs" in section 4729.01         | 480 |
| of the Revised Code, adding a drug to the patient's drug               | 481 |
| therapy.   | 482 |
| (b) (i) Order blood and urine tests and, <del>in accordance with</del> | 483 |
| <del>practice protocols that are part of the consult agreement,</del>  | 484 |
| evaluate results related to the drug therapy being managed.            | 485 |
| (ii) A pharmacist's authority to evaluate blood and urine              | 486 |
| tests under division (B) (1) (b) (i) of this section does not          | 487 |
| authorize the pharmacist to make a diagnosis.                          | 488 |
| (2) (a) A consult agreement, or the portion of the                     | 489 |
| agreement that applies to a particular patient, may be                 | 490 |
| terminated by any of the following:                                    | 491 |
| (i) A pharmacist who entered into the agreement;                       | 492 |
| (ii) A physician who entered into the agreement;                       | 493 |
| (iii) A patient whose drug therapy is being managed;                   | 494 |
| (iv) An individual who consented to the treatment on                   | 495 |
| behalf of a patient or an individual authorized to act on behalf       | 496 |
| of a patient.  | 497 |
| (b) The pharmacist or physician who receives the notice of             | 498 |
| a patient's termination of the agreement shall provide written         | 499 |
| notice to every other pharmacist or physician who is a party to        | 500 |
| the agreement. A pharmacist or physician who terminates a              | 501 |

consult agreement with regard to one or more patients shall 502  
provide written notice to all other pharmacists and physicians 503  
who entered into the agreement and to each individual who 504  
consented to treatment under the agreement. The termination of a 505  
consult agreement with regard to one or more patients shall be 506  
recorded by the pharmacist and physician in the medical records 507  
of each patient to whom the termination applies. 508

(3) A consult agreement shall be made in writing and shall 509  
include all of the following: 510

(a) The diagnoses and diseases being managed under the 511  
agreement, including whether each disease is primary or 512  
comorbid; 513

(b) ~~Practice protocols~~A description of the drugs or drug 514  
categories the agreement involves; 515

(c) A description of the ~~drug therapy management protocols~~ 516  
procedures, decision criteria, and plan the pharmacist is to 517  
follow in acting under a consult agreement; 518

(d) A description of how the pharmacist is to comply with 519  
divisions (B) (5) and (6) of this section. 520

(4) The content of a consult agreement shall be 521  
communicated to each patient whose drug therapy is managed under 522  
the agreement. 523

(5) A pharmacist acting under a consult agreement shall 524  
maintain a record of each action taken for each patient whose 525  
drug therapy is managed under the agreement. 526

(6) Communication between a pharmacist and physician 527  
acting under a consult agreement shall take place at regular 528  
intervals specified by the primary physician acting under the 529

agreement. The agreement may include a requirement that a 530  
pharmacist send a consult report to each consulting physician. 531

(7) A consult agreement is effective for two years and may 532  
be renewed if the conditions specified in division (A) of this 533  
section are met. 534

(8) A consult agreement does not permit a pharmacist to 535  
manage drug therapy prescribed by a physician who has not 536  
entered into the agreement. 537

(C) The state board of pharmacy, in consultation with the 538  
state medical board, shall adopt rules to be followed by 539  
pharmacists, and the state medical board, in consultation with 540  
the state board of pharmacy, shall adopt rules to be followed by 541  
physicians, that establish standards and procedures for entering 542  
into a consult agreement and managing a patient's drug therapy 543  
under a consult agreement. The boards shall specify in the rules 544  
any categories of drugs or types of diseases for which a consult 545  
agreement may not be established. Either board may adopt any 546  
other rules it considers necessary for the implementation and 547  
administration of this section. All rules adopted under this 548  
division shall be adopted in accordance with Chapter 119. of the 549  
Revised Code. 550

(D) (1) Subject to division (D) (2) of this section, both of 551  
the following apply: 552

(a) A pharmacist acting in accordance with a consult 553  
agreement regarding a physician's change in a drug for a patient 554  
whose drug therapy the pharmacist is managing under the 555  
agreement is not liable in damages in a tort or other civil 556  
action for injury or loss to person or property allegedly 557  
arising from ~~a physician's the change in a drug for a patient~~ 558

