

**As Passed by the Senate**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 303**

**Senators Huffman, S., Manning**

**Cosponsors: Senators Hoagland, Lehner, Schaffer, Brenner, Hackett, Antonio, Coley, Craig, Dolan, Eklund, Fedor, Gavarone, Huffman, M., Kunze, Maharath, McColley, Obhof, O'Brien, Peterson, Roegner, Rulli, Schuring, Sykes, Thomas, Wilson, Yuko**

---

**A BILL**

To amend sections 1751.91, 3923.89, 4723.28, 1  
4729.01, 4729.39, 4730.25, and 5164.14 of the 2  
Revised Code regarding pharmacist consult 3  
agreements. 4

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

**Section 1.** That sections 1751.91, 3923.89, 4723.28, 5  
4729.01, 4729.39, 4730.25, and 5164.14 of the Revised Code be 6  
amended to read as follows: 7

**Sec. 1751.91.** A health insuring corporation may provide 8  
payment or reimbursement to a pharmacist for providing a health 9  
care service to a patient if both of the following are the case: 10

(A) The pharmacist provided the health care service to the 11  
patient in accordance with Chapter 4729. of the Revised Code, 12  
including any of the following services: 13

(1) Managing drug therapy under a consult agreement ~~with a~~ 14  
~~physician~~ pursuant to section 4729.39 of the Revised Code; 15

(2) Administering immunizations in accordance with section 16  
4729.41 of the Revised Code; 17

(3) Administering drugs in accordance with section 4729.45 18  
of the Revised Code. 19

(B) The patient's individual or group health insuring 20  
corporation policy, contract, or agreement provides for payment 21  
or reimbursement of the service. 22

**Sec. 3923.89.** A sickness and accident insurer or public 23  
employee benefit plan may provide payment or reimbursement to a 24  
pharmacist for providing a health care service to a patient if 25  
both of the following are the case: 26

(A) The pharmacist provided the health care service to the 27  
patient in accordance with Chapter 4729. of the Revised Code, 28  
including any of the following services: 29

(1) Managing drug therapy under a consult agreement ~~with a~~ 30  
~~physician~~ pursuant to section 4729.39 of the Revised Code; 31

(2) Administering immunizations in accordance with section 32  
4729.41 of the Revised Code; 33

(3) Administering drugs in accordance with section 4729.45 34  
of the Revised Code. 35

(B) The patient's individual or group policy of sickness 36  
and accident insurance or public employee benefit plan provides 37  
for payment or reimbursement of the service. 38

**Sec. 4723.28.** (A) The board of nursing, by a vote of a 39  
quorum, may impose one or more of the following sanctions if it 40  
finds that a person committed fraud in passing an examination 41  
required to obtain a license or dialysis technician certificate 42  
issued by the board or to have committed fraud, 43

misrepresentation, or deception in applying for or securing any 44  
nursing license or dialysis technician certificate issued by the 45  
board: deny, revoke, suspend, or place restrictions on any 46  
nursing license or dialysis technician certificate issued by the 47  
board; reprimand or otherwise discipline a holder of a nursing 48  
license or dialysis technician certificate; or impose a fine of 49  
not more than five hundred dollars per violation. 50

(B) The board of nursing, by a vote of a quorum, may 51  
impose one or more of the following sanctions: deny, revoke, 52  
suspend, or place restrictions on any nursing license or 53  
dialysis technician certificate issued by the board; reprimand 54  
or otherwise discipline a holder of a nursing license or 55  
dialysis technician certificate; or impose a fine of not more 56  
than five hundred dollars per violation. The sanctions may be 57  
imposed for any of the following: 58

(1) Denial, revocation, suspension, or restriction of 59  
authority to engage in a licensed profession or practice a 60  
health care occupation, including nursing or practice as a 61  
dialysis technician, for any reason other than a failure to 62  
renew, in Ohio or another state or jurisdiction; 63

(2) Engaging in the practice of nursing or engaging in 64  
practice as a dialysis technician, having failed to renew a 65  
nursing license or dialysis technician certificate issued under 66  
this chapter, or while a nursing license or dialysis technician 67  
certificate is under suspension; 68

(3) Conviction of, a plea of guilty to, a judicial finding 69  
of guilt of, a judicial finding of guilt resulting from a plea 70  
of no contest to, or a judicial finding of eligibility for a 71  
pretrial diversion or similar program or for intervention in 72  
lieu of conviction for, a misdemeanor committed in the course of 73

practice;	74
(4) Conviction of, a plea of guilty to, a judicial finding	75
of guilt of, a judicial finding of guilt resulting from a plea	76
of no contest to, or a judicial finding of eligibility for a	77
pretrial diversion or similar program or for intervention in	78
lieu of conviction for, any felony or of any crime involving	79
gross immorality or moral turpitude;	80
(5) Selling, giving away, or administering drugs or	81
therapeutic devices for other than legal and legitimate	82
therapeutic purposes; or conviction of, a plea of guilty to, a	83
judicial finding of guilt of, a judicial finding of guilt	84
resulting from a plea of no contest to, or a judicial finding of	85
eligibility for a pretrial diversion or similar program or for	86
intervention in lieu of conviction for, violating any municipal,	87
state, county, or federal drug law;	88
(6) Conviction of, a plea of guilty to, a judicial finding	89
of guilt of, a judicial finding of guilt resulting from a plea	90
of no contest to, or a judicial finding of eligibility for a	91
pretrial diversion or similar program or for intervention in	92
lieu of conviction for, an act in another jurisdiction that	93
would constitute a felony or a crime of moral turpitude in Ohio;	94
(7) Conviction of, a plea of guilty to, a judicial finding	95
of guilt of, a judicial finding of guilt resulting from a plea	96
of no contest to, or a judicial finding of eligibility for a	97
pretrial diversion or similar program or for intervention in	98
lieu of conviction for, an act in the course of practice in	99
another jurisdiction that would constitute a misdemeanor in	100
Ohio;	101
(8) Self-administering or otherwise taking into the body	102

any dangerous drug, as defined in section 4729.01 of the Revised Code, in any way that is not in accordance with a legal, valid prescription issued for that individual, or self-administering or otherwise taking into the body any drug that is a schedule I controlled substance;

(9) Habitual or excessive use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs the individual's ability to provide safe nursing care or safe dialysis care;

(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of the use of drugs, alcohol, or other chemical substances;

(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of a physical or mental disability;

(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;

