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Representatives Sprague, Anielski

Cosponsors: Representatives Blessing, Dever, Grossman, Hackett, Henne, Rezabek, Romanchuk, Thompson, Huffman, Antonio, Barnes, Bishoff, Brown, Butler, Johnson, T., Kuhns, LaTourette, Sykes, Antani, Arndt, Baker, Boccieri, Boose, Boyd, Burkley, Clyde, Dovilla, Fedor, Ginter, Green, Hagan, Hall, Hambley, Johnson, G., Lepore-Hagan, Maag, Manning, McClain, O'Brien, M., O'Brien, S., Patterson, Perales, Ramos, Reineke, Roegner, Ruhl, Ryan, Schuring, Sheehy, Young

Senators Brown, Tavares, Balderson, Beagle, Burke, Cafaro, Coley, Eklund, Faber, Gardner, Hite, Hughes, Jones, Jordan, LaRose, Lehner, Manning, Obhof, Oelslager, Patton, Peterson, Sawyer, Schiavoni, Seitz, Skindell, Thomas, Uecker

A BILL

To amend sections 3721.10, 4729.01, 4729.291, 1
4729.51, 4729.57, 4731.22, 4731.227, 5155.01, 2
5155.012, and 5155.03 and to enact sections 3
4729.89, 4731.97, and 4745.04 of the Revised 4
Code to permit a patient with a terminal 5
condition to be treated with a drug, product, or 6
device that is not approved by the United States 7
Food and Drug Administration, to modify the laws 8
governing the appointment of a county home 9
superintendent or administrator, and to permit 10
health care professionals to earn continuing 11
education credit by providing volunteer health 12
care services to indigent and uninsured persons. 13

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

Section 1. That sections 3721.10, 4729.01, 4729.291, 14
4729.51, 4729.57, 4731.22, 4731.227, 5155.01, 5155.012, and 15
5155.03 be amended and sections 4729.89, 4731.97, and 4745.04 of 16
the Revised Code be enacted to read as follows: 17

Sec. 3721.10. As used in sections 3721.10 to 3721.18 of 18
the Revised Code: 19

(A) "Home" means all of the following: 20

(1) A home as defined in section 3721.01 of the Revised 21
Code; 22

(2) Any facility or part of a facility not defined as a 23
home under section 3721.01 of the Revised Code that is a skilled 24
nursing facility or nursing facility, both as defined in section 25
5165.01 of the Revised Code; 26

(3) A county home or district home operated pursuant to 27
Chapter 5155. of the Revised Code. 28

(B) "Resident" means a resident or a patient of a home. 29

(C) "Administrator" means all of the following: 30

(1) With respect to a home as defined in section 3721.01 31
of the Revised Code, a nursing home administrator as defined in 32
section 4751.01 of the Revised Code; 33

(2) With respect to a facility or part of a facility not 34
defined as a home in section 3721.01 of the Revised Code that is 35
authorized to provide skilled nursing facility or nursing 36
facility services, the administrator of the facility or part of 37
a facility; 38

(3) With respect to a county home or district home, the 39
superintendent or administrator appointed or selected under 40

Chapter 5155. of the Revised Code. 41

(D) "Sponsor" means an adult relative, friend, or guardian 42
of a resident who has an interest or responsibility in the 43
resident's welfare. 44

(E) "Residents' rights advocate" means: 45

(1) An employee or representative of any state or local 46
government entity that has a responsibility regarding residents 47
and that has registered with the department of health under 48
division (B) of section 3701.07 of the Revised Code; 49

(2) An employee or representative of any private nonprofit 50
corporation or association that qualifies for tax-exempt status 51
under section 501(a) of the "Internal Revenue Code of 1986," 100 52
Stat. 2085, 26 U.S.C.A. 1, as amended, and that has registered 53
with the department of health under division (B) of section 54
3701.07 of the Revised Code and whose purposes include educating 55
and counseling residents, assisting residents in resolving 56
problems and complaints concerning their care and treatment, and 57
assisting them in securing adequate services to meet their 58
needs; 59

(3) A member of the general assembly. 60

(F) "Physical restraint" means, but is not limited to, any 61
article, device, or garment that interferes with the free 62
movement of the resident and that the resident is unable to 63
remove easily, a geriatric chair, or a locked room door. 64

(G) "Chemical restraint" means any medication bearing the 65
American hospital formulary service therapeutic class 4:00, 66
28:16:08, 28:24:08, or 28:24:92 that alters the functioning of 67
the central nervous system in a manner that limits physical and 68
cognitive functioning to the degree that the resident cannot 69

attain the resident's highest practicable physical, mental, and 70
psychosocial well-being. 71

(H) "Ancillary service" means, but is not limited to, 72
podiatry, dental, hearing, vision, physical therapy, 73
occupational therapy, speech therapy, and psychological and 74
social services. 75

(I) "Facility" means a facility, or part of a facility, 76
certified as a nursing facility or skilled nursing facility, 77
both as defined in section 5165.01 of the Revised Code. 78
"Facility" does not include an intermediate care facility for 79
individuals with intellectual disabilities, as defined in 80
section 5124.01 of the Revised Code. 81

Sec. 4729.01. As used in this chapter: 82

(A) "Pharmacy," except when used in a context that refers 83
to the practice of pharmacy, means any area, room, rooms, place 84
of business, department, or portion of any of the foregoing 85
where the practice of pharmacy is conducted. 86

(B) "Practice of pharmacy" means providing pharmacist care 87
requiring specialized knowledge, judgment, and skill derived 88
from the principles of biological, chemical, behavioral, social, 89
pharmaceutical, and clinical sciences. As used in this division, 90
"pharmacist care" includes the following: 91

(1) Interpreting prescriptions; 92

(2) Dispensing drugs and drug therapy related devices; 93

(3) Compounding drugs; 94

(4) Counseling individuals with regard to their drug 95
therapy, recommending drug therapy related devices, and 96
assisting in the selection of drugs and appliances for treatment 97

of common diseases and injuries and providing instruction in the proper use of the drugs and appliances;	98 99
(5) Performing drug regimen reviews with individuals by discussing all of the drugs that the individual is taking and explaining the interactions of the drugs;	100 101 102
(6) Performing drug utilization reviews with licensed health professionals authorized to prescribe drugs when the pharmacist determines that an individual with a prescription has a drug regimen that warrants additional discussion with the prescriber;	103 104 105 106 107
(7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;	108 109 110
(8) Acting pursuant to a consult agreement with one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, if an agreement has been established;	111 112 113 114
(9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code.	115 116
(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:	117 118 119
(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;	120 121
(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;	122 123
(3) As an incident to research, teaching activities, or chemical analysis;	124 125

(4) In anticipation of orders for drugs pursuant to	126
prescriptions, based on routine, regularly observed dispensing	127
patterns;	128
(5) Pursuant to a request made by a licensed health	129
professional authorized to prescribe drugs for a drug that is to	130
be used by the professional for the purpose of direct	131
administration to patients in the course of the professional's	132
practice, if all of the following apply:	133
(a) At the time the request is made, the drug is not	134
commercially available regardless of the reason that the drug is	135
not available, including the absence of a manufacturer for the	136
drug or the lack of a readily available supply of the drug from	137
a manufacturer.	138
(b) A limited quantity of the drug is compounded and	139
provided to the professional.	140
(c) The drug is compounded and provided to the	141
professional as an occasional exception to the normal practice	142
of dispensing drugs pursuant to patient-specific prescriptions.	143
(D) "Consult agreement" means an agreement that has been	144
entered into under section 4729.39 of the Revised Code.	145
(E) "Drug" means:	146
(1) Any article recognized in the United States	147
pharmacopoeia and national formulary, or any supplement to them,	148
intended for use in the diagnosis, cure, mitigation, treatment,	149
or prevention of disease in humans or animals;	150
(2) Any other article intended for use in the diagnosis,	151
cure, mitigation, treatment, or prevention of disease in humans	152
or animals;	153

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;	154 155
(4) Any article intended for use as a component of any article specified in division (E) (1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.	156 157 158 159
(F) "Dangerous drug" means any of the following:	160
(1) Any drug to which either of the following applies:	161
(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;	162 163 164 165 166 167 168
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	169 170
(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;	171 172 173
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.	174 175 176
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	177 178
(H) "Prescription" means all of the following:	179
(1) A written, electronic, or oral order for drugs or	180

combinations or mixtures of drugs to be used by a particular 181
individual or for treating a particular animal, issued by a 182
licensed health professional authorized to prescribe drugs; 183

(2) For purposes of sections 2925.61, 4723.488, 4729.44, 184
4730.431, and 4731.94 of the Revised Code, a written, 185
electronic, or oral order for naloxone issued to and in the name 186
of a family member, friend, or other individual in a position to 187
assist an individual who there is reason to believe is at risk 188
of experiencing an opioid-related overdose. 189

(3) For purposes of sections 4723.4810, 4729.282, 190
4730.432, and 4731.93 of the Revised Code, a written, 191
electronic, or oral order for a drug to treat chlamydia, 192
gonorrhoea, or trichomoniasis issued to and in the name of a 193
patient who is not the intended user of the drug but is the 194
sexual partner of the intended user; 195

(4) For purposes of sections 3313.7110, 3313.7111, 196
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 197
4731.96, and 5101.76 of the Revised Code, a written, electronic, 198
or oral order for an epinephrine autoinjector issued to and in 199
the name of a school, school district, or camp; 200

(5) For purposes of Chapter 3728. and sections 4723.483, 201
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 202
electronic, or oral order for an epinephrine autoinjector issued 203
to and in the name of a qualified entity, as defined in section 204
3728.01 of the Revised Code. 205

(I) "Licensed health professional authorized to prescribe 206
drugs" or "prescriber" means an individual who is authorized by 207
law to prescribe drugs or dangerous drugs or drug therapy 208
related devices in the course of the individual's professional 209

practice, including only the following:	210
(1) A dentist licensed under Chapter 4715. of the Revised Code;	211 212
(2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code;	213 214 215
(3) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;	216 217 218
(4) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;	219 220 221
(5) A physician assistant who holds a license to practice as a physician assistant issued under Chapter 4730. of the Revised Code, holds a valid prescriber number issued by the state medical board, and has been granted physician-delegated prescriptive authority;	222 223 224 225 226
(6) A veterinarian licensed under Chapter 4741. of the Revised Code.	227 228
(J) "Sale" and "sell" include delivery, transfer, barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal proprietor, agent, or employee.	229 230 231 232
(K) "Wholesale sale" and "sale at wholesale" mean any sale in which the purpose of the purchaser is to resell the article purchased or received by the purchaser.	233 234 235
(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.	236 237

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

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

(1) The proprietary name of the drug product;

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

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

(4) The dosage form;

(5) The price charged for a specific quantity of the drug product. The stated price shall include all charges to the consumer, including, but not limited to, the cost of the drug product, professional fees, handling fees, if any, and a statement identifying professional services routinely furnished by the pharmacy. Any mailing fees and delivery fees may be stated separately without repetition. The information shall not be false or misleading.