~~whose drug therapy the pharmacist is managing under a consult- 559  
agreement. 560~~

(b) A physician acting in accordance with a consult 561  
agreement regarding a pharmacist's change in a drug for a 562  
patient whose drug therapy the pharmacist is managing under a 563  
consult agreement is not liable in damages in a tort or other 564  
civil action for injury or loss to person or property allegedly 565  
arising from ~~a pharmacist's the change in a drug for a patient- 566  
whose drug therapy the pharmacist is managing under a consult- 567  
agreement~~ unless the physician authorized the specific change ~~in- 568  
the drug. 569~~

(2) Division (D) (1) of this section does not limit a 570  
physician's or pharmacist's liability in damages in a tort or 571  
other civil action for injury or loss to person or property 572  
allegedly arising from actions that are not related to the 573  
physician's or pharmacist's change in a drug for a patient whose 574  
drug therapy is being managed under a consult agreement. 575

**Sec. 4729.561.** If the state board of pharmacy determines 576  
that there is clear and convincing evidence that the method used 577  
by a registered wholesale distributor of dangerous drugs to 578  
distribute dangerous drugs presents a danger of immediate and 579  
serious harm to others, the board may suspend without a hearing 580  
the wholesaler distributor's registration certificate issued 581  
pursuant to section 4729.52 of the Revised Code. The board shall 582  
follow the procedure for suspension without a prior hearing in 583  
section 119.07 of the Revised Code. The suspension shall remain 584  
in effect, unless removed by the board, until the board's final 585  
adjudication order becomes effective, except that if the board 586  
does not issue its final adjudication order within ninety days 587  
after the hearing, the suspension shall be void on the ninety- 588

first day after the suspension. 589

**Sec. 4729.571.** If the state board of pharmacy determines 590  
that there is clear and convincing evidence that the method used 591  
by a terminal distributor of dangerous drugs to distribute 592  
~~controlled substances~~ or prescribe dangerous drugs presents a 593  
danger of immediate and serious harm to others, the board may 594  
suspend the terminal distributor's license without a hearing. 595  
The board shall follow the procedure for suspension without a 596  
prior hearing in section 119.07 of the Revised Code. The 597  
suspension shall remain in effect, unless removed by the board, 598  
until the board's final adjudication order becomes effective, 599  
except that if the board does not issue its final adjudication 600  
order within ninety days after the hearing, the suspension shall 601  
be void on the ninety-first day after the suspension. 602

If the terminal distributor holds a license with a pain 603  
management clinic classification issued under section 4729.552 604  
of the Revised Code and the person holding the license also 605  
holds a certificate issued under Chapter 4731. of the Revised 606  
Code to practice medicine and surgery or osteopathic medicine 607  
and surgery, prior to suspending the license without a hearing, 608  
the board shall consult with the secretary of the state medical 609  
board or, if the secretary is unavailable, another physician 610  
member of the board. 611

**Sec. 4730.11.** (A) To be eligible to receive a license to 612  
practice as a physician assistant, all of the following apply to 613  
an applicant: 614

- (1) The applicant shall be at least eighteen years of age. 615
- (2) The applicant shall be of good moral character. 616
- (3) The applicant shall hold current certification by the 617

national commission on certification of physician assistants or 618  
a successor organization that is recognized by the state medical 619  
board. 620

(4) The applicant shall meet either of the following 621  
requirements: 622

(a) The educational requirements specified in division (B) 623  
(1) or (2) of this section; 624

(b) The educational or other applicable requirements 625  
specified in division (C) (1), (2), or (3) of this section. 626

(B) For purposes of division (A) (4) (a) of this section, an 627  
applicant shall meet either of the following educational 628  
requirements: 629

(1) The applicant shall hold a master's or higher degree 630  
obtained from a program accredited by the accreditation review 631  
commission on education for the physician assistant or a 632  
predecessor or successor organization recognized by the board. 633