(13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the United States department of defense or department of veterans affairs for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;	132 133
(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;	134 135
(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;	136 137 138
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	139 140
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	141 142 143
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	144 145 146
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	147 148 149
(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	150 151 152
(24) In the case of an advanced practice registered nurse, except as provided in division (M) of this section, either of the following:	153 154 155
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is	156 157 158 159

used as an enticement to a patient or group of patients to	160
receive health care services from that provider;	161
(b) Advertising that the nurse will waive the payment of	162
all or any part of a deductible or copayment that a patient,	163
pursuant to a health insurance or health care policy, contract,	164
or plan that covers such nursing services, would otherwise be	165
required to pay.	166
(25) Failure to comply with the terms and conditions of	167
participation in the substance use disorder monitoring program	168
established under section 4723.35 of the Revised Code;	169
(26) Failure to comply with the terms and conditions	170
required under the practice intervention and improvement program	171
established under section 4723.282 of the Revised Code;	172
(27) In the case of an advanced practice registered nurse:	173
(a) Engaging in activities that exceed those permitted for	174
the nurse's nursing specialty under section 4723.43 of the	175
Revised Code;	176
(b) Failure to meet the quality assurance standards	177
established under section 4723.07 of the Revised Code.	178
(28) In the case of an advanced practice registered nurse	179
other than a certified registered nurse anesthetist, failure to	180
maintain a standard care arrangement in accordance with section	181
4723.431 of the Revised Code or to practice in accordance with	182
the standard care arrangement;	183
(29) In the case of an advanced practice registered nurse	184
who is designated as a clinical nurse specialist, certified	185
nurse-midwife, or certified nurse practitioner, failure to	186
prescribe drugs and therapeutic devices in accordance with	187

section 4723.481 of the Revised Code;	188
(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	189 190
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	191 192 193
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	194 195 196 197
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	198 199
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	200 201 202
(33) Assisting suicide, as defined in section 3795.01 of the Revised Code;	203 204
(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	205 206 207 208
(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	209 210 211 212
(36) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the	213 214 215



termination or suspension of a certificate of registration to 216  
prescribe drugs by the drug enforcement administration of the 217  
United States department of justice; 218

(37) In the case of an advanced practice registered nurse 219  
who is designated as a clinical nurse specialist, certified 220  
nurse-midwife, or certified nurse practitioner, failure to 221  
comply with the terms of a consult agreement entered into with a 222  
pharmacist pursuant to section 4729.39 of the Revised Code. 223

(C) Disciplinary actions taken by the board under 224  
divisions (A) and (B) of this section shall be taken pursuant to 225  
an adjudication conducted under Chapter 119. of the Revised 226  
Code, except that in lieu of a hearing, the board may enter into 227  
a consent agreement with an individual to resolve an allegation 228  
of a violation of this chapter or any rule adopted under it. A 229  
consent agreement, when ratified by a vote of a quorum, shall 230  
constitute the findings and order of the board with respect to 231  
the matter addressed in the agreement. If the board refuses to 232  
ratify a consent agreement, the admissions and findings 233  
contained in the agreement shall be of no effect. 234

(D) The hearings of the board shall be conducted in 235  
accordance with Chapter 119. of the Revised Code, the board may 236  
appoint a hearing examiner, as provided in section 119.09 of the 237  
Revised Code, to conduct any hearing the board is authorized to 238  
hold under Chapter 119. of the Revised Code. 239

In any instance in which the board is required under 240  
Chapter 119. of the Revised Code to give notice of an 241  
opportunity for a hearing and the applicant, licensee, or 242  
certificate holder does not make a timely request for a hearing 243  
in accordance with section 119.07 of the Revised Code, the board 244  
is not required to hold a hearing, but may adopt, by a vote of a 245

quorum, a final order that contains the board's findings. In the 246  
final order, the board may order any of the sanctions listed in 247  
division (A) or (B) of this section. 248

(E) If a criminal action is brought against a registered 249  
nurse, licensed practical nurse, or dialysis technician for an 250  
act or crime described in divisions (B) (3) to (7) of this 251  
section and the action is dismissed by the trial court other 252  
than on the merits, the board shall conduct an adjudication to 253  
determine whether the registered nurse, licensed practical 254  
nurse, or dialysis technician committed the act on which the 255  
action was based. If the board determines on the basis of the 256  
adjudication that the registered nurse, licensed practical 257  
nurse, or dialysis technician committed the act, or if the 258  
registered nurse, licensed practical nurse, or dialysis 259  
technician fails to participate in the adjudication, the board 260  
may take action as though the registered nurse, licensed 261  
practical nurse, or dialysis technician had been convicted of 262  
the act. 263

If the board takes action on the basis of a conviction, 264  
plea, or a judicial finding as described in divisions (B) (3) to 265  
(7) of this section that is overturned on appeal, the registered 266  
nurse, licensed practical nurse, or dialysis technician may, on 267  
exhaustion of the appeal process, petition the board for 268  
reconsideration of its action. On receipt of the petition and 269  
supporting court documents, the board shall temporarily rescind 270  
its action. If the board determines that the decision on appeal 271  
was a decision on the merits, it shall permanently rescind its 272  
action. If the board determines that the decision on appeal was 273  
not a decision on the merits, it shall conduct an adjudication 274  
to determine whether the registered nurse, licensed practical 275  
nurse, or dialysis technician committed the act on which the 276

original conviction, plea, or judicial finding was based. If the 277  
board determines on the basis of the adjudication that the 278  
registered nurse, licensed practical nurse, or dialysis 279  
technician committed such act, or if the registered nurse, 280  
licensed practical nurse, or dialysis technician does not 281  
request an adjudication, the board shall reinstate its action; 282  
otherwise, the board shall permanently rescind its action. 283

Notwithstanding the provision of division (C) (2) of 284  
section 2953.32 of the Revised Code specifying that if records 285  
pertaining to a criminal case are sealed under that section the 286  
proceedings in the case shall be deemed not to have occurred, 287  
sealing of the following records on which the board has based an 288  
action under this section shall have no effect on the board's 289  
action or any sanction imposed by the board under this section: 290  
records of any conviction, guilty plea, judicial finding of 291  
guilt resulting from a plea of no contest, or a judicial finding 292  
of eligibility for a pretrial diversion program or intervention 293  
in lieu of conviction. 294

The board shall not be required to seal, destroy, redact, 295  
or otherwise modify its records to reflect the court's sealing 296  
of conviction records. 297