(O) "Wholesale distributor of dangerous drugs" means a person engaged in the sale of dangerous drugs at wholesale and

includes any agent or employee of such a person authorized by 267
the person to engage in the sale of dangerous drugs at 268
wholesale. 269

(P) "Manufacturer of dangerous drugs" means a person, 270
other than a pharmacist, who manufactures dangerous drugs and 271
who is engaged in the sale of those dangerous drugs within this 272
state. 273

(Q) "Terminal distributor of dangerous drugs" means a 274
person who is engaged in the sale of dangerous drugs at retail, 275
or any person, other than a wholesale distributor or a 276
pharmacist, who has possession, custody, or control of dangerous 277
drugs for any purpose other than for that person's own use and 278
consumption, and includes pharmacies, hospitals, nursing homes, 279
and laboratories and all other persons who procure dangerous 280
drugs for sale or other distribution by or under the supervision 281
of a pharmacist or licensed health professional authorized to 282
prescribe drugs. 283

(R) "Promote to the public" means disseminating a 284
representation to the public in any manner or by any means, 285
other than by labeling, for the purpose of inducing, or that is 286
likely to induce, directly or indirectly, the purchase of a 287
dangerous drug at retail. 288

(S) "Person" includes any individual, partnership, 289
association, limited liability company, or corporation, the 290
state, any political subdivision of the state, and any district, 291
department, or agency of the state or its political 292
subdivisions. 293

(T) "Finished dosage form" has the same meaning as in 294
section 3715.01 of the Revised Code. 295

(U) "Generically equivalent drug" has the same meaning as 296
in section 3715.01 of the Revised Code. 297

(V) "Animal shelter" means a facility operated by a humane 298
society or any society organized under Chapter 1717. of the 299
Revised Code or a dog pound operated pursuant to Chapter 955. of 300
the Revised Code. 301

(W) "Food" has the same meaning as in section 3715.01 of 302
the Revised Code. 303

(X) "Pain management clinic" has the same meaning as in 304
section 4731.054 of the Revised Code. 305

(Y) "Investigational drug or product" means a drug or 306
product that has successfully completed phase one of the United 307
States food and drug administration clinical trials and remains 308
under clinical trial, but has not been approved for general use 309
by the United States food and drug administration. 310
"Investigational drug or product" does not include controlled 311
substances in schedule I, as established pursuant to section 312
3719.41 of the Revised Code, and as amended. 313

(Z) "Product," when used in reference to an 314
investigational drug or product, means a biological product, 315
other than a drug, that is made from a natural human, animal, or 316
microorganism source and is intended to treat a disease or 317
medical condition. 318

Sec. 4729.291. (A) ~~When~~ Except when provided under section 319
4731.97 of the Revised Code, when a licensed health professional 320
authorized to prescribe drugs personally furnishes drugs to a 321
patient pursuant to division (B) of section 4729.29 of the 322
Revised Code, the prescriber shall ensure that the drugs are 323
labeled and packaged in accordance with state and federal drug 324

laws and any rules and regulations adopted pursuant to those 325
laws. Records of purchase and disposition of all drugs 326
personally furnished to patients shall be maintained by the 327
prescriber in accordance with state and federal drug statutes 328
and any rules adopted pursuant to those statutes. 329

(B) When personally furnishing to a patient RU-486 330
(mifepristone), a prescriber is subject to section 2919.123 of 331
the Revised Code. A prescription for RU-486 (mifepristone) shall 332
be in writing and in accordance with section 2919.123 of the 333
Revised Code. 334

(C) (1) Except as provided in divisions (D) and (E) of this 335
section, no prescriber shall do either of the following: 336

(a) In any thirty-day period, personally furnish to or for 337
patients, taken as a whole, controlled substances in an amount 338
that exceeds a total of two thousand five hundred dosage units; 339

(b) In any seventy-two-hour period, personally furnish to 340
or for a patient an amount of a controlled substance that 341
exceeds the amount necessary for the patient's use in a seventy- 342
two-hour period. 343

(2) The state board of pharmacy may impose a fine of not 344
more than five thousand dollars on a prescriber who fails to 345
comply with the limits established under division (C) (1) of this 346
section. A separate fine may be imposed for each instance of 347
failing to comply with the limits. In imposing the fine, the 348
board's actions shall be taken in accordance with Chapter 119. 349
of the Revised Code. 350

(D) None of the following shall be counted in determining 351
whether the amounts specified in division (C) (1) of this section 352
have been exceeded: 353

(1) Methadone personally furnished to patients for the 354
purpose of treating drug dependence or addiction, if the 355
prescriber meets the conditions specified in 21 C.F.R. 1306.07; 356

(2) Buprenorphine personally furnished to patients for the 357
purpose of treating drug dependence or addiction as part of an 358
opioid treatment program that possesses a terminal distributor 359
of dangerous drugs license issued under section 4729.54 of the 360
Revised Code, is the subject of a current, valid certification 361
from the substance abuse and mental health services 362
administration of the United States department of health and 363
human services pursuant to 42 C.F.R. 8.11, and meets either of 364
the following criteria: 365

(a) Buprenorphine and methadone are personally furnished 366
by physicians treating patients participating in the program. 367

(b) Buprenorphine, but not methadone, is personally 368
furnished by physicians treating patients participating in the 369
program, the program is accredited by a national accrediting 370
organization approved by the substance abuse and mental health 371
services administration, the service of personally furnishing 372
buprenorphine has, notwithstanding section 5119.371 of the 373
Revised Code, been certified by the department of mental health 374
and addiction services under section 5119.36 of the Revised 375
Code, and the program maintains in the record of a patient to 376
whom buprenorphine has been administered or personally furnished 377
a copy of the physician's signed and dated written order for 378
that act. 379

(c) Controlled substances personally furnished to research 380
subjects by a facility conducting clinical research in studies 381
approved by a hospital-based institutional review board or an 382
institutional review board accredited by the association for the 383

accreditation of human research protection programs. 384

(E) Division (C) (1) of this section does not apply to a 385
prescriber who is a veterinarian. 386

Sec. 4729.51. (A) (1) Except as provided in division (A) (2) 387
of this section, no person other than a registered wholesale 388
distributor of dangerous drugs shall possess for sale, sell, 389
distribute, or deliver, at wholesale, dangerous drugs or 390
investigational drugs or products, except as follows: 391

(a) A pharmacist who is a licensed terminal distributor of 392
dangerous drugs or who is employed by a licensed terminal 393
distributor of dangerous drugs may make occasional sales of 394
dangerous drugs or investigational drugs or products at 395
wholesale. 396

(b) A licensed terminal distributor of dangerous drugs 397
having more than one establishment or place may transfer or 398
deliver dangerous drugs from one establishment or place for 399
which a license has been issued to the terminal distributor to 400
another establishment or place for which a license has been 401
issued to the terminal distributor if the license issued for 402
each establishment or place is in effect at the time of the 403
transfer or delivery. 404

(c) A licensed terminal distributor of dangerous drugs may 405
make occasional sales of naloxone at wholesale to a state or 406
local law enforcement agency if the terminal distributor is any 407
of the following: 408

(i) A board of health of a city or general health 409
district; 410

(ii) An authority having the duties of a board of health 411
under section 3709.05 of the Revised Code; 412

(iii) A health department operated by such a board or authority.	413 414
(2) A manufacturer of dangerous drugs may donate inhalers, as defined in section 3313.7113 of the Revised Code, and epinephrine autoinjectors to any of the following:	415 416 417
(a) The board of education of a city, local, exempted village, or joint vocational school district;	418 419
(b) A community school established under Chapter 3314. of the Revised Code;	420 421
(c) A STEM school established under Chapter 3326. of the Revised Code;	422 423
(d) A college-preparatory boarding school established under Chapter 3328. of the Revised Code;	424 425
(e) A chartered or nonchartered nonpublic school.	426
(B) (1) No registered wholesale distributor of dangerous drugs shall possess for sale, or sell, at wholesale, dangerous drugs <u>or investigational drugs or products</u> to any person other than the following:	427 428 429 430
(a) Except as provided in division (B) (2) (a) of this section and division (B) of section 4729.541 of the Revised Code, a licensed health professional authorized to prescribe drugs;	431 432 433 434
(b) An optometrist licensed under Chapter 4725. of the Revised Code who holds a topical ocular pharmaceutical agents certificate;	435 436 437
(c) A registered wholesale distributor of dangerous drugs;	438
(d) A manufacturer of dangerous drugs;	439

(e) Subject to division (B) (3) of this section, a licensed terminal distributor of dangerous drugs; 440
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(f) Carriers or warehouses for the purpose of carriage or storage; 442
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(g) Terminal or wholesale distributors of dangerous drugs who are not engaged in the sale of dangerous drugs within this state; 444
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(h) An individual who holds a current license, certificate, or registration issued under Title XLVII of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only with respect to insulin that will be used for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession; 447
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(i) An individual who holds a valid certificate issued by a nationally recognized S.C.U.B.A. diving certifying organization approved by the state board of pharmacy in rule, but only with respect to medical oxygen that will be used for the purpose of emergency care or treatment at the scene of a diving emergency; 456
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(j) Except as provided in division (B) (2) (b) of this section and division (A) of section 4729.541 of the Revised Code, a business entity that is a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, or a professional association formed under Chapter 1785. of the Revised Code if the entity has a sole shareholder who is 462
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a licensed health professional authorized to prescribe drugs and 469
is authorized to provide the professional services being offered 470
by the entity; 471

(k) Except as provided in division (B)(2)(c) of this 472
section and division (A) of section 4729.541 of the Revised 473
Code, a business entity that is a corporation formed under 474
division (B) of section 1701.03 of the Revised Code, a limited 475
liability company formed under Chapter 1705. of the Revised 476
Code, a partnership or a limited liability partnership formed 477
under Chapter 1775. of the Revised Code, or a professional 478
association formed under Chapter 1785. of the Revised Code, if, 479
to be a shareholder, member, or partner, an individual is 480
required to be licensed, certified, or otherwise legally 481
authorized under Title XLVII of the Revised Code to perform the 482
professional service provided by the entity and each such 483
individual is a licensed health professional authorized to 484
prescribe drugs; 485

(l) With respect to epinephrine autoinjectors that may be 486
possessed under section 3313.7110, 3313.7111, 3314.143, 3326.28, 487
or 3328.29 of the Revised Code, any of the following: the board 488
of education of a city, local, exempted village, or joint 489
vocational school district; a chartered or nonchartered 490
nonpublic school; a community school established under Chapter 491
3314. of the Revised Code; a STEM school established under 492
Chapter 3326. of the Revised Code; or a college-preparatory 493
boarding school established under Chapter 3328. of the Revised 494
Code; 495