(2) The applicant shall hold both of the following 634  
degrees: 635

(a) A degree other than a master's or higher degree 636  
obtained from a program accredited by the accreditation review 637  
commission on education for the physician assistant or a 638  
predecessor or successor organization recognized by the board; 639

(b) A master's or higher degree in a course of study with 640  
clinical relevance to the practice of physician assistants and 641  
obtained from a program accredited by a regional or specialized 642  
and professional accrediting agency recognized by the council 643  
for higher education accreditation. 644

(C) For purposes of division (A) (4) (b) of this section, an 645

applicant shall present evidence satisfactory to the board of 646  
meeting one of the following requirements in lieu of meeting the 647  
educational requirements specified in division (B) (1) or (2) of 648  
this section: 649

(1) The applicant shall hold a current, valid license or 650  
other form of authority to practice as a physician assistant 651  
issued by another jurisdiction and have been in active practice 652  
in any jurisdiction throughout the three-year period immediately 653  
preceding the date of application. 654

(2) The applicant shall hold a degree obtained as a result 655  
of being enrolled on January 1, 2008, in a program in this state 656  
that was accredited by the accreditation review commission on 657  
education for the physician assistant but did not grant a 658  
master's or higher degree to individuals enrolled in the program 659  
on that date, and completing the program on or before December 660  
31, 2009. 661

(3) The applicant shall hold a degree obtained from a 662  
program accredited by the accreditation review commission on 663  
education for the physician assistant and meet either of the 664  
following experience requirements: 665

(a) Have experience practicing as a physician assistant 666  
for at least three consecutive years while on active duty, with 667  
evidence of service under honorable conditions, in any of the 668  
armed forces of the United States or the national guard of any 669  
state, including any experience attained while practicing as a 670  
physician assistant at a health care facility or clinic operated 671  
by the United States department of veterans affairs; 672

(b) Have experience practicing as a physician assistant 673  
for at least three consecutive years while on active duty in the 674

United States public health service commissioned corps. 675

(D) Unless the applicant had prescriptive authority while 676  
practicing as a physician assistant in another jurisdiction, in 677  
the military, or in the public health service, the license 678  
issued to an applicant who does not hold a master's or higher 679  
degree described in division (B) of this section does not 680  
authorize the holder to exercise physician-delegated 681  
prescriptive authority and the state medical board shall not 682  
issue a prescriber number. 683

(E) (1) This section does not require an individual to 684  
obtain a master's or higher degree as a condition of retaining 685  
or renewing a license to practice as a physician assistant if 686  
the individual received the license without holding a master's 687  
or higher degree as provided in either of the following: 688

(a) Before the educational requirements specified in 689  
division (B) (1) or (2) of this section became effective January 690  
1, 2008; 691

(b) By meeting the educational or other applicable 692  
requirements specified in division (C) (1), (2), or (3) of this 693  
section. 694

(2) A license described in division (E) (1) of this section 695  
authorizes the license holder to exercise physician-delegated 696  
prescriptive authority if, on ~~the effective date of this~~ 697  
~~amendment~~ October 15, 2015, the license holder held a valid 698  
certificate to prescribe issued under former section 4730.44 of 699  
the Revised Code, as it existed immediately prior to ~~the~~ 700  
~~effective date of this amendment~~ October 15, 2015. 701

(3) On application of an individual who received a license 702  
without having first obtained a master's or higher degree and is 703

not authorized under division (E) (2) of this section to exercise 704  
physician-delegated prescriptive authority, the board shall 705  
grant the individual the authority to exercise physician- 706  
delegated prescriptive authority if the individual meets either 707  
of the following requirements: 708

(a) The individual provides evidence satisfactory to the 709  
board of having obtained a master's or higher degree from either 710  
of the following: 711

~~(a)~~ (i) A program accredited by the accreditation review 712  
commission on education for the physician assistant or a 713  
predecessor or successor organization recognized by the board; 714

~~(b)~~ (ii) A program accredited by a regional or specialized 715  
and professional accrediting agency recognized by the council 716  
for higher education accreditation, if the degree is in a course 717  
of study with clinical relevance to the practice of physician 718  
assistants. 719