(F) The board may investigate an individual's criminal 298  
background in performing its duties under this section. As part 299  
of such investigation, the board may order the individual to 300  
submit, at the individual's expense, a request to the bureau of 301  
criminal identification and investigation for a criminal records 302  
check and check of federal bureau of investigation records in 303  
accordance with the procedure described in section 4723.091 of 304  
the Revised Code. 305

(G) During the course of an investigation conducted under 306

this section, the board may compel any registered nurse, 307  
licensed practical nurse, or dialysis technician or applicant 308  
under this chapter to submit to a mental or physical 309  
examination, or both, as required by the board and at the 310  
expense of the individual, if the board finds reason to believe 311  
that the individual under investigation may have a physical or 312  
mental impairment that may affect the individual's ability to 313  
provide safe nursing care. Failure of any individual to submit 314  
to a mental or physical examination when directed constitutes an 315  
admission of the allegations, unless the failure is due to 316  
circumstances beyond the individual's control, and a default and 317  
final order may be entered without the taking of testimony or 318  
presentation of evidence. 319

If the board finds that an individual is impaired, the 320  
board shall require the individual to submit to care, 321  
counseling, or treatment approved or designated by the board, as 322  
a condition for initial, continued, reinstated, or renewed 323  
authority to practice. The individual shall be afforded an 324  
opportunity to demonstrate to the board that the individual can 325  
begin or resume the individual's occupation in compliance with 326  
acceptable and prevailing standards of care under the provisions 327  
of the individual's authority to practice. 328

For purposes of this division, any registered nurse, 329  
licensed practical nurse, or dialysis technician or applicant 330  
under this chapter shall be deemed to have given consent to 331  
submit to a mental or physical examination when directed to do 332  
so in writing by the board, and to have waived all objections to 333  
the admissibility of testimony or examination reports that 334  
constitute a privileged communication. 335

(H) The board shall investigate evidence that appears to 336

show that any person has violated any provision of this chapter 337  
or any rule of the board. Any person may report to the board any 338  
information the person may have that appears to show a violation 339  
of any provision of this chapter or rule of the board. In the 340  
absence of bad faith, any person who reports such information or 341  
who testifies before the board in any adjudication conducted 342  
under Chapter 119. of the Revised Code shall not be liable for 343  
civil damages as a result of the report or testimony. 344

(I) All of the following apply under this chapter with 345  
respect to the confidentiality of information: 346

(1) Information received by the board pursuant to a 347  
complaint or an investigation is confidential and not subject to 348  
discovery in any civil action, except that the board may 349  
disclose information to law enforcement officers and government 350  
entities for purposes of an investigation of either a licensed 351  
health care professional, including a registered nurse, licensed 352  
practical nurse, or dialysis technician, or a person who may 353  
have engaged in the unauthorized practice of nursing or dialysis 354  
care. No law enforcement officer or government entity with 355  
knowledge of any information disclosed by the board pursuant to 356  
this division shall divulge the information to any other person 357  
or government entity except for the purpose of a government 358  
investigation, a prosecution, or an adjudication by a court or 359  
government entity. 360

(2) If an investigation requires a review of patient 361  
records, the investigation and proceeding shall be conducted in 362  
such a manner as to protect patient confidentiality. 363

(3) All adjudications and investigations of the board 364  
shall be considered civil actions for the purposes of section 365  
2305.252 of the Revised Code. 366

(4) Any board activity that involves continued monitoring 367  
of an individual as part of or following any disciplinary action 368  
taken under this section shall be conducted in a manner that 369  
maintains the individual's confidentiality. Information received 370  
or maintained by the board with respect to the board's 371  
monitoring activities is not subject to discovery in any civil 372  
action and is confidential, except that the board may disclose 373  
information to law enforcement officers and government entities 374  
for purposes of an investigation of a licensee or certificate 375  
holder. 376

(J) Any action taken by the board under this section 377  
resulting in a suspension from practice shall be accompanied by 378  
a written statement of the conditions under which the person may 379  
be reinstated to practice. 380

(K) When the board refuses to grant a license or 381  
certificate to an applicant, revokes a license or certificate, 382  
or refuses to reinstate a license or certificate, the board may 383  
specify that its action is permanent. An individual subject to 384  
permanent action taken by the board is forever ineligible to 385  
hold a license or certificate of the type that was refused or 386  
revoked and the board shall not accept from the individual an 387  
application for reinstatement of the license or certificate or 388  
for a new license or certificate. 389

(L) No unilateral surrender of a nursing license or 390  
dialysis technician certificate issued under this chapter shall 391  
be effective unless accepted by majority vote of the board. No 392  
application for a nursing license or dialysis technician 393  
certificate issued under this chapter may be withdrawn without a 394  
majority vote of the board. The board's jurisdiction to take 395  
disciplinary action under this section is not removed or limited 396

when an individual has a license or certificate classified as 397  
inactive or fails to renew a license or certificate. 398

(M) Sanctions shall not be imposed under division (B) (24) 399  
of this section against any licensee who waives deductibles and 400  
copayments as follows: 401

(1) In compliance with the health benefit plan that 402  
expressly allows such a practice. Waiver of the deductibles or 403  
copayments shall be made only with the full knowledge and 404  
consent of the plan purchaser, payer, and third-party 405  
administrator. Documentation of the consent shall be made 406  
available to the board upon request. 407

(2) For professional services rendered to any other person 408  
licensed pursuant to this chapter to the extent allowed by this 409  
chapter and the rules of the board. 410

**Sec. 4729.01.** As used in this chapter: 411

(A) "Pharmacy," except when used in a context that refers 412  
to the practice of pharmacy, means any area, room, rooms, place 413  
of business, department, or portion of any of the foregoing 414  
where the practice of pharmacy is conducted. 415

(B) "Practice of pharmacy" means providing pharmacist care 416  
requiring specialized knowledge, judgment, and skill derived 417  
from the principles of biological, chemical, behavioral, social, 418  
pharmaceutical, and clinical sciences. As used in this division, 419  
"pharmacist care" includes the following: 420