(m) With respect to epinephrine autoinjectors that may be 496
possessed under section 5101.76 of the Revised Code, any of the 497
following: a residential camp, as defined in section 2151.011 of 498

the Revised Code; a child day camp, as defined in section 499
5104.01 of the Revised Code; or a child day camp operated by any 500
county, township, municipal corporation, township park district 501
created under section 511.18 of the Revised Code, park district 502
created under section 1545.04 of the Revised Code, or joint 503
recreation district established under section 755.14 of the 504
Revised Code; 505

(n) With respect to epinephrine autoinjectors that may be 506
possessed under Chapter 3728. of the Revised Code, a qualified 507
entity, as defined in section 3728.01 of the Revised Code; 508

(o) With respect to naloxone that may be possessed under 509
section 2925.61 of the Revised Code, a law enforcement agency 510
and its peace officers; 511

(p) With respect to inhalers that may be possessed under 512
section 3313.7113, 3313.7114, 3314.144, 3326.30, or 3328.30 of 513
the Revised Code, any of the following: the board of education 514
of a city, local, exempted village, or joint vocational school 515
district; a chartered or nonchartered nonpublic school; a 516
community school established under Chapter 3314. of the Revised 517
Code; a STEM school established under Chapter 3326. of the 518
Revised Code; or a college-preparatory boarding school 519
established under Chapter 3328. of the Revised Code; 520

(q) With respect to inhalers that may be possessed under 521
section 5101.77 of the Revised Code, any of the following: a 522
residential camp, as defined in section 2151.011 of the Revised 523
Code; a child day camp, as defined in section 5104.01 of the 524
Revised Code; or a child day camp operated by any county, 525
township, municipal corporation, township park district created 526
under section 511.18 of the Revised Code, park district created 527
under section 1545.04 of the Revised Code, or joint recreation 528

district established under section 755.14 of the Revised Code.	529
(2) No registered wholesale distributor of dangerous drugs	530
shall possess for sale, or sell, at wholesale, dangerous drugs	531
<u>or investigational drugs or products</u> to any of the following:	532
(a) A prescriber who is employed by a pain management	533
clinic that is not licensed as a terminal distributor of	534
dangerous drugs with a pain management clinic classification	535
issued under section 4729.552 of the Revised Code;	536
(b) A business entity described in division (B) (1) (j) of	537
this section that is, or is operating, a pain management clinic	538
without a license as a terminal distributor of dangerous drugs	539
with a pain management clinic classification issued under	540
section 4729.552 of the Revised Code;	541
(c) A business entity described in division (B) (1) (k) of	542
this section that is, or is operating, a pain management clinic	543
without a license as a terminal distributor of dangerous drugs	544
with a pain management clinic classification issued under	545
section 4729.552 of the Revised Code.	546
(3) No registered wholesale distributor of dangerous drugs	547
shall possess dangerous drugs <u>or investigational drugs or</u>	548
<u>products</u> for sale at wholesale, or sell such drugs at wholesale,	549
to a licensed terminal distributor of dangerous drugs, except as	550
follows:	551
(a) In the case of a terminal distributor with a category	552
I license, only dangerous drugs described in category I, as	553
defined in division (A) (1) of section 4729.54 of the Revised	554
Code;	555
(b) In the case of a terminal distributor with a category	556
II license, only dangerous drugs described in category I and	557

category II, as defined in divisions (A) (1) and (2) of section 4729.54 of the Revised Code;	558 559
(c) In the case of a terminal distributor with a category III license, dangerous drugs described in category I, category II, and category III, as defined in divisions (A) (1), (2), and (3) of section 4729.54 of the Revised Code;	560 561 562 563
(d) In the case of a terminal distributor with a limited category I, II, or III license, only the dangerous drugs specified in the certificate furnished by the terminal distributor in accordance with section 4729.60 of the Revised Code.	564 565 566 567 568
(C) (1) Except as provided in division (C) (4) of this section, no person shall sell, at retail, dangerous drugs.	569 570
(2) Except as provided in division (C) (4) of this section, no person shall possess for sale, at retail, dangerous drugs.	571 572
(3) Except as provided in division (C) (4) of this section, no person shall possess dangerous drugs.	573 574
(4) Divisions (C) (1), (2), and (3) of this section do not apply to a registered wholesale distributor of dangerous drugs or a licensed terminal distributor of dangerous drugs.	575 576 577
Divisions (C) (1), (2), and (3) of this section do not apply to a person who possesses, or possesses for sale or sells, at retail, a dangerous drug in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. of the Revised Code.	578 579 580 581 582
Divisions (C) (1), (2), and (3) of this section do not apply to an individual who holds a current license, certificate, or registration issued under Title XLVII of the Revised Code and	583 584 585

has been certified to conduct diabetes education by a national 586
certifying body specified in rules adopted by the state board of 587
pharmacy under section 4729.68 of the Revised Code, but only to 588
the extent that the individual possesses insulin or personally 589
supplies insulin solely for the purpose of diabetes education 590
and only if diabetes education is within the individual's scope 591
of practice under statutes and rules regulating the individual's 592
profession. 593

Divisions (C) (1), (2), and (3) of this section do not 594
apply to an individual who holds a valid certificate issued by a 595
nationally recognized S.C.U.B.A. diving certifying organization 596
approved by the state board of pharmacy in rule, but only to the 597
extent that the individual possesses medical oxygen or 598
personally supplies medical oxygen for the purpose of emergency 599
care or treatment at the scene of a diving emergency. 600

Division (C) (3) of this section does not apply to the 601
board of education of a city, local, exempted village, or joint 602
vocational school district, a school building operated by a 603
school district board of education, a chartered or nonchartered 604
nonpublic school, a community school, a STEM school, or a 605
college-preparatory boarding school for the purpose of 606
possessing epinephrine autoinjectors under section 3313.7110, 607
3313.7111, 3314.143, 3326.28, or 3328.29 of the Revised Code and 608
for the purpose of possessing inhalers under section 3313.7113, 609
3313.7114, 3314.144, 3326.30, or 3328.30 of the Revised Code. 610

Division (C) (3) of this section does not apply to a 611
residential camp, as defined in section 2151.011 of the Revised 612
Code, a child day camp, as defined in section 5104.01 of the 613
Revised Code, or a child day camp operated by any county, 614
township, municipal corporation, township park district created 615

under section 511.18 of the Revised Code, park district created 616
under section 1545.04 of the Revised Code, or joint recreation 617
district established under section 755.14 of the Revised Code 618
for the purpose of possessing epinephrine autoinjectors under 619
section 5101.76 of the Revised Code and for the purpose of 620
possessing inhalers under section 5101.77 of the Revised Code. 621

Division (C) (3) of this section does not apply to a 622
qualified entity, as defined in section 3728.01 of the Revised 623
Code, for the purpose of possessing epinephrine autoinjectors 624
under Chapter 3728. of the Revised Code. 625

Division (C) (3) of this section does not apply to a law 626
enforcement agency or the agency's peace officers if the agency 627
or officers possess naloxone for administration to individuals 628
who are apparently experiencing opioid-related overdoses. 629

(D) No licensed terminal distributor of dangerous drugs 630
shall purchase for the purpose of resale dangerous drugs or 631
investigational drugs or products from any person other than a 632
registered wholesale distributor of dangerous drugs, except as 633
follows: 634

(1) A licensed terminal distributor of dangerous drugs may 635
make occasional purchases of dangerous drugs or investigational 636
drugs or products for resale from a pharmacist who is a licensed 637
terminal distributor of dangerous drugs or who is employed by a 638
licensed terminal distributor of dangerous drugs; 639

(2) A licensed terminal distributor of dangerous drugs 640
having more than one establishment or place may transfer or 641
receive dangerous drugs or investigational drugs or products 642
from one establishment or place for which a license has been 643
issued to the terminal distributor to another establishment or 644

place for which a license has been issued to the terminal 645
distributor if the license issued for each establishment or 646
place is in effect at the time of the transfer or receipt. 647

(E) No licensed terminal distributor of dangerous drugs 648
shall engage in the sale or other distribution of dangerous 649
drugs or investigational drugs or products at retail or maintain 650
possession, custody, or control of dangerous drugs or 651
investigational drugs or products for any purpose other than the 652
distributor's personal use or consumption, at any establishment 653
or place other than that or those described in the license 654
issued by the state board of pharmacy to such terminal 655
distributor. 656

(F) Nothing in this section shall be construed to 657
interfere with the performance of official duties by any law 658
enforcement official authorized by municipal, county, state, or 659
federal law to collect samples of any drug, regardless of its 660
nature or in whose possession it may be. 661

(G) Notwithstanding anything to the contrary in this 662
section, the board of education of a city, local, exempted 663
village, or joint vocational school district may deliver 664
epinephrine autoinjectors to a school under its control for the 665
purpose of possessing the epinephrine autoinjectors under 666
section 3313.7110 of the Revised Code and may deliver inhalers 667
to a school under its control for the purpose of possessing the 668
inhalers under section 3313.7113 of the Revised Code. 669

Sec. 4729.57. (A) The state board of pharmacy may suspend, 670
revoke, or refuse to grant or renew any license as a terminal 671
distributor of dangerous drugs, or may impose a monetary penalty 672
or forfeiture not to exceed in severity any fine designated 673
under the Revised Code for a similar offense or one thousand 674

dollars if the acts committed have not been classified as an offense by the Revised Code, for any of the following causes:

- (1) Making any false material statements in an application for a license as a terminal distributor of dangerous drugs;
- (2) Violating any rule of the board;
- (3) Violating any provision of this chapter;
- (4) ~~Violating~~ Except as provided in section 4729.89 of the Revised Code, violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code;
- (5) Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code;
- (6) Falsely or fraudulently promoting to the public a dangerous drug, except that nothing in this division prohibits a terminal distributor of dangerous drugs from furnishing information concerning a dangerous drug to a health care provider or another licensed terminal distributor;
- (7) Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code;
- (8) Except as provided in division (B) of this section:
 - (a) Waiving the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers the services provided by a terminal distributor of dangerous drugs, would otherwise be required to pay for the services if the waiver is used as an enticement to a patient or group of patients to receive pharmacy services from that terminal

distributor; 703

(b) Advertising that the terminal distributor will waive 704
the payment of all or any part of a deductible or copayment that 705
an individual, pursuant to a health insurance or health care 706
policy, contract, or plan that covers the pharmaceutical 707
services, would otherwise be required to pay for the services. 708

(B) Sanctions shall not be imposed under division (A) (8) 709
of this section against any terminal distributor of dangerous 710
drugs that waives deductibles and copayments as follows: 711