(b) The individual meets the requirements specified in 720  
division (C) (1) or (3) of this section and had prescriptive 721  
authority while practicing as a physician assistant in another 722  
jurisdiction, in any of the armed forces of the United States or 723  
the national guard of any state, or in the United States public 724  
health service commissioned corps. 725

**Sec. 4730.49.** (A) To be eligible for renewal of a license 726  
to practice as a physician assistant, an applicant who has been 727  
granted physician-delegated prescriptive authority is subject to 728  
both of the following: 729

(1) The applicant shall complete every two years at least 730  
twelve hours of continuing education in pharmacology ~~from an~~ 731  
~~accredited institution recognized~~ obtained through a program or 732

course approved by the state medical board or a person the board 733  
has authorized to approve continuing pharmacology education 734  
programs and courses. Except as provided in division (B) of this 735  
section and in section 5903.12 of the Revised Code, the 736  
continuing education shall be completed not later than the 737  
thirty-first day of January of each even-numbered year. 738

(2) (a) Except as provided in division (A) (2) (b) of this 739  
section, in the case of an applicant who prescribes opioid 740  
analgesics or benzodiazepines, as defined in section 3719.01 of 741  
the Revised Code, the applicant shall certify to the board 742  
whether the applicant has been granted access to the drug 743  
database established and maintained by the state board of 744  
pharmacy pursuant to section 4729.75 of the Revised Code. 745

(b) The requirement in division (A) (2) (a) of this section 746  
does not apply if any of the following is the case: 747

(i) The state board of pharmacy notifies the state medical 748  
board pursuant to section 4729.861 of the Revised Code that the 749  
applicant has been restricted from obtaining further information 750  
from the drug database. 751

(ii) The state board of pharmacy no longer maintains the 752  
drug database. 753

(iii) The applicant does not practice as a physician 754  
assistant in this state. 755

(c) If an applicant certifies to the state medical board 756  
that the applicant has been granted access to the drug database 757  
and the board finds through an audit or other means that the 758  
applicant has not been granted access, the board may take action 759  
under section 4730.25 of the Revised Code. 760

(B) The state medical board shall provide for pro rata 761

reductions by month of the number of hours of continuing 762  
education in pharmacology that is required to be completed for 763  
physician assistants who are in their first licensure period 764  
after completing the period of supervision required under 765  
section 4730.44 of the Revised Code, who have been disabled due 766  
to illness or accident, or who have been absent from the 767  
country. The board shall adopt rules, in accordance with Chapter 768  
119. of the Revised Code, as necessary to implement this 769  
division. 770

(C) The continuing education required by this section is 771  
in addition to the continuing education required under section 772  
4730.14 of the Revised Code. 773

(D) If the board chooses to authorize persons to approve 774  
continuing pharmacology education programs and courses, it shall 775  
establish standards for granting that authority and grant the 776  
authority in accordance with the standards. 777

**Sec. 5164.7511.** (A) As used in this section: 778

(1) "Cost-sharing" means any cost-sharing requirements 779  
instituted for the medicaid program under section 5162.20 of the 780  
Revised Code. 781

(2) "Medication synchronization" means a pharmacy service 782  
that synchronizes the filling or refilling of prescriptions in a 783  
manner that allows the dispensed drugs to be obtained on the 784  
same date each month. 785

(3) "Prescriber" has the same meaning as in section 786  
4729.01 of the Revised Code. 787