(1) Interpreting prescriptions; 421

(2) Dispensing drugs and drug therapy related devices; 422

(3) Compounding drugs; 423

(4) Counseling individuals with regard to their drug therapy, recommending drug therapy related devices, and assisting in the selection of drugs and appliances for treatment of common diseases and injuries and providing instruction in the proper use of the drugs and appliances;	424 425 426 427 428
(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;	429 430 431
(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;	432 433 434 435 436
(7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;	437 438 439
(8) Acting pursuant to a consult agreement <del>with one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery,</del> if an agreement has been established;	440 441 442 443
(9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code;	444 445
(10) Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code.	446 447
(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:	448 449 450
(1) Pursuant to a prescription issued by a licensed health	451



professional authorized to prescribe drugs;	452
(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;	453 454
(3) As an incident to research, teaching activities, or chemical analysis;	455 456
(4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns;	457 458 459
(5) Pursuant to a request made by a licensed health professional authorized to prescribe drugs for a drug that is to be used by the professional for the purpose of direct administration to patients in the course of the professional's practice, if all of the following apply:	460 461 462 463 464
(a) At the time the request is made, the drug is not commercially available regardless of the reason that the drug is not available, including the absence of a manufacturer for the drug or the lack of a readily available supply of the drug from a manufacturer.	465 466 467 468 469
(b) A limited quantity of the drug is compounded and provided to the professional.	470 471
(c) The drug is compounded and provided to the professional as an occasional exception to the normal practice of dispensing drugs pursuant to patient-specific prescriptions.	472 473 474
(D) "Consult agreement" means an agreement that has been entered into under section 4729.39 of the Revised Code.	475 476
(E) "Drug" means:	477
(1) Any article recognized in the United States	478

pharmacopoeia and national formulary, or any supplement to them, 479  
intended for use in the diagnosis, cure, mitigation, treatment, 480  
or prevention of disease in humans or animals; 481

(2) Any other article intended for use in the diagnosis, 482  
cure, mitigation, treatment, or prevention of disease in humans 483  
or animals; 484

(3) Any article, other than food, intended to affect the 485  
structure or any function of the body of humans or animals; 486

(4) Any article intended for use as a component of any 487  
article specified in division (E) (1), (2), or (3) of this 488  
section; but does not include devices or their components, 489  
parts, or accessories. 490

"Drug" does not include "hemp" or a "hemp product" as 491  
those terms are defined in section 928.01 of the Revised Code. 492

(F) "Dangerous drug" means any of the following: 493

(1) Any drug to which either of the following applies: 494

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 495  
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is 496  
required to bear a label containing the legend "Caution: Federal 497  
law prohibits dispensing without prescription" or "Caution: 498  
Federal law restricts this drug to use by or on the order of a 499  
licensed veterinarian" or any similar restrictive statement, or 500  
the drug may be dispensed only upon a prescription; 501

(b) Under Chapter 3715. or 3719. of the Revised Code, the 502  
drug may be dispensed only upon a prescription. 503

(2) Any drug that contains a schedule V controlled 504  
substance and that is exempt from Chapter 3719. of the Revised 505  
Code or to which that chapter does not apply; 506

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body; 507  
508  
509

(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code. 510  
511

(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code. 512  
513

(H) "Prescription" means all of the following: 514

(1) A written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs; 515  
516  
517  
518

(2) For purposes of sections 2925.61, 4723.488, 4730.431, and 4731.94 of the Revised Code, a written, electronic, or oral order for naloxone issued to and in the name of a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose. 519  
520  
521  
522  
523  
524

(3) For purposes of section 4729.44 of the Revised Code, a written, electronic, or oral order for naloxone issued to and in the name of either of the following: 525  
526  
527

(a) An individual who there is reason to believe is at risk of experiencing an opioid-related overdose; 528  
529

(b) A family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose. 530  
531  
532

(4) For purposes of sections 4723.4810, 4729.282, 4730.432, and 4731.93 of the Revised Code, a written, 533  
534

electronic, or oral order for a drug to treat chlamydia, 535  
gonorrhoea, or trichomoniasis issued to and in the name of a 536  
patient who is not the intended user of the drug but is the 537  
sexual partner of the intended user; 538

(5) For purposes of sections 3313.7110, 3313.7111, 539  
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 540  
4731.96, and 5101.76 of the Revised Code, a written, electronic, 541  
or oral order for an epinephrine autoinjector issued to and in 542  
the name of a school, school district, or camp; 543

(6) For purposes of Chapter 3728. and sections 4723.483, 544  
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 545  
electronic, or oral order for an epinephrine autoinjector issued 546  
to and in the name of a qualified entity, as defined in section 547  
3728.01 of the Revised Code. 548

(I) "Licensed health professional authorized to prescribe 549  
drugs" or "prescriber" means an individual who is authorized by 550  
law to prescribe drugs or dangerous drugs or drug therapy 551  
related devices in the course of the individual's professional 552  
practice, including only the following: 553

(1) A dentist licensed under Chapter 4715. of the Revised 554  
Code; 555

(2) A clinical nurse specialist, certified nurse-midwife, 556  
or certified nurse practitioner who holds a current, valid 557  
license to practice nursing as an advanced practice registered 558  
nurse issued under Chapter 4723. of the Revised Code; 559

(3) An optometrist licensed under Chapter 4725. of the 560  
Revised Code to practice optometry under a therapeutic 561  
pharmaceutical agents certificate; 562

(4) A physician authorized under Chapter 4731. of the 563

Revised Code to practice medicine and surgery, osteopathic	564
medicine and surgery, or podiatric medicine and surgery;	565
(5) A physician assistant who holds a license to practice	566
as a physician assistant issued under Chapter 4730. of the	567
Revised Code, holds a valid prescriber number issued by the	568
state medical board, and has been granted physician-delegated	569
prescriptive authority;	570
(6) A veterinarian licensed under Chapter 4741. of the	571
Revised Code.	572
(J) "Sale" or "sell" includes any transaction made by any	573
person, whether as principal proprietor, agent, or employee, to	574
do or offer to do any of the following: deliver, distribute,	575
broker, exchange, gift or otherwise give away, or transfer,	576
whether the transfer is by passage of title, physical movement,	577
or both.	578
(K) "Wholesale sale" and "sale at wholesale" mean any sale	579
in which the purpose of the purchaser is to resell the article	580
purchased or received by the purchaser.	581
(L) "Retail sale" and "sale at retail" mean any sale other	582
than a wholesale sale or sale at wholesale.	583
(M) "Retail seller" means any person that sells any	584
dangerous drug to consumers without assuming control over and	585
responsibility for its administration. Mere advice or	586
instructions regarding administration do not constitute control	587
or establish responsibility.	588
(N) "Price information" means the price charged for a	589
prescription for a particular drug product and, in an easily	590
understandable manner, all of the following:	591