(1) In compliance with a health benefit plan that 712
expressly allows such a practice. Waiver of the deductibles or 713
copayments shall be made only with the full knowledge and 714
consent of the plan purchaser, payer, and third-party 715
administrator. Documentation of the consent shall be made 716
available to the board on request. 717

(2) For professional services rendered to any other person 718
licensed pursuant to this chapter to the extent allowed by this 719
chapter and the rules of the board. 720

(C) (1) Upon the suspension or revocation of a license 721
issued to a terminal distributor of dangerous drugs or the 722
refusal by the board to renew such a license, the distributor 723
shall immediately surrender the license to the board. 724

(2) The board may place under seal all dangerous drugs 725
that are owned by or in the possession, custody, or control of a 726
terminal distributor at the time the license is suspended or 727
revoked or at the time the board refuses to renew the license. 728
Except as otherwise provided in this division, dangerous drugs 729
so sealed shall not be disposed of until appeal rights under 730
Chapter 119. of the Revised Code have expired or an appeal filed 731

pursuant to that chapter has been determined. 732

The court involved in an appeal filed pursuant to Chapter 733
119. of the Revised Code may order the board, during the 734
pendency of the appeal, to sell sealed dangerous drugs that are 735
perishable. The proceeds of such a sale shall be deposited with 736
that court. 737

Sec. 4729.89. (A) As used in this section, "eligible 738
patient," "investigational drug, product, or device," "terminal 739
condition," and "treating physician" have the same meanings as 740
in section 4731.97 of the Revised Code. 741

(B) A manufacturer of dangerous drugs may, in accordance 742
with section 4731.97 of the Revised Code, provide an 743
investigational drug, product, or device for treatment of a 744
terminal condition to an eligible patient or to the treating 745
physician who is treating the eligible patient's terminal 746
condition. In doing so, the manufacturer may do all of the 747
following: 748

(1) Provide the investigational drug, product, or device 749
to the eligible patient or treating physician directly or 750
through a terminal distributor of dangerous drugs; 751

(2) Provide the investigational drug, product, or device 752
either with or without charge for the costs associated with 753
manufacturing and providing the investigational drug, product, 754
or device; 755

(3) Require the eligible patient to participate in data 756
collection relating to use of the investigational drug, product, 757
or device. 758

(C) Except for actions or omissions constituting willful 759
or wanton misconduct, a manufacturer or terminal distributor of 760

dangerous drugs that provides or distributes an investigational 761
drug, product, or device pursuant to this section and section 762
4731.97 of the Revised Code is not liable for or subject to 763
damages in any civil action or prosecution in any criminal 764
proceeding for actions or omissions related to providing or 765
distributing the investigational drug, product, or device. 766

(D) Nothing in this section shall be interpreted as 767
requiring a manufacturer or terminal distributor to provide an 768
investigational drug, product, or device to an eligible patient 769
or the patient's treating physician. 770

Sec. 4731.22. (A) The state medical board, by an 771
affirmative vote of not fewer than six of its members, may 772
limit, revoke, or suspend an individual's certificate to 773
practice or certificate to recommend, refuse to grant a 774
certificate to an individual, refuse to renew a certificate, 775
refuse to reinstate a certificate, or reprimand or place on 776
probation the holder of a certificate if the individual or 777
certificate holder is found by the board to have committed fraud 778
during the administration of the examination for a certificate 779
to practice or to have committed fraud, misrepresentation, or 780
deception in applying for, renewing, or securing any certificate 781
to practice or certificate to recommend issued by the board. 782

(B) The board, by an affirmative vote of not fewer than 783
six members, shall, to the extent permitted by law, limit, 784
revoke, or suspend an individual's certificate to practice or 785
certificate to recommend, refuse to issue a certificate to an 786
individual, refuse to renew a certificate, refuse to reinstate a 787
certificate, or reprimand or place on probation the holder of a 788
certificate for one or more of the following reasons: 789

(1) Permitting one's name or one's certificate to practice 790

to be used by a person, group, or corporation when the 791
individual concerned is not actually directing the treatment 792
given; 793

(2) Failure to maintain minimal standards applicable to 794
the selection or administration of drugs, or failure to employ 795
acceptable scientific methods in the selection of drugs or other 796
modalities for treatment of disease; 797

(3) ~~Selling~~ Except as provided in section 4731.97 of the 798
Revised Code, selling, giving away, personally furnishing, 799
prescribing, or administering drugs for other than legal and 800
legitimate therapeutic purposes or a plea of guilty to, a 801
judicial finding of guilt of, or a judicial finding of 802
eligibility for intervention in lieu of conviction of, a 803
violation of any federal or state law regulating the possession, 804
distribution, or use of any drug; 805

(4) Willfully betraying a professional confidence. 806

For purposes of this division, "willfully betraying a 807
professional confidence" does not include providing any 808
information, documents, or reports under sections 307.621 to 809
307.629 of the Revised Code to a child fatality review board; 810
does not include providing any information, documents, or 811
reports to the director of health pursuant to guidelines 812
established under section 3701.70 of the Revised Code; does not 813
include written notice to a mental health professional under 814
section 4731.62 of the Revised Code; and does not include the 815
making of a report of an employee's use of a drug of abuse, or a 816
report of a condition of an employee other than one involving 817
the use of a drug of abuse, to the employer of the employee as 818
described in division (B) of section 2305.33 of the Revised 819
Code. Nothing in this division affects the immunity from civil 820

liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

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

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

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

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or

anything of value by fraudulent misrepresentations in the course	850
of practice;	851
(9) A plea of guilty to, a judicial finding of guilt of,	852
or a judicial finding of eligibility for intervention in lieu of	853
conviction for, a felony;	854
(10) Commission of an act that constitutes a felony in	855
this state, regardless of the jurisdiction in which the act was	856
committed;	857
(11) A plea of guilty to, a judicial finding of guilt of,	858
or a judicial finding of eligibility for intervention in lieu of	859
conviction for, a misdemeanor committed in the course of	860
practice;	861
(12) Commission of an act in the course of practice that	862
constitutes a misdemeanor in this state, regardless of the	863
jurisdiction in which the act was committed;	864
(13) A plea of guilty to, a judicial finding of guilt of,	865
or a judicial finding of eligibility for intervention in lieu of	866
conviction for, a misdemeanor involving moral turpitude;	867
(14) Commission of an act involving moral turpitude that	868
constitutes a misdemeanor in this state, regardless of the	869
jurisdiction in which the act was committed;	870
(15) Violation of the conditions of limitation placed by	871
the board upon a certificate to practice;	872
(16) Failure to pay license renewal fees specified in this	873
chapter;	874
(17) Except as authorized in section 4731.31 of the	875
Revised Code, engaging in the division of fees for referral of	876
patients, or the receiving of a thing of value in return for a	877

specific referral of a patient to utilize a particular service 878
or business; 879

(18) Subject to section 4731.226 of the Revised Code, 880
violation of any provision of a code of ethics of the American 881
medical association, the American osteopathic association, the 882
American podiatric medical association, or any other national 883
professional organizations that the board specifies by rule. The 884
state medical board shall obtain and keep on file current copies 885
of the codes of ethics of the various national professional 886
organizations. The individual whose certificate is being 887
suspended or revoked shall not be found to have violated any 888
provision of a code of ethics of an organization not appropriate 889
to the individual's profession. 890

For purposes of this division, a "provision of a code of 891
ethics of a national professional organization" does not include 892
any provision that would preclude the making of a report by a 893
physician of an employee's use of a drug of abuse, or of a 894
condition of an employee other than one involving the use of a 895
drug of abuse, to the employer of the employee as described in 896
division (B) of section 2305.33 of the Revised Code. Nothing in 897
this division affects the immunity from civil liability 898
conferred by that section upon a physician who makes either type 899
of report in accordance with division (B) of that section. As 900
used in this division, "employee," "employer," and "physician" 901
have the same meanings as in section 2305.33 of the Revised 902
Code. 903

(19) Inability to practice according to acceptable and 904
prevailing standards of care by reason of mental illness or 905
physical illness, including, but not limited to, physical 906
deterioration that adversely affects cognitive, motor, or 907

perceptive skills. 908

In enforcing this division, the board, upon a showing of a 909
possible violation, may compel any individual authorized to 910
practice by this chapter or who has submitted an application 911
pursuant to this chapter to submit to a mental examination, 912
physical examination, including an HIV test, or both a mental 913
and a physical examination. The expense of the examination is 914
the responsibility of the individual compelled to be examined. 915
Failure to submit to a mental or physical examination or consent 916
to an HIV test ordered by the board constitutes an admission of 917
the allegations against the individual unless the failure is due 918
to circumstances beyond the individual's control, and a default 919
and final order may be entered without the taking of testimony 920
or presentation of evidence. If the board finds an individual 921
unable to practice because of the reasons set forth in this 922
division, the board shall require the individual to submit to 923
care, counseling, or treatment by physicians approved or 924
designated by the board, as a condition for initial, continued, 925
reinstated, or renewed authority to practice. An individual 926
affected under this division shall be afforded an opportunity to 927
demonstrate to the board the ability to resume practice in 928
compliance with acceptable and prevailing standards under the 929
provisions of the individual's certificate. For the purpose of 930
this division, any individual who applies for or receives a 931
certificate to practice under this chapter accepts the privilege 932
of practicing in this state and, by so doing, shall be deemed to 933
have given consent to submit to a mental or physical examination 934
when directed to do so in writing by the board, and to have 935
waived all objections to the admissibility of testimony or 936
examination reports that constitute a privileged communication. 937

(20) Except when civil penalties are imposed under section 938

4731.225 or 4731.282 of the Revised Code, and subject to section 939
4731.226 of the Revised Code, violating or attempting to 940
violate, directly or indirectly, or assisting in or abetting the 941
violation of, or conspiring to violate, any provisions of this 942
chapter or any rule promulgated by the board. 943

This division does not apply to a violation or attempted 944
violation of, assisting in or abetting the violation of, or a 945
conspiracy to violate, any provision of this chapter or any rule 946
adopted by the board that would preclude the making of a report 947
by a physician of an employee's use of a drug of abuse, or of a 948
condition of an employee other than one involving the use of a 949
drug of abuse, to the employer of the employee as described in 950
division (B) of section 2305.33 of the Revised Code. Nothing in 951
this division affects the immunity from civil liability 952
conferred by that section upon a physician who makes either type 953
of report in accordance with division (B) of that section. As 954
used in this division, "employee," "employer," and "physician" 955
have the same meanings as in section 2305.33 of the Revised 956
Code. 957

(21) The violation of section 3701.79 of the Revised Code 958
or of any abortion rule adopted by the director of health 959
pursuant to section 3701.341 of the Revised Code; 960