(B) With respect to coverage of prescribed drugs, the 788  
medicaid program shall provide for medication synchronization 789  
for a medicaid recipient if all of the following conditions are 790

|   |     |
|---|-----|
| <u>met:</u>   | 791 |
| <u>(1) The recipient elects to participate in medication</u>            | 792 |
| <u>synchronization.</u>   | 793 |
| <u>(2) The recipient, the prescriber, and a pharmacist at a</u>         | 794 |
| <u>pharmacy participating in the medicaid program agree that</u>        | 795 |
| <u>medication synchronization is in the best interest of the</u>        | 796 |
| <u>recipient.</u>   | 797 |
| <u>(3) The prescribed drug to be included in the medication</u>         | 798 |
| <u>synchronization meets the requirements of division (C) of this</u>   | 799 |
| <u>section.</u>   | 800 |
| <u>(C) To be eligible for inclusion in medication</u>                   | 801 |
| <u>synchronization for a medicaid recipient, a prescribed drug must</u> | 802 |
| <u>meet all of the following requirements:</u>                          | 803 |
| <u>(1) Be covered by the medicaid program;</u>                          | 804 |
| <u>(2) Be prescribed for the treatment and management of a</u>          | 805 |
| <u>chronic disease or condition and be subject to refills;</u>          | 806 |
| <u>(3) Satisfy all relevant prior authorization criteria;</u>           | 807 |
| <u>(4) Not have quantity limits, dose optimization criteria,</u>        | 808 |
| <u>or other requirements that would be violated if synchronized;</u>    | 809 |
| <u>(5) Not have special handling or sourcing needs, as</u>              | 810 |
| <u>determined by the medicaid program, that require a single,</u>       | 811 |
| <u>designated pharmacy to fill or refill the prescription;</u>          | 812 |
| <u>(6) Be formulated so that the quantity or amount dispensed</u>       | 813 |
| <u>can be effectively divided in order to achieve synchronization;</u>  | 814 |
| <u>(7) Not be a schedule II controlled substance, opiate, or</u>        | 815 |
| <u>benzodiazepine, as those terms are defined in section 3719.01 of</u> | 816 |
| <u>the Revised Code.</u>  | 817 |

(D) (1) To provide for medication synchronization under 818  
division (B) of this section, the medicaid program shall 819  
authorize coverage of a prescribed drug subject to medication 820  
synchronization when the drug is dispensed in a quantity or 821  
amount that is less than a thirty-day supply. 822

(2) The requirement of division (D) (1) of this section 823  
applies only once for each prescribed drug subject to medication 824  
synchronization for the same medicaid recipient, except when 825  
either of the following occurs: 826

(a) The prescriber changes the dosage or frequency of 827  
administration of the prescribed drug subject to medication 828  
synchronization. 829

(b) The prescriber prescribes a different drug. 830

(E) (1) In providing for medication synchronization under 831  
division (B) of this section, the medicaid program shall apply a 832  
prorated daily cost-sharing rate for a supply of a prescribed 833  
drug subject to medication synchronization that is dispensed at 834  
a pharmacy participating in the program. 835

(2) Division (E) (1) of this section does not require the 836  
medicaid program to waive any cost-sharing requirement in its 837  
entirety. 838

(F) In providing for medication synchronization under 839  
division (B) of this section, the medicaid program shall not use 840  
payment structures that incorporate dispensing fees that are 841  
determined by calculating the days' supply of drugs dispensed. 842  
Dispensing fees shall be based exclusively on the total number 843  
of prescriptions that are filled or refilled. 844

(G) This section does not require the medicaid program to 845  
provide to a pharmacy participating in the program or a 846

pharmacist at a participating pharmacy any monetary or other 847  
financial incentive for the purpose of encouraging the pharmacy 848  
or pharmacist to recommend medication synchronization to a 849  
medicaid recipient. 850

**Sec. 5167.12.** (A) When contracting under section 5167.10 851  
of the Revised Code with a managed care organization that is a 852  
health insuring corporation, the department of medicaid shall 853  
require the health insuring corporation to provide coverage of 854  
prescribed drugs for medicaid recipients enrolled in the health 855  
insuring corporation. In providing the required coverage, the 856  
health insuring corporation may, subject to the department's 857  
approval and the limitations specified in division (B) of this 858  
section, use strategies for the management of drug utilization. 859

(B) The department shall not permit a health insuring 860  
corporation to impose a prior authorization requirement in the 861  
case of a drug to which all of the following apply: 862

(1) The drug is an antidepressant or antipsychotic. 863

(2) The drug is administered or dispensed in a standard 864  
tablet or capsule form, except that in the case of an 865  
antipsychotic, the drug also may be administered or dispensed in 866  
a long-acting injectable form. 867