(1) The proprietary name of the drug product;	592
(2) The established (generic) name of the drug product;	593
(3) The strength of the drug product if the product	594
contains a single active ingredient or if the drug product	595
contains more than one active ingredient and a relevant strength	596
can be associated with the product without indicating each	597
active ingredient. The established name and quantity of each	598
active ingredient are required if such a relevant strength	599
cannot be so associated with a drug product containing more than	600
one ingredient.	601
(4) The dosage form;	602
(5) The price charged for a specific quantity of the drug	603
product. The stated price shall include all charges to the	604
consumer, including, but not limited to, the cost of the drug	605
product, professional fees, handling fees, if any, and a	606
statement identifying professional services routinely furnished	607
by the pharmacy. Any mailing fees and delivery fees may be	608
stated separately without repetition. The information shall not	609
be false or misleading.	610
(O) "Wholesale distributor of dangerous drugs" or	611
"wholesale distributor" means a person engaged in the sale of	612
dangerous drugs at wholesale and includes any agent or employee	613
of such a person authorized by the person to engage in the sale	614
of dangerous drugs at wholesale.	615
(P) "Manufacturer of dangerous drugs" or "manufacturer"	616
means a person, other than a pharmacist or prescriber, who	617
manufactures dangerous drugs and who is engaged in the sale of	618
those dangerous drugs.	619
(Q) "Terminal distributor of dangerous drugs" or "terminal	620

distributor" means a person who is engaged in the sale of 621  
dangerous drugs at retail, or any person, other than a 622  
manufacturer, repackager, outsourcing facility, third-party 623  
logistics provider, wholesale distributor, or pharmacist, who 624  
has possession, custody, or control of dangerous drugs for any 625  
purpose other than for that person's own use and consumption. 626  
"Terminal distributor" includes pharmacies, hospitals, nursing 627  
homes, and laboratories and all other persons who procure 628  
dangerous drugs for sale or other distribution by or under the 629  
supervision of a pharmacist, licensed health professional 630  
authorized to prescribe drugs, or other person authorized by the 631  
state board of pharmacy. 632

(R) "Promote to the public" means disseminating a 633  
representation to the public in any manner or by any means, 634  
other than by labeling, for the purpose of inducing, or that is 635  
likely to induce, directly or indirectly, the purchase of a 636  
dangerous drug at retail. 637

(S) "Person" includes any individual, partnership, 638  
association, limited liability company, or corporation, the 639  
state, any political subdivision of the state, and any district, 640  
department, or agency of the state or its political 641  
subdivisions. 642

(T) "Animal shelter" means a facility operated by a humane 643  
society or any society organized under Chapter 1717. of the 644  
Revised Code or a dog pound operated pursuant to Chapter 955. of 645  
the Revised Code. 646

(U) "Food" has the same meaning as in section 3715.01 of 647  
the Revised Code. 648

(V) "Pain management clinic" has the same meaning as in 649

section 4731.054 of the Revised Code. 650

(W) "Investigational drug or product" means a drug or 651  
product that has successfully completed phase one of the United 652  
States food and drug administration clinical trials and remains 653  
under clinical trial, but has not been approved for general use 654  
by the United States food and drug administration. 655  
"Investigational drug or product" does not include controlled 656  
substances in schedule I, as defined in section 3719.01 of the 657  
Revised Code. 658

(X) "Product," when used in reference to an 659  
investigational drug or product, means a biological product, 660  
other than a drug, that is made from a natural human, animal, or 661  
microorganism source and is intended to treat a disease or 662  
medical condition. 663

(Y) "Third-party logistics provider" means a person that 664  
provides or coordinates warehousing or other logistics services 665  
pertaining to dangerous drugs including distribution, on behalf 666  
of a manufacturer, wholesale distributor, or terminal 667  
distributor of dangerous drugs, but does not take ownership of 668  
the drugs or have responsibility to direct the sale or 669  
disposition of the drugs. 670

(Z) "Repackager of dangerous drugs" or "repackager" means 671  
a person that repacks and relabels dangerous drugs for sale or 672  
distribution. 673

(AA) "Outsourcing facility" means a facility that is 674  
engaged in the compounding and sale of sterile drugs and is 675  
registered as an outsourcing facility with the United States 676  
food and drug administration. 677

(BB) "Laboratory" means a laboratory licensed under this 678



chapter as a terminal distributor of dangerous drugs and 679  
entrusted to have custody of any of the following drugs and to 680  
use the drugs for scientific and clinical purposes and for 681  
purposes of instruction: dangerous drugs that are not controlled 682  
substances, as defined in section 3719.01 of the Revised Code; 683  
dangerous drugs that are controlled substances, as defined in 684  
that section; and controlled substances in schedule I, as 685  
defined in that section. 686

**Sec. 4729.39.** (A) One—As used in this section: 687

(1) "Certified nurse practitioner," "certified nurse- 688  
midwife," "clinical nurse specialist," and "standard care 689  
arrangement" have the same meanings as in section 4723.01 of the 690  
Revised Code. 691

(2) "Collaborating physician" means a physician who has 692  
entered into a standard care arrangement with a clinical nurse 693  
specialist, certified nurse-midwife, or certified nurse 694  
practitioner. 695

(3) "Physician" means an individual authorized under 696  
Chapter 4731. of the Revised Code to practice medicine and 697  
surgery or osteopathic medicine and surgery. 698

(4) "Physician assistant" means an individual who is 699  
licensed to practice as a physician assistant under Chapter 700  
4730. of the Revised Code, holds a valid prescriber number 701  
issued by the state medical board, and has been granted 702  
physician-delegated prescriptive authority. 703

(5) "Supervising physician" means a physician who has 704  
entered into a supervision agreement with a physician assistant 705  
under section 4730.19 of the Revised Code. 706

(B) Subject to division (C) of this section, one or more 707

pharmacists may enter into a consult agreement with one or more 708  
~~physicians authorized under Chapter 4731. of the Revised Code to~~ 709  
~~practice medicine and surgery or osteopathic medicine and~~ 710  
~~surgery if of the following practitioners:~~ 711

(1) Physicians; 712

(2) Physician assistants, if entering into a consult 713  
agreement is authorized by one or more supervising physicians; 714

(3) Clinical nurse specialists, certified nurse-midwives, 715  
or certified nurse practitioners, if entering into a consult 716  
agreement is authorized by one or more collaborating physicians. 717

(C) Before entering into a consult agreement, all of the 718  
following conditions ~~are~~must be met: 719

(1) Each ~~physician has~~practitioner must have an ongoing 720  
~~physician-patient-practitioner-patient~~ relationship with each 721  
patient whose drug therapy is ~~being~~to be managed. 722