(22) Any of the following actions taken by an agency 961
responsible for authorizing, certifying, or regulating an 962
individual to practice a health care occupation or provide 963
health care services in this state or another jurisdiction, for 964
any reason other than the nonpayment of fees: the limitation, 965
revocation, or suspension of an individual's license to 966
practice; acceptance of an individual's license surrender; 967
denial of a license; refusal to renew or reinstate a license; 968

imposition of probation; or issuance of an order of censure or 969
other reprimand; 970

(23) The violation of section 2919.12 of the Revised Code 971
or the performance or inducement of an abortion upon a pregnant 972
woman with actual knowledge that the conditions specified in 973
division (B) of section 2317.56 of the Revised Code have not 974
been satisfied or with a heedless indifference as to whether 975
those conditions have been satisfied, unless an affirmative 976
defense as specified in division (H) (2) of that section would 977
apply in a civil action authorized by division (H) (1) of that 978
section; 979

(24) The revocation, suspension, restriction, reduction, 980
or termination of clinical privileges by the United States 981
department of defense or department of veterans affairs or the 982
termination or suspension of a certificate of registration to 983
prescribe drugs by the drug enforcement administration of the 984
United States department of justice; 985

(25) Termination or suspension from participation in the 986
medicare or medicaid programs by the department of health and 987
human services or other responsible agency for any act or acts 988
that also would constitute a violation of division (B) (2), (3), 989
(6), (8), or (19) of this section; 990

(26) Impairment of ability to practice according to 991
acceptable and prevailing standards of care because of habitual 992
or excessive use or abuse of drugs, alcohol, or other substances 993
that impair ability to practice. 994

For the purposes of this division, any individual 995
authorized to practice by this chapter accepts the privilege of 996
practicing in this state subject to supervision by the board. By 997

filing an application for or holding a certificate to practice 998
under this chapter, an individual shall be deemed to have given 999
consent to submit to a mental or physical examination when 1000
ordered to do so by the board in writing, and to have waived all 1001
objections to the admissibility of testimony or examination 1002
reports that constitute privileged communications. 1003

If it has reason to believe that any individual authorized 1004
to practice by this chapter or any applicant for certification 1005
to practice suffers such impairment, the board may compel the 1006
individual to submit to a mental or physical examination, or 1007
both. The expense of the examination is the responsibility of 1008
the individual compelled to be examined. Any mental or physical 1009
examination required under this division shall be undertaken by 1010
a treatment provider or physician who is qualified to conduct 1011
the examination and who is chosen by the board. 1012

Failure to submit to a mental or physical examination 1013
ordered by the board constitutes an admission of the allegations 1014
against the individual unless the failure is due to 1015
circumstances beyond the individual's control, and a default and 1016
final order may be entered without the taking of testimony or 1017
presentation of evidence. If the board determines that the 1018
individual's ability to practice is impaired, the board shall 1019
suspend the individual's certificate or deny the individual's 1020
application and shall require the individual, as a condition for 1021
initial, continued, reinstated, or renewed certification to 1022
practice, to submit to treatment. 1023

Before being eligible to apply for reinstatement of a 1024
certificate suspended under this division, the impaired 1025
practitioner shall demonstrate to the board the ability to 1026
resume practice in compliance with acceptable and prevailing 1027

standards of care under the provisions of the practitioner's 1028
certificate. The demonstration shall include, but shall not be 1029
limited to, the following: 1030

(a) Certification from a treatment provider approved under 1031
section 4731.25 of the Revised Code that the individual has 1032
successfully completed any required inpatient treatment; 1033

(b) Evidence of continuing full compliance with an 1034
aftercare contract or consent agreement; 1035

(c) Two written reports indicating that the individual's 1036
ability to practice has been assessed and that the individual 1037
has been found capable of practicing according to acceptable and 1038
prevailing standards of care. The reports shall be made by 1039
individuals or providers approved by the board for making the 1040
assessments and shall describe the basis for their 1041
determination. 1042

The board may reinstate a certificate suspended under this 1043
division after that demonstration and after the individual has 1044
entered into a written consent agreement. 1045

When the impaired practitioner resumes practice, the board 1046
shall require continued monitoring of the individual. The 1047
monitoring shall include, but not be limited to, compliance with 1048
the written consent agreement entered into before reinstatement 1049
or with conditions imposed by board order after a hearing, and, 1050
upon termination of the consent agreement, submission to the 1051
board for at least two years of annual written progress reports 1052
made under penalty of perjury stating whether the individual has 1053
maintained sobriety. 1054

(27) A second or subsequent violation of section 4731.66 1055
or 4731.69 of the Revised Code; 1056

(28) Except as provided in division (N) of this section:	1057
(a) Waiving the payment of all or any part of a deductible	1058
or copayment that a patient, pursuant to a health insurance or	1059
health care policy, contract, or plan that covers the	1060
individual's services, otherwise would be required to pay if the	1061
waiver is used as an enticement to a patient or group of	1062
patients to receive health care services from that individual;	1063
(b) Advertising that the individual will waive the payment	1064
of all or any part of a deductible or copayment that a patient,	1065
pursuant to a health insurance or health care policy, contract,	1066
or plan that covers the individual's services, otherwise would	1067
be required to pay.	1068
(29) Failure to use universal blood and body fluid	1069
precautions established by rules adopted under section 4731.051	1070
of the Revised Code;	1071
(30) Failure to provide notice to, and receive	1072
acknowledgment of the notice from, a patient when required by	1073
section 4731.143 of the Revised Code prior to providing	1074
nonemergency professional services, or failure to maintain that	1075
notice in the patient's file;	1076
(31) Failure of a physician supervising a physician	1077
assistant to maintain supervision in accordance with the	1078
requirements of Chapter 4730. of the Revised Code and the rules	1079
adopted under that chapter;	1080
(32) Failure of a physician or podiatrist to enter into a	1081
standard care arrangement with a clinical nurse specialist,	1082
certified nurse-midwife, or certified nurse practitioner with	1083
whom the physician or podiatrist is in collaboration pursuant to	1084
section 4731.27 of the Revised Code or failure to fulfill the	1085

responsibilities of collaboration after entering into a standard	1086
care arrangement;	1087
(33) Failure to comply with the terms of a consult	1088
agreement entered into with a pharmacist pursuant to section	1089
4729.39 of the Revised Code;	1090
(34) Failure to cooperate in an investigation conducted by	1091
the board under division (F) of this section, including failure	1092
to comply with a subpoena or order issued by the board or	1093
failure to answer truthfully a question presented by the board	1094
in an investigative interview, an investigative office	1095
conference, at a deposition, or in written interrogatories,	1096
except that failure to cooperate with an investigation shall not	1097
constitute grounds for discipline under this section if a court	1098
of competent jurisdiction has issued an order that either	1099
quashes a subpoena or permits the individual to withhold the	1100
testimony or evidence in issue;	1101
(35) Failure to supervise an oriental medicine	1102
practitioner or acupuncturist in accordance with Chapter 4762.	1103
of the Revised Code and the board's rules for providing that	1104
supervision;	1105
(36) Failure to supervise an anesthesiologist assistant in	1106
accordance with Chapter 4760. of the Revised Code and the	1107
board's rules for supervision of an anesthesiologist assistant;	1108
(37) Assisting suicide, as defined in section 3795.01 of	1109
the Revised Code;	1110
(38) Failure to comply with the requirements of section	1111
2317.561 of the Revised Code;	1112
(39) Failure to supervise a radiologist assistant in	1113
accordance with Chapter 4774. of the Revised Code and the	1114

board's rules for supervision of radiologist assistants;	1115
(40) Performing or inducing an abortion at an office or	1116
facility with knowledge that the office or facility fails to	1117
post the notice required under section 3701.791 of the Revised	1118
Code;	1119
(41) Failure to comply with the standards and procedures	1120
established in rules under section 4731.054 of the Revised Code	1121
for the operation of or the provision of care at a pain	1122
management clinic;	1123
(42) Failure to comply with the standards and procedures	1124
established in rules under section 4731.054 of the Revised Code	1125
for providing supervision, direction, and control of individuals	1126
at a pain management clinic;	1127
(43) Failure to comply with the requirements of section	1128
4729.79 or 4731.055 of the Revised Code, unless the state board	1129
of pharmacy no longer maintains a drug database pursuant to	1130
section 4729.75 of the Revised Code;	1131
(44) Failure to comply with the requirements of section	1132
2919.171 of the Revised Code or failure to submit to the	1133
department of health in accordance with a court order a complete	1134
report as described in section 2919.171 of the Revised Code;	1135
(45) Practicing at a facility that is subject to licensure	1136
as a category III terminal distributor of dangerous drugs with a	1137
pain management clinic classification unless the person	1138
operating the facility has obtained and maintains the license	1139
with the classification;	1140
(46) Owning a facility that is subject to licensure as a	1141
category III terminal distributor of dangerous drugs with a pain	1142
management clinic classification unless the facility is licensed	1143

with the classification; 1144

(47) Failure to comply with the requirement regarding 1145
maintaining notes described in division (B) of section 2919.191 1146
of the Revised Code or failure to satisfy the requirements of 1147
section 2919.191 of the Revised Code prior to performing or 1148
inducing an abortion upon a pregnant woman; 1149

(48) Failure to comply with the requirements in section 1150
3719.061 of the Revised Code before issuing for a minor a 1151
prescription for an opioid analgesic, as defined in section 1152
3719.01 of the Revised Code; 1153

(49) Failure to comply with the requirements of section 1154
4731.30 of the Revised Code or rules adopted under section 1155
4731.301 of the Revised Code when recommending treatment with 1156
medical marijuana. 1157

(C) Disciplinary actions taken by the board under 1158
divisions (A) and (B) of this section shall be taken pursuant to 1159
an adjudication under Chapter 119. of the Revised Code, except 1160
that in lieu of an adjudication, the board may enter into a 1161
consent agreement with an individual to resolve an allegation of 1162
a violation of this chapter or any rule adopted under it. A 1163
consent agreement, when ratified by an affirmative vote of not 1164
fewer than six members of the board, shall constitute the 1165
findings and order of the board with respect to the matter 1166
addressed in the agreement. If the board refuses to ratify a 1167
consent agreement, the admissions and findings contained in the 1168
consent agreement shall be of no force or effect. 1169

A telephone conference call may be utilized for 1170
ratification of a consent agreement that revokes or suspends an 1171
individual's certificate to practice or certificate to 1172

recommend. The telephone conference call shall be considered a 1173
special meeting under division (F) of section 121.22 of the 1174
Revised Code. 1175

If the board takes disciplinary action against an 1176
individual under division (B) of this section for a second or 1177
subsequent plea of guilty to, or judicial finding of guilt of, a 1178
violation of section 2919.123 of the Revised Code, the 1179
disciplinary action shall consist of a suspension of the 1180
individual's certificate to practice for a period of at least 1181
one year or, if determined appropriate by the board, a more 1182
serious sanction involving the individual's certificate to 1183
practice. Any consent agreement entered into under this division 1184
with an individual that pertains to a second or subsequent plea 1185
of guilty to, or judicial finding of guilt of, a violation of 1186
that section shall provide for a suspension of the individual's 1187
certificate to practice for a period of at least one year or, if 1188
determined appropriate by the board, a more serious sanction 1189
involving the individual's certificate to practice. 1190