(3) The drug is prescribed by either of the following: 868

(a) A physician whom the health insuring corporation, 869  
pursuant to division (C) of section 5167.10 of the Revised Code, 870  
has credentialed to provide care as a psychiatrist; 871

(b) A psychiatrist practicing at a community mental health 872  
services provider certified by the department of mental health 873  
and addiction services under section 5119.36 of the Revised 874  
Code. 875

(4) The drug is prescribed for a use that is indicated on 876  
the drug's labeling, as approved by the federal food and drug 877  
administration. 878

(C) The department shall permit a health insuring 879  
corporation to develop and implement a pharmacy utilization 880  
management program under which prior authorization through the 881  
program is established as a condition of obtaining a controlled 882  
substance pursuant to a prescription. 883

(D) The department shall require a health insuring 884  
corporation to comply with section 5164.7511 of the Revised Code 885  
with respect to medication synchronization. 886

**Section 2.** That existing sections 1739.05, 3719.04, 887  
3719.07, 3719.121, 3719.21, 4729.281, 4729.39, 4729.571, 888  
4730.11, 4730.49, and 5167.12 of the Revised Code are hereby 889  
repealed. 890

**Section 3.** Sections 1739.05 and 1751.68 of the Revised 891  
Code, as amended or enacted by this act, apply only to 892  
arrangements, policies, contracts, and agreements that are 893  
created, delivered, issued for delivery, or renewed in this 894  
state on or after January 1, 2017. Section 3923.602 of the 895  
Revised Code, as enacted by this act, applies only to policies 896  
of sickness and accident insurance delivered, issued for 897  
delivery, or renewed in this state and public employee benefit 898  
plans that are established or modified in this state on or after 899  
January 1, 2017. Sections 5164.7511 and 5167.12 of the Revised 900  
Code, as amended or enacted by this act, apply to the Medicaid 901  
program on or after January 1, 2017. 902

**Section 4.** (A) As used in this section: 903

(1) "Nursing home" and "residential care facility" have 904

the same meanings as in section 3721.01 of the Revised Code. 905

(2) "Population" means that shown by the 2010 regular 906  
federal census. 907

(B) The Director of Health shall accept for review under 908  
section 3702.52 of the Revised Code one certificate of need 909  
application for the establishment, development, and construction 910  
of a new nursing home if all of the following conditions are 911  
met: 912

(1) The application is submitted to the Director not later 913  
than one hundred eighty days after the effective date of this 914  
section. 915

(2) The new nursing home is to be located in a county that 916  
has a population of at least forty thousand and not more than 917  
forty-five thousand persons. 918

(3) The new nursing home is to be located in either of the 919  
following: 920

(a) A distinct part of a building in which an existing 921  
residential care facility is operated, including a distinct part 922  
that is an addition to the building; 923

(b) A separate building located on the same property as an 924  
existing residential care facility. 925

(4) The new nursing home is to have not more than twenty 926  
beds to which all of the following apply: 927

(a) All of the beds are transferred from an existing 928  
nursing home located in a county that has a population of at 929  
least one hundred thirty-five thousand and not more than one 930  
hundred forty thousand persons and is contiguous to the county 931  
in which the new nursing home is to be located; 932

|  |  |
|--|--|
| (b) All of the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;  | 933<br>934                             |
| (c) All of the beds are proposed to be certified for participation in the Medicare program;  | 935<br>936                             |
| (d) None of the beds are proposed to be certified for participation in the Medicaid program.   | 937<br>938                             |
| (5) After the proposed transfer of the beds, there still will be existing nursing home beds remaining in the county from which the beds are transferred.   | 939<br>940<br>941                      |
| (C) In reviewing a certificate of need application accepted under this section, the Director shall neither deny an application on the grounds that the new nursing home is to have less than fifty beds nor require the applicant to obtain a waiver of the minimum fifty-bed requirement established by division (J) of rule 3701-12-23 of the Administrative Code. | 942<br>943<br>944<br>945<br>946<br>947 |