(2) The diagnosis for which each patient has been 723  
prescribed drug therapy ~~is~~must be within the scope of each 724  
~~physician's~~practitioner's practice. 725

(3) Each pharmacist ~~has~~must have training and experience 726  
related to the particular diagnosis for which drug therapy is to 727  
be prescribed. 728

~~(B)~~(D) With respect to consult agreements, all of the 729  
following apply: 730

(1) Under a consult agreement, a pharmacist is authorized 731  
to do both of the following, but only to the extent specified in 732  
the agreement, this section, and the rules adopted under this 733  
section: 734

(a) Manage drug therapy for treatment of specified	735
diagnoses or diseases for each patient who is subject to the	736
agreement, including all of the following:	737
(i) Changing the duration of treatment for the current	738
drug therapy;	739
(ii) Adjusting a drug's strength, dose, dosage form,	740
frequency of administration, or route of administration;	741
(iii) Discontinuing the use of a drug;	742
(iv) Administering a drug;	743
(v) Notwithstanding the definition of "licensed health	744
professional authorized to prescribe drugs" in section 4729.01	745
of the Revised Code, adding a drug to the patient's drug	746
therapy.	747
(b) (i) Order <u>laboratory and diagnostic tests, including</u>	748
<u>blood and urine tests and evaluate results, that are related to</u>	749
<u>the drug therapy being managed, and evaluate the results of the</u>	750
<u>tests that are ordered.</u>	751
(ii) A pharmacist's authority to evaluate <del>blood and urine</del>	752
<del>tests test results</del> under division <del>(B) (1) (b) (i)</del> <u>(D) (1) (b) (i)</u> of	753
this section does not authorize the pharmacist to make a	754
diagnosis.	755
(2) (a) A consult agreement, or the portion of the	756
agreement that applies to a particular patient, may be	757
terminated by any of the following:	758
(i) A pharmacist who entered into the agreement;	759
(ii) A <del>physician-practitioner</del> who entered into the	760
agreement;	761

- (iii) A patient whose drug therapy is being managed; 762
- (iv) An individual who consented to the treatment on 763  
behalf of a patient or an individual authorized to act on behalf 764  
of a patient. 765
- (b) The pharmacist or ~~physician-practitioner~~ who receives 766  
the notice of a patient's termination of the agreement shall 767  
provide written notice to every other pharmacist or ~~physician-~~ 768  
~~practitioner~~ who is a party to the agreement. A pharmacist or 769  
~~physician-practitioner~~ who terminates a consult agreement with 770  
regard to one or more patients shall provide written notice to 771  
all other pharmacists and ~~physicians-practitioners~~ who entered 772  
into the agreement and to each individual who consented to 773  
treatment under the agreement. The termination of a consult 774  
agreement with regard to one or more patients shall be recorded 775  
by the pharmacist and ~~physician-practitioner~~ in the medical 776  
records of each patient to whom the termination applies. 777
- (3) A consult agreement shall be made in writing and shall 778  
include all of the following: 779
- (a) The diagnoses and diseases being managed under the 780  
agreement, including whether each disease is primary or 781  
comorbid; 782
- (b) A description of the drugs or drug categories the 783  
agreement involves; 784
- (c) A description of the procedures, decision criteria, 785  
and plan the pharmacist is to follow in acting under a consult 786  
agreement; 787
- (d) A description of how the pharmacist is to comply with 788  
divisions ~~(B) (5)~~ (D) (5) and (6) of this section. 789

(4) The content of a consult agreement shall be 790  
communicated to each patient whose drug therapy is managed under 791  
the agreement. 792

(5) A pharmacist acting under a consult agreement shall 793  
maintain a record of each action taken for each patient whose 794  
drug therapy is managed under the agreement. 795

(6) Communication between a pharmacist and ~~physician-~~ 796  
practitioner acting under a consult agreement shall take place 797  
at regular intervals specified by the primary ~~physician-~~ 798  
practitioner acting under the agreement. The agreement may 799  
include a requirement that a pharmacist send a consult report to 800  
each consulting ~~physician~~ practitioner. 801

(7) A consult agreement is effective for two years and may 802  
be renewed if the conditions specified in division ~~(A)-(C)~~ of 803  
this section ~~are~~ continue to be met. 804

(8) A consult agreement does not permit a pharmacist to 805  
manage drug therapy prescribed by a ~~physician-practitioner~~ who 806  
has not entered into the agreement. 807

~~(C) The state board of pharmacy, in consultation with the~~ 808  
~~state medical board, shall adopt rules to be followed by-~~ 809  
~~pharmacists, and the state medical board, in consultation with-~~ 810  
~~the state board of pharmacy, shall adopt rules to be followed by-~~ 811  
~~physicians, that establish-~~ (E) The state board of pharmacy, 812  
state medical board, and board of nursing shall each adopt rules 813  
as follows for its license holders establishing standards and 814  
procedures for entering into a consult agreement and managing a 815  
patient's drug therapy under a consult agreement: 816

(1) The state board of pharmacy, in consultation with the 817  
state medical board and board of nursing, shall adopt rules to 818

be followed by pharmacists. 819

(2) The state medical board, in consultation with the 820  
state board of pharmacy, shall adopt rules to be followed by 821  
physicians and rules to be followed by physician assistants. 822

(3) The board of nursing, in consultation with the state 823  
board of pharmacy and state medical board, shall adopt rules to 824  
be followed by clinical nurse specialists, certified nurse- 825  
midwives, and certified nurse practitioners. The 826

The boards shall specify in the rules any categories of 827  
drugs or types of diseases for which a consult agreement may not 828  
be established. ~~Either~~ Each board may adopt any other rules it 829  
considers necessary for the implementation and administration of 830  
this section. All rules adopted under this ~~division~~ section 831  
shall be adopted in accordance with Chapter 119. of the Revised 832  
Code. 833

~~(D) (1)~~ (F) (1) Subject to division ~~(D) (2)~~ (F) (2) of this 834  
section, both of the following apply: 835

(a) A pharmacist acting in accordance with a consult 836  
agreement regarding a ~~physician's~~ practitioner's change in a 837  
drug for a patient whose drug therapy the pharmacist is managing 838  
under the agreement is not liable in damages in a tort or other 839  
civil action for injury or loss to person or property allegedly 840  
arising from the change. 841