(D) For purposes of divisions (B)(10), (12), and (14) of 1191
this section, the commission of the act may be established by a 1192
finding by the board, pursuant to an adjudication under Chapter 1193
119. of the Revised Code, that the individual committed the act. 1194
The board does not have jurisdiction under those divisions if 1195
the trial court renders a final judgment in the individual's 1196
favor and that judgment is based upon an adjudication on the 1197
merits. The board has jurisdiction under those divisions if the 1198
trial court issues an order of dismissal upon technical or 1199
procedural grounds. 1200

(E) The sealing of conviction records by any court shall 1201
have no effect upon a prior board order entered under this 1202

section or upon the board's jurisdiction to take action under 1203
this section if, based upon a plea of guilty, a judicial finding 1204
of guilt, or a judicial finding of eligibility for intervention 1205
in lieu of conviction, the board issued a notice of opportunity 1206
for a hearing prior to the court's order to seal the records. 1207
The board shall not be required to seal, destroy, redact, or 1208
otherwise modify its records to reflect the court's sealing of 1209
conviction records. 1210

(F) (1) The board shall investigate evidence that appears 1211
to show that a person has violated any provision of this chapter 1212
or any rule adopted under it. Any person may report to the board 1213
in a signed writing any information that the person may have 1214
that appears to show a violation of any provision of this 1215
chapter or any rule adopted under it. In the absence of bad 1216
faith, any person who reports information of that nature or who 1217
testifies before the board in any adjudication conducted under 1218
Chapter 119. of the Revised Code shall not be liable in damages 1219
in a civil action as a result of the report or testimony. Each 1220
complaint or allegation of a violation received by the board 1221
shall be assigned a case number and shall be recorded by the 1222
board. 1223

(2) Investigations of alleged violations of this chapter 1224
or any rule adopted under it shall be supervised by the 1225
supervising member elected by the board in accordance with 1226
section 4731.02 of the Revised Code and by the secretary as 1227
provided in section 4731.39 of the Revised Code. The president 1228
may designate another member of the board to supervise the 1229
investigation in place of the supervising member. No member of 1230
the board who supervises the investigation of a case shall 1231
participate in further adjudication of the case. 1232

(3) In investigating a possible violation of this chapter 1233
or any rule adopted under this chapter, or in conducting an 1234
inspection under division (E) of section 4731.054 of the Revised 1235
Code, the board may question witnesses, conduct interviews, 1236
administer oaths, order the taking of depositions, inspect and 1237
copy any books, accounts, papers, records, or documents, issue 1238
subpoenas, and compel the attendance of witnesses and production 1239
of books, accounts, papers, records, documents, and testimony, 1240
except that a subpoena for patient record information shall not 1241
be issued without consultation with the attorney general's 1242
office and approval of the secretary and supervising member of 1243
the board. 1244

(a) Before issuance of a subpoena for patient record 1245
information, the secretary and supervising member shall 1246
determine whether there is probable cause to believe that the 1247
complaint filed alleges a violation of this chapter or any rule 1248
adopted under it and that the records sought are relevant to the 1249
alleged violation and material to the investigation. The 1250
subpoena may apply only to records that cover a reasonable 1251
period of time surrounding the alleged violation. 1252

(b) On failure to comply with any subpoena issued by the 1253
board and after reasonable notice to the person being 1254
subpoenaed, the board may move for an order compelling the 1255
production of persons or records pursuant to the Rules of Civil 1256
Procedure. 1257

(c) A subpoena issued by the board may be served by a 1258
sheriff, the sheriff's deputy, or a board employee designated by 1259
the board. Service of a subpoena issued by the board may be made 1260
by delivering a copy of the subpoena to the person named 1261
therein, reading it to the person, or leaving it at the person's 1262

usual place of residence, usual place of business, or address on 1263
file with the board. When serving a subpoena to an applicant for 1264
or the holder of a certificate issued under this chapter, 1265
service of the subpoena may be made by certified mail, return 1266
receipt requested, and the subpoena shall be deemed served on 1267
the date delivery is made or the date the person refuses to 1268
accept delivery. If the person being served refuses to accept 1269
the subpoena or is not located, service may be made to an 1270
attorney who notifies the board that the attorney is 1271
representing the person. 1272

(d) A sheriff's deputy who serves a subpoena shall receive 1273
the same fees as a sheriff. Each witness who appears before the 1274
board in obedience to a subpoena shall receive the fees and 1275
mileage provided for under section 119.094 of the Revised Code. 1276

(4) All hearings, investigations, and inspections of the 1277
board shall be considered civil actions for the purposes of 1278
section 2305.252 of the Revised Code. 1279

(5) A report required to be submitted to the board under 1280
this chapter, a complaint, or information received by the board 1281
pursuant to an investigation or pursuant to an inspection under 1282
division (E) of section 4731.054 of the Revised Code is 1283
confidential and not subject to discovery in any civil action. 1284

The board shall conduct all investigations or inspections 1285
and proceedings in a manner that protects the confidentiality of 1286
patients and persons who file complaints with the board. The 1287
board shall not make public the names or any other identifying 1288
information about patients or complainants unless proper consent 1289
is given or, in the case of a patient, a waiver of the patient 1290
privilege exists under division (B) of section 2317.02 of the 1291
Revised Code, except that consent or a waiver of that nature is 1292

not required if the board possesses reliable and substantial 1293
evidence that no bona fide physician-patient relationship 1294
exists. 1295

The board may share any information it receives pursuant 1296
to an investigation or inspection, including patient records and 1297
patient record information, with law enforcement agencies, other 1298
licensing boards, and other governmental agencies that are 1299
prosecuting, adjudicating, or investigating alleged violations 1300
of statutes or administrative rules. An agency or board that 1301
receives the information shall comply with the same requirements 1302
regarding confidentiality as those with which the state medical 1303
board must comply, notwithstanding any conflicting provision of 1304
the Revised Code or procedure of the agency or board that 1305
applies when it is dealing with other information in its 1306
possession. In a judicial proceeding, the information may be 1307
admitted into evidence only in accordance with the Rules of 1308
Evidence, but the court shall require that appropriate measures 1309
are taken to ensure that confidentiality is maintained with 1310
respect to any part of the information that contains names or 1311
other identifying information about patients or complainants 1312
whose confidentiality was protected by the state medical board 1313
when the information was in the board's possession. Measures to 1314
ensure confidentiality that may be taken by the court include 1315
sealing its records or deleting specific information from its 1316
records. 1317

(6) On a quarterly basis, the board shall prepare a report 1318
that documents the disposition of all cases during the preceding 1319
three months. The report shall contain the following information 1320
for each case with which the board has completed its activities: 1321

(a) The case number assigned to the complaint or alleged 1322

violation; 1323

(b) The type of certificate to practice, if any, held by 1324
the individual against whom the complaint is directed; 1325

(c) A description of the allegations contained in the 1326
complaint; 1327

(d) The disposition of the case. 1328

The report shall state how many cases are still pending 1329
and shall be prepared in a manner that protects the identity of 1330
each person involved in each case. The report shall be a public 1331
record under section 149.43 of the Revised Code. 1332

(G) If the secretary and supervising member determine both 1333
of the following, they may recommend that the board suspend an 1334
individual's certificate to practice or certificate to recommend 1335
without a prior hearing: 1336

(1) That there is clear and convincing evidence that an 1337
individual has violated division (B) of this section; 1338

(2) That the individual's continued practice presents a 1339
danger of immediate and serious harm to the public. 1340

Written allegations shall be prepared for consideration by 1341
the board. The board, upon review of those allegations and by an 1342
affirmative vote of not fewer than six of its members, excluding 1343
the secretary and supervising member, may suspend a certificate 1344
without a prior hearing. A telephone conference call may be 1345
utilized for reviewing the allegations and taking the vote on 1346
the summary suspension. 1347

The board shall issue a written order of suspension by 1348
certified mail or in person in accordance with section 119.07 of 1349
the Revised Code. The order shall not be subject to suspension 1350

by the court during pendency of any appeal filed under section 1351
119.12 of the Revised Code. If the individual subject to the 1352
summary suspension requests an adjudicatory hearing by the 1353
board, the date set for the hearing shall be within fifteen 1354
days, but not earlier than seven days, after the individual 1355
requests the hearing, unless otherwise agreed to by both the 1356
board and the individual. 1357

Any summary suspension imposed under this division shall 1358
remain in effect, unless reversed on appeal, until a final 1359
adjudicative order issued by the board pursuant to this section 1360
and Chapter 119. of the Revised Code becomes effective. The 1361
board shall issue its final adjudicative order within seventy- 1362
five days after completion of its hearing. A failure to issue 1363
the order within seventy-five days shall result in dissolution 1364
of the summary suspension order but shall not invalidate any 1365
subsequent, final adjudicative order. 1366

(H) If the board takes action under division (B) (9), (11), 1367
or (13) of this section and the judicial finding of guilt, 1368
guilty plea, or judicial finding of eligibility for intervention 1369
in lieu of conviction is overturned on appeal, upon exhaustion 1370
of the criminal appeal, a petition for reconsideration of the 1371
order may be filed with the board along with appropriate court 1372
documents. Upon receipt of a petition of that nature and 1373
supporting court documents, the board shall reinstate the 1374
individual's certificate to practice. The board may then hold an 1375
adjudication under Chapter 119. of the Revised Code to determine 1376
whether the individual committed the act in question. Notice of 1377
an opportunity for a hearing shall be given in accordance with 1378
Chapter 119. of the Revised Code. If the board finds, pursuant 1379
to an adjudication held under this division, that the individual 1380
committed the act or if no hearing is requested, the board may 1381

order any of the sanctions identified under division (B) of this section. 1382
1383

(I) The certificate to practice issued to an individual 1384
under this chapter and the individual's practice in this state 1385
are automatically suspended as of the date of the individual's 1386
second or subsequent plea of guilty to, or judicial finding of 1387
guilt of, a violation of section 2919.123 of the Revised Code. 1388
In addition, the certificate to practice or certificate to 1389
recommend issued to an individual under this chapter and the 1390
individual's practice in this state are automatically suspended 1391
as of the date the individual pleads guilty to, is found by a 1392
judge or jury to be guilty of, or is subject to a judicial 1393
finding of eligibility for intervention in lieu of conviction in 1394
this state or treatment or intervention in lieu of conviction in 1395
another jurisdiction for any of the following criminal offenses 1396
in this state or a substantially equivalent criminal offense in 1397
another jurisdiction: aggravated murder, murder, voluntary 1398
manslaughter, felonious assault, kidnapping, rape, sexual 1399
battery, gross sexual imposition, aggravated arson, aggravated 1400
robbery, or aggravated burglary. Continued practice after 1401
suspension shall be considered practicing without a certificate. 1402

The board shall notify the individual subject to the 1403
suspension by certified mail or in person in accordance with 1404
section 119.07 of the Revised Code. If an individual whose 1405
certificate is automatically suspended under this division fails 1406
to make a timely request for an adjudication under Chapter 119. 1407
of the Revised Code, the board shall do whichever of the 1408
following is applicable: 1409

(1) If the automatic suspension under this division is for 1410
a second or subsequent plea of guilty to, or judicial finding of 1411

guilt of, a violation of section 2919.123 of the Revised Code, 1412
the board shall enter an order suspending the individual's 1413
certificate to practice for a period of at least one year or, if 1414
determined appropriate by the board, imposing a more serious 1415
sanction involving the individual's certificate to practice. 1416

(2) In all circumstances in which division (I)(1) of this 1417
section does not apply, enter a final order permanently revoking 1418
the individual's certificate to practice. 1419

(J) If the board is required by Chapter 119. of the 1420
Revised Code to give notice of an opportunity for a hearing and 1421
if the individual subject to the notice does not timely request 1422
a hearing in accordance with section 119.07 of the Revised Code, 1423
the board is not required to hold a hearing, but may adopt, by 1424
an affirmative vote of not fewer than six of its members, a 1425
final order that contains the board's findings. In that final 1426
order, the board may order any of the sanctions identified under 1427
division (A) or (B) of this section. 1428

(K) Any action taken by the board under division (B) of 1429
this section resulting in a suspension from practice shall be 1430
accompanied by a written statement of the conditions under which 1431
the individual's certificate to practice may be reinstated. The 1432
board shall adopt rules governing conditions to be imposed for 1433
reinstatement. Reinstatement of a certificate suspended pursuant 1434
to division (B) of this section requires an affirmative vote of 1435
not fewer than six members of the board. 1436

(L) When the board refuses to grant or issue a certificate 1437
to practice to an applicant, revokes an individual's certificate 1438
to practice, refuses to renew an individual's certificate to 1439
practice, or refuses to reinstate an individual's certificate to 1440
practice, the board may specify that its action is permanent. An 1441

individual subject to a permanent action taken by the board is 1442
forever thereafter ineligible to hold a certificate to practice 1443
and the board shall not accept an application for reinstatement 1444
of the certificate or for issuance of a new certificate. 1445

(M) Notwithstanding any other provision of the Revised 1446
Code, all of the following apply: 1447

(1) The surrender of a certificate issued under this 1448
chapter shall not be effective unless or until accepted by the 1449
board. A telephone conference call may be utilized for 1450
acceptance of the surrender of an individual's certificate to 1451
practice. The telephone conference call shall be considered a 1452
special meeting under division (F) of section 121.22 of the 1453
Revised Code. Reinstatement of a certificate surrendered to the 1454
board requires an affirmative vote of not fewer than six members 1455
of the board. 1456

(2) An application for a certificate made under the 1457
provisions of this chapter may not be withdrawn without approval 1458
of the board. 1459

(3) Failure by an individual to renew a certificate to 1460
practice in accordance with this chapter or a certificate to 1461
recommend in accordance with rules adopted under section 1462
4731.301 of the Revised Code shall not remove or limit the 1463
board's jurisdiction to take any disciplinary action under this 1464
section against the individual. 1465

(4) At the request of the board, a certificate holder 1466
shall immediately surrender to the board a certificate that the 1467
board has suspended, revoked, or permanently revoked. 1468

(N) Sanctions shall not be imposed under division (B) (28) 1469
of this section against any person who waives deductibles and 1470

copayments as follows: 1471

(1) In compliance with the health benefit plan that 1472
expressly allows such a practice. Waiver of the deductibles or 1473
copayments shall be made only with the full knowledge and 1474
consent of the plan purchaser, payer, and third-party 1475
administrator. Documentation of the consent shall be made 1476
available to the board upon request. 1477

(2) For professional services rendered to any other person 1478
authorized to practice pursuant to this chapter, to the extent 1479
allowed by this chapter and rules adopted by the board. 1480

(0) Under the board's investigative duties described in 1481
this section and subject to division (F) of this section, the 1482
board shall develop and implement a quality intervention program 1483
designed to improve through remedial education the clinical and 1484
communication skills of individuals authorized under this 1485
chapter to practice medicine and surgery, osteopathic medicine 1486
and surgery, and podiatric medicine and surgery. In developing 1487
and implementing the quality intervention program, the board may 1488
do all of the following: 1489

(1) Offer in appropriate cases as determined by the board 1490
an educational and assessment program pursuant to an 1491
investigation the board conducts under this section; 1492

(2) Select providers of educational and assessment 1493
services, including a quality intervention program panel of case 1494
reviewers; 1495

(3) Make referrals to educational and assessment service 1496
providers and approve individual educational programs 1497
recommended by those providers. The board shall monitor the 1498
progress of each individual undertaking a recommended individual 1499

educational program. 1500

(4) Determine what constitutes successful completion of an 1501
individual educational program and require further monitoring of 1502
the individual who completed the program or other action that 1503
the board determines to be appropriate; 1504

(5) Adopt rules in accordance with Chapter 119. of the 1505
Revised Code to further implement the quality intervention 1506
program. 1507

An individual who participates in an individual 1508
educational program pursuant to this division shall pay the 1509
financial obligations arising from that educational program. 1510

Sec. 4731.227. An individual authorized to practice 1511
medicine and surgery or osteopathic medicine and surgery may use 1512
alternative medical treatments if the individual has provided 1513
the information necessary to obtain informed consent from the 1514
patient and the treatment meets the standards enforced by the 1515
state medical board pursuant to section 4731.22 of the Revised 1516
Code and any rules adopted by the board. 1517

As used in this section, "alternative medical treatment" 1518
means care that is complementary to or different from 1519
conventional medical care but is reasonable when the benefits 1520
and risks of the alternative medical treatment and the 1521
conventional medical care are compared. "Alternative medical 1522
treatment" does not include treatment with an investigational 1523
drug, product, or device under section 4731.97 of the Revised 1524
Code. 1525

Sec. 4731.97. (A) As used in this section: 1526

(1) "Investigational drug, product, or device" means a 1527
drug, product, or device that has successfully completed phase 1528

one of United States food and drug administration clinical 1529
trials and remains under clinical investigation, but has not 1530
been approved for general use by the United States food and drug 1531
administration. "Investigational drug, product, or device" does 1532
not include controlled substances in schedule I, as established 1533
pursuant to section 3719.41 of the Revised Code, and as amended. 1534

(2) "Drug" has the same meaning as in section 4729.01 of 1535
the Revised Code. 1536

(3) "Product" means a biological product, other than a 1537
drug, that is made from a natural human, animal, or 1538
microorganism source and is intended to treat a disease or 1539
medical condition. 1540

(4) "Device" means a medical device that is intended for 1541
use in the diagnosis or treatment of a disease or medical 1542
condition. 1543

(5) "Physician" means an individual authorized by this 1544
chapter to practice medicine and surgery or osteopathic medicine 1545
and surgery. 1546

(6) "Terminal condition" means any of the following 1547
conditions, if irreversible, incurable, and untreatable through 1548
a method of treatment approved by the United States food and 1549
drug administration: 1550

(a) A progressive form of cancer; 1551

(b) A progressive neurological disorder; 1552

(c) A progressive musculoskeletal disorder; 1553

(d) A condition that, based on reasonable medical 1554
standards and a reasonable degree of medical certainty, appears 1555
likely to cause death within a period of time that is relatively 1556

short but does not exceed twelve months. 1557

(7) "Treating physician" means the physician primarily 1558
responsible for providing medical care and treating an eligible 1559
patient's terminal condition. "Treating physician" does not 1560
include the patient's primary care physician unless that 1561
physician is treating the patient's terminal condition and no 1562
other physician is primarily responsible for treating the 1563
terminal condition. The patient may have more than one treating 1564
physician. 1565

(B) (1) Subject to division (B) (2) of this section, an 1566
individual is an eligible patient if all of the following 1567
conditions are met: 1568

(a) The individual has a terminal condition, as determined 1569
by the individual's treating physician and by one other 1570
physician who has examined the individual. 1571

(b) The individual, as determined by the individual's 1572
treating physician, has considered all treatment options for the 1573
terminal condition that are approved by the United States food 1574
and drug administration and determined that there are no 1575
satisfactory or comparable approved treatments and that the risk 1576
from the investigational drug, product, or device is no greater 1577
than the probable risk from not treating the terminal condition. 1578

(c) The individual's treating physician recommends the use 1579
of the investigational drug, product, or device as a last option 1580
available for the individual, attests that it represents the 1581
individual's best chance at survival, and agrees to either 1582
administer or personally furnish it or has issued a prescription 1583
to the individual for the investigational drug, product, or 1584
device. 1585

(d) The treating physician includes documentation in the patient's medical record that all of the foregoing conditions have been met. 1586
1587
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(2) An individual who meets the requirements of division (B) (1) of this section is not an eligible patient if a clinical trial using the investigational drug, product, or device is actively being conducted within one hundred miles of the individual's residence, unless the individual applied for participation but was denied access to that clinical trial. 1589
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(C) (1) A treating physician may treat an eligible patient with an investigational drug, product, or device after securing the patient's informed consent in a signed statement. If the patient is a minor or lacks the capacity to consent, the informed consent must be obtained from a parent, guardian, or other person legally responsible for the patient. 1595
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(2) To secure informed consent, the treating physician must do all of the following: 1601
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(a) On a form based on the template created by the state medical board under division (I) of this section, record all of the following: 1603
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1605

(i) An explanation of the approved treatment options for the terminal condition from which the patient suffers; 1606
1607

(ii) The specific proposed investigational drug, product, or device; 1608
1609

(iii) The potentially best and worst outcomes of using the investigational drug, product, or device with a realistic description of the most likely outcome, including that there is no proof of efficacy and that it is possible new, unanticipated, different, or worse symptoms might result, and that death could 1610
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be hastened by the investigational drug, product, or device; 1615

(iv) An explanation that the manufacturer of the 1616
investigational drug, product, or device may hold the patient 1617
liable for all expenses that arise from the patient's use of the 1618
investigational drug, product, or device; 1619

(v) An explanation that any health insurance or government 1620
program that covers the individual may not include coverage of 1621
any charges by the treating physician or another health care 1622
provider for any care or treatment resulting from the patient's 1623
use of the investigational drug, product, or device; 1624