(b) A ~~physician~~ practitioner acting in accordance with a 842  
consult agreement regarding a pharmacist's change in a drug for 843  
a patient whose drug therapy the pharmacist is managing under a 844  
consult agreement is not liable in damages in a tort or other 845  
civil action for injury or loss to person or property allegedly 846  
arising from the change unless the ~~physician~~ practitioner 847

authorized the specific change. 848

(2) Division ~~(D)(1)~~ (F)(1) of this section does not limit 849  
a ~~physician's~~ practitioner's or pharmacist's liability in 850  
damages in a tort or other civil action for injury or loss to 851  
person or property allegedly arising from actions that are not 852  
related to the ~~physician's~~ practitioner's or pharmacist's change 853  
in a drug for a patient whose drug therapy is being managed 854  
under a consult agreement. 855

**Sec. 4730.25.** (A) The state medical board, by an 856  
affirmative vote of not fewer than six members, may revoke or 857  
may refuse to grant a license to practice as a physician 858  
assistant to a person found by the board to have committed 859  
fraud, misrepresentation, or deception in applying for or 860  
securing the license. 861

(B) The board, by an affirmative vote of not fewer than 862  
six members, shall, to the extent permitted by law, limit, 863  
revoke, or suspend an individual's license to practice as a 864  
physician assistant or prescriber number, refuse to issue a 865  
license to an applicant, refuse to renew a license, refuse to 866  
reinstate a license, or reprimand or place on probation the 867  
holder of a license for any of the following reasons: 868

(1) Failure to practice in accordance with the supervising 869  
physician's supervision agreement with the physician assistant, 870  
including, if applicable, the policies of the health care 871  
facility in which the supervising physician and physician 872  
assistant are practicing; 873

(2) Failure to comply with the requirements of this 874  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 875  
by the board; 876

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;	877 878 879 880
(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	881 882 883 884
(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	885 886 887 888
(6) Administering drugs for purposes other than those authorized under this chapter;	889 890
(7) Willfully betraying a professional confidence;	891
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a license to practice as a physician assistant.	892 893 894 895 896 897 898
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	899 900 901 902 903 904 905



person to misunderstand or be deceived.	906
(9) Representing, with the purpose of obtaining	907
compensation or other advantage personally or for any other	908
person, that an incurable disease or injury, or other incurable	909
condition, can be permanently cured;	910
(10) The obtaining of, or attempting to obtain, money or	911
anything of value by fraudulent misrepresentations in the course	912
of practice;	913
(11) A plea of guilty to, a judicial finding of guilt of,	914
or a judicial finding of eligibility for intervention in lieu of	915
conviction for, a felony;	916
(12) Commission of an act that constitutes a felony in	917
this state, regardless of the jurisdiction in which the act was	918
committed;	919
(13) A plea of guilty to, a judicial finding of guilt of,	920
or a judicial finding of eligibility for intervention in lieu of	921
conviction for, a misdemeanor committed in the course of	922
practice;	923
(14) A plea of guilty to, a judicial finding of guilt of,	924
or a judicial finding of eligibility for intervention in lieu of	925
conviction for, a misdemeanor involving moral turpitude;	926
(15) Commission of an act in the course of practice that	927
constitutes a misdemeanor in this state, regardless of the	928
jurisdiction in which the act was committed;	929
(16) Commission of an act involving moral turpitude that	930
constitutes a misdemeanor in this state, regardless of the	931
jurisdiction in which the act was committed;	932
(17) A plea of guilty to, a judicial finding of guilt of,	933

or a judicial finding of eligibility for intervention in lieu of 934  
conviction for violating any state or federal law regulating the 935  
possession, distribution, or use of any drug, including 936  
trafficking in drugs; 937

(18) Any of the following actions taken by the state 938  
agency responsible for regulating the practice of physician 939  
assistants in another state, for any reason other than the 940  
nonpayment of fees: the limitation, revocation, or suspension of 941  
an individual's license to practice; acceptance of an 942  
individual's license surrender; denial of a license; refusal to 943  
renew or reinstate a license; imposition of probation; or 944  
issuance of an order of censure or other reprimand; 945

(19) A departure from, or failure to conform to, minimal 946  
standards of care of similar physician assistants under the same 947  
or similar circumstances, regardless of whether actual injury to 948  
a patient is established; 949

(20) Violation of the conditions placed by the board on a 950  
license to practice as a physician assistant; 951

(21) Failure to use universal blood and body fluid 952  
precautions established by rules adopted under section 4731.051 953  
of the Revised Code; 954

(22) Failure to cooperate in an investigation conducted by 955  
the board under section 4730.26 of the Revised Code, including 956  
failure to comply with a subpoena or order issued by the board 957  
or failure to answer truthfully a question presented by the 958  
board at a deposition or in written interrogatories, except that 959  
failure to cooperate with an investigation shall not constitute 960  
grounds for discipline under this section if a court of 961  
competent jurisdiction has issued an order that either quashes a 962

subpoena or permits the individual to withhold the testimony or	963
evidence in issue;	964
(23) Assisting suicide, as defined in section 3795.01 of	965
the Revised Code;	966
(24) Prescribing any drug or device to perform or induce	967
an abortion, or otherwise performing or inducing an abortion;	968
(25) Failure to comply with section 4730.53 of the Revised	969
Code, unless the board no longer maintains a drug database	970
pursuant to section 4729.75 of the Revised Code;	971
(26) Failure to comply with the requirements in section	972
3719.061 of the Revised Code before issuing for a minor a	973
prescription for an opioid analgesic, as defined in section	974
3719.01 of the Revised Code;	975
(27) Having certification by the national commission on	976
certification of physician assistants or a successor	977
organization expire, lapse, or be suspended or revoked;	978
(28) The revocation, suspension, restriction, reduction,	979
or termination of clinical privileges by the United States	980
department of defense or department of veterans affairs or the	981
termination or suspension of a certificate of registration to	982
prescribe drugs by the drug enforcement administration of the	983
United States department of justice;	984
<u>(29) Failure to comply with the terms of a consult</u>	985
<u>agreement entered into with a pharmacist pursuant to section</u>	986
<u>4729.39 of the Revised Code.</u>	987
(C) Disciplinary actions taken by the board under	988
divisions (A) and (B) of this section shall be taken pursuant to	989
an adjudication under Chapter 119. of the Revised Code, except	990

that in lieu of an adjudication, the board may enter into a 991  
consent agreement with a physician assistant or applicant to 992  
resolve an allegation of a violation of this chapter or any rule 993  
adopted under it. A consent agreement, when ratified by an 994  
affirmative vote of not fewer than six members of the board, 995  
shall constitute the findings and order of the board with 996  
respect to the matter addressed in the agreement. If the board 997  
refuses to ratify a consent agreement, the admissions and 998  
findings contained in the consent agreement shall be of no force 999  
or effect. 1000