(vi) A statement explaining that the manufacturer of the 1625
investigational drug, product, or device, the pharmacy or other 1626
distributor of the drug, and the patient's treating physician or 1627
administering hospital are not liable for or subject to any of 1628
the following for an act or omission related to providing, 1629
distributing, or treating with, an investigational drug, 1630
product, or device, unless the act or omission constitutes 1631
willful or wanton misconduct: damages in any civil action, 1632
prosecution in any criminal proceeding, or professional 1633
disciplinary action. 1634

(b) Have the individual giving consent sign the form in 1635
the conscious presence of a competent witness; 1636

(c) Have the witness also sign the form and attest that 1637
the individual giving consent appeared to do all of the 1638
following: 1639

(i) Concur with the treating physician in believing that 1640
all approved treatment options would be unlikely to prolong the 1641
patient's life; 1642

(ii) Understand the risks involved with using the 1643

investigational drug, product, or device; 1644

(iii) Willingly desire to use the investigational drug, 1645
product, or device to treat the terminal condition. 1646

(3) An eligible patient, or the patient's parent, 1647
guardian, or other person legally responsible for the patient, 1648
may revoke consent to treatment with an investigational drug, 1649
product, or device at any time and in any manner that 1650
communicates the revocation. 1651

(D) (1) Except for actions constituting willful or wanton 1652
misconduct, a treating physician who recommends or treats an 1653
eligible patient with an investigational drug, product, or 1654
device in compliance with this section is not liable for or 1655
subject to any of the following for an action or omission 1656
related to treatment with the investigational drug, product, or 1657
device: damages in any civil action, prosecution in any criminal 1658
proceeding, or professional disciplinary action. 1659

(2) This section does not create a new cause of action or 1660
substantive legal right against a treating physician or hospital 1661
related to a physician's not recommending the use of an 1662
investigational drug, product, or device. 1663

(E) An official, employee, or agent of this state shall 1664
not, solely because an investigational drug, product, or device 1665
has not been approved for general use by the United States food 1666
and drug administration, prevent or attempt to prevent access by 1667
an eligible patient or eligible patient's treating physician to 1668
an investigational drug, product, or device that is being 1669
provided or is to be provided in accordance with this section or 1670
section 4729.89 of the Revised Code. 1671

(F) If an eligible patient dies while being treated with 1672

an investigational drug, product, or device and there are any 1673
outstanding costs related to treating the patient, the patient's 1674
estate, devisees, and heirs shall not be held liable by any 1675
person or government entity for those costs. 1676

(G) Nothing in this section requires a health care 1677
insurer, the medicaid program or any other government health 1678
care program, or any other entity that offers health care 1679
benefits to provide coverage for the costs incurred from the use 1680
of any investigational drug, product, or device. 1681

(H) Nothing in this section condones, authorizes, or 1682
approves of assisted suicide, as defined in section 3795.01 of 1683
the Revised Code, or any action that is considered mercy killing 1684
or euthanasia. 1685

(I) As soon as practicable after the effective date of 1686
this section, the state medical board shall create a template of 1687
the form to be used by a treating physician to secure a 1688
patient's informed consent under division (C) (2) of this section 1689
and make the template available to physicians and hospitals. 1690

Sec. 4745.04. (A) As used in this section: 1691

(1) "Indigent and uninsured person" and "volunteer" have 1692
the same meanings as in section 2305.234 of the Revised Code. 1693

(2) "Licensing agency that licenses health care 1694
professionals" means all of the following: 1695

(a) The state dental board established under Chapter 4715. 1696
of the Revised Code; 1697

(b) The board of nursing established under Chapter 4723. 1698
of the Revised Code; 1699

(c) The state board of optometry established under Chapter 1700

<u>4725. of the Revised Code;</u>	1701
<u>(d) The Ohio optical dispensers board established under Chapter 4725. of the Revised Code;</u>	1702 1703
<u>(e) The state board of pharmacy established under Chapter 4729. of the Revised Code;</u>	1704 1705
<u>(f) The state medical board established under Chapter 4731. of the Revised Code;</u>	1706 1707
<u>(g) The state board of psychology established under Chapter 4732. of the Revised Code;</u>	1708 1709
<u>(h) The state chiropractic board established under Chapter 4734. of the Revised Code;</u>	1710 1711
<u>(i) The hearing aid dealers and fitters licensing board established under Chapter 4747. of the Revised Code;</u>	1712 1713
<u>(j) The board of speech-language pathology and audiology established under Chapter 4753. of the Revised Code;</u>	1714 1715
<u>(k) The Ohio occupational therapy, physical therapy, and athletic trainers board established under Chapter 4755. of the Revised Code;</u>	1716 1717 1718
<u>(l) The counselor, social worker, and marriage and family therapist board established under Chapter 4757. of the Revised Code;</u>	1719 1720 1721
<u>(m) The chemical dependency professionals board established under Chapter 4758. of the Revised Code;</u>	1722 1723
<u>(n) The Ohio board of dietetics established under Chapter 4759. of the Revised Code;</u>	1724 1725
<u>(o) The Ohio respiratory care board established under Chapter 4761. of the Revised Code;</u>	1726 1727

(p) The state board of emergency medical services 1728
established under Chapter 4765. of the Revised Code; 1729

(q) The state board of orthotics, prosthetics, and 1730
pedorthics established under Chapter 4779. of the Revised Code; 1731

(r) Any other licensing agency that considers its 1732
licensees to be health care professionals. 1733

(B) Notwithstanding any provision of the Revised Code to 1734
the contrary, a licensing agency that licenses health care 1735
professionals shall apply toward the satisfaction of a portion 1736
of a licensee's continuing education requirement the provision 1737
of health care services if all of the following apply: 1738

(1) The licensing agency that licenses health care 1739
professionals requires a licensee to complete continuing 1740
education as a condition of having a license renewed by the 1741
agency. 1742

(2) The licensee provides the health care services to an 1743
indigent and uninsured person. 1744

(3) The licensee provides the health care services as a 1745
volunteer. 1746

(4) The licensee satisfies the requirements of section 1747
2305.234 of the Revised Code to qualify for the immunity from 1748
liability granted under that section. 1749

(5) The health care services provided are within the scope 1750
of authority of the licensee renewing the license. 1751

(C) A licensing agency that licenses health care 1752
professionals shall permit a licensee to satisfy up to one-third 1753
of the licensee's continuing education requirement by providing 1754
health care services as a volunteer. A licensing agency that 1755

licenses health care professionals shall permit a licensee to 1756
earn continuing education credits at the rate of one credit hour 1757
for each sixty minutes spent providing health care services as a 1758
volunteer. 1759

(D) A licensing agency that licenses health care 1760
professionals shall adopt rules as necessary to implement this 1761
section. The rules shall be adopted in accordance with Chapter 1762
119. of the Revised Code. 1763

(E) Continuing education credit received under this 1764
section for providing health care services is not compensation 1765
or any other form of remuneration for purposes of section 1766
2305.234 of the Revised Code and does not make the provider of 1767
those services ineligible for the immunity from liability 1768
granted under that section. 1769

Sec. 5155.01. (A) As used in this section, "appointing 1770
authority" has the same meaning as in section 124.01 of the 1771
Revised Code. 1772

(B) The board of county commissioners shall make all 1773
contracts for new buildings and for additions to existing 1774
buildings necessary for the county home, and . The board shall 1775
prescribe rules for the management and good government of the 1776
home. 1777

~~The~~ (C) (1) If the superintendent or administrator of the 1778
county home is a public employee, the superintendent or 1779
administrator is the county home's appointing authority and may 1780
employ an administrative assistant and additional necessary 1781
personnel, at rates of wages to be fixed by the board of county 1782
commissioners, as may not be found available on the part of the 1783
residents of the facility. ~~The~~ 1784

(2) If the superintendent or administrator is not a public employee, the board is the appointing authority for any public employees of the county home. The superintendent or administrator may make recommendations to the board regarding the employment or removal of any public employee of the county home. The board is not the appointing authority for a county home employee who is not a public employee. 1785
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(D) The superintendent or administrator and administrative assistant shall be removed if either of them requires or permits residents or employees to render services for the private interests of the superintendent or administrator, the administrative assistant, any member of the board of county commissioners, any private interest, or any member of the board of county hospital trustees if that board has entered into an agreement or otherwise has operational control as provided in section 5155.011 of the Revised Code. 1792
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Sec. 5155.012. A board of county commissioners may enter into a contract with a public or private entity to aid it—the board in the execution of its powers and duties for the management and good government of the county home. 1801
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Pursuant to such a contract, the board may authorize a public or private entity to select a superintendent or administrator for the county home. A superintendent or administrator may not be selected pursuant to a contract without the advice and consent of the board. An individual selected as a superintendent or administrator pursuant to a contract is not a public employee due to being selected to serve in that position or performing the duties of that position. 1805
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Sec. 5155.03. (A) The board of county commissioners or operator shall appoint—do either of the following: 1813
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~~(1) Appoint a superintendent, who may be authorized to use~~ 1815
~~the title "administrator," who~~ or administrator of the county 1816
home; 1817

(2) In accordance with section 5155.012 of the Revised 1818
Code, enter into a contract with a public or private entity that 1819
agrees to select a superintendent or administrator with the 1820
advice and consent of the board. 1821

(B) The superintendent or administrator may reside on the 1822
premises of the county home or another building contiguous to 1823
the county home, ~~and who shall receive the compensation the~~ 1824
~~board or operator determines.~~ The superintendent or 1825
administrator and any administrative assistant shall each be 1826
allowed actual necessary expenses incurred in the discharge of 1827
official duties. The superintendent or administrator shall 1828
perform the duties that the board or operator imposes and shall 1829
be governed in all respects by the board's or operator's rules. 1830
~~The~~ 1831

(C) A superintendent or administrator appointed under 1832
division (A) (1) of this section shall receive the compensation 1833
the board or operator determines and shall be in the 1834
unclassified civil service. 1835

~~The~~ (D) If the superintendent or administrator is a public 1836
employee, the board or operator may, by resolution, provide for 1837
the appointment by the superintendent or administrator of an 1838
assistant superintendent or administrator, who shall perform the 1839
duties at the county home prescribed by the superintendent or 1840
administrator. ~~The~~ Otherwise, the board or operator may appoint 1841
an assistant superintendent or administrator. 1842

(E) No member of the board or operator shall ~~not appoint~~ 1843

~~one of its own board members serve as~~ superintendent or 1844
administrator, nor shall any commissioner or trustee be eligible 1845
to any other office in the county home, or receive any 1846
compensation as physician or otherwise, directly or indirectly, 1847
wherein the appointing power is vested in the board of county 1848
commissioners or board of county hospital trustees, as 1849
applicable. 1850

Section 2. That existing sections 3721.10, 4729.01, 1851
4729.291, 4729.51, 4729.57, 4731.22, 4731.227, 5155.01, 1852
5155.012, and 5155.03 of the Revised Code are hereby repealed. 1853