(D) For purposes of divisions (B) (12), (15), and (16) of 1001  
this section, the commission of the act may be established by a 1002  
finding by the board, pursuant to an adjudication under Chapter 1003  
119. of the Revised Code, that the applicant or license holder 1004  
committed the act in question. The board shall have no 1005  
jurisdiction under these divisions in cases where the trial 1006  
court renders a final judgment in the license holder's favor and 1007  
that judgment is based upon an adjudication on the merits. The 1008  
board shall have jurisdiction under these divisions in cases 1009  
where the trial court issues an order of dismissal upon 1010  
technical or procedural grounds. 1011

(E) The sealing of conviction records by any court shall 1012  
have no effect upon a prior board order entered under the 1013  
provisions of this section or upon the board's jurisdiction to 1014  
take action under the provisions of this section if, based upon 1015  
a plea of guilty, a judicial finding of guilt, or a judicial 1016  
finding of eligibility for intervention in lieu of conviction, 1017  
the board issued a notice of opportunity for a hearing prior to 1018  
the court's order to seal the records. The board shall not be 1019  
required to seal, destroy, redact, or otherwise modify its 1020  
records to reflect the court's sealing of conviction records. 1021

(F) For purposes of this division, any individual who 1022  
holds a license issued under this chapter, or applies for a 1023  
license issued under this chapter, shall be deemed to have given 1024  
consent to submit to a mental or physical examination when 1025  
directed to do so in writing by the board and to have waived all 1026  
objections to the admissibility of testimony or examination 1027  
reports that constitute a privileged communication. 1028

(1) In enforcing division (B)(4) of this section, the 1029  
board, upon a showing of a possible violation, may compel any 1030  
individual who holds a license issued under this chapter or who 1031  
has applied for a license pursuant to this chapter to submit to 1032  
a mental examination, physical examination, including an HIV 1033  
test, or both a mental and physical examination. The expense of 1034  
the examination is the responsibility of the individual 1035  
compelled to be examined. Failure to submit to a mental or 1036  
physical examination or consent to an HIV test ordered by the 1037  
board constitutes an admission of the allegations against the 1038  
individual unless the failure is due to circumstances beyond the 1039  
individual's control, and a default and final order may be 1040  
entered without the taking of testimony or presentation of 1041  
evidence. If the board finds a physician assistant unable to 1042  
practice because of the reasons set forth in division (B)(4) of 1043  
this section, the board shall require the physician assistant to 1044  
submit to care, counseling, or treatment by physicians approved 1045  
or designated by the board, as a condition for an initial, 1046  
continued, reinstated, or renewed license. An individual 1047  
affected under this division shall be afforded an opportunity to 1048  
demonstrate to the board the ability to resume practicing in 1049  
compliance with acceptable and prevailing standards of care. 1050

(2) For purposes of division (B)(5) of this section, if 1051  
the board has reason to believe that any individual who holds a 1052

license issued under this chapter or any applicant for a license 1053  
suffers such impairment, the board may compel the individual to 1054  
submit to a mental or physical examination, or both. The expense 1055  
of the examination is the responsibility of the individual 1056  
compelled to be examined. Any mental or physical examination 1057  
required under this division shall be undertaken by a treatment 1058  
provider or physician qualified to conduct such examination and 1059  
chosen by the board. 1060

Failure to submit to a mental or physical examination 1061  
ordered by the board constitutes an admission of the allegations 1062  
against the individual unless the failure is due to 1063  
circumstances beyond the individual's control, and a default and 1064  
final order may be entered without the taking of testimony or 1065  
presentation of evidence. If the board determines that the 1066  
individual's ability to practice is impaired, the board shall 1067  
suspend the individual's license or deny the individual's 1068  
application and shall require the individual, as a condition for 1069  
initial, continued, reinstated, or renewed licensure, to submit 1070  
to treatment. 1071

Before being eligible to apply for reinstatement of a 1072  
license suspended under this division, the physician assistant 1073  
shall demonstrate to the board the ability to resume practice or 1074  
prescribing in compliance with acceptable and prevailing 1075  
standards of care. The demonstration shall include the 1076  
following: 1077

(a) Certification from a treatment provider approved under 1078  
section 4731.25 of the Revised Code that the individual has 1079  
successfully completed any required inpatient treatment; 1080

(b) Evidence of continuing full compliance with an 1081  
aftercare contract or consent agreement; 1082

(c) Two written reports indicating that the individual's 1083  
ability to practice has been assessed and that the individual 1084  
has been found capable of practicing according to acceptable and 1085  
prevailing standards of care. The reports shall be made by 1086  
individuals or providers approved by the board for making such 1087  
assessments and shall describe the basis for their 1088  
determination. 1089

The board may reinstate a license suspended under this 1090  
division after such demonstration and after the individual has 1091  
entered into a written consent agreement. 1092

When the impaired physician assistant resumes practice or 1093  
prescribing, the board shall require continued monitoring of the 1094  
physician assistant. The monitoring shall include compliance 1095  
with the written consent agreement entered into before 1096  
reinstatement or with conditions imposed by board order after a 1097  
hearing, and, upon termination of the consent agreement, 1098  
submission to the board for at least two years of annual written 1099  
progress reports made under penalty of falsification stating 1100  
whether the physician assistant has maintained sobriety. 1101

(G) If the secretary and supervising member determine that 1102  
there is clear and convincing evidence that a physician 1103  
assistant has violated division (B) of this section and that the 1104  
individual's continued practice or prescribing presents a danger 1105  
of immediate and serious harm to the public, they may recommend 1106  
that the board suspend the individual's license without a prior 1107  
hearing. Written allegations shall be prepared for consideration 1108  
by the board. 1109

The board, upon review of those allegations and by an 1110  
affirmative vote of not fewer than six of its members, excluding 1111  
the secretary and supervising member, may suspend a license 1112

without a prior hearing. A telephone conference call may be 1113  
utilized for reviewing the allegations and taking the vote on 1114  
the summary suspension. 1115

The board shall issue a written order of suspension by 1116  
certified mail or in person in accordance with section 119.07 of 1117  
the Revised Code. The order shall not be subject to suspension 1118  
by the court during pendency of any appeal filed under section 1119  
119.12 of the Revised Code. If the physician assistant requests 1120  
an adjudicatory hearing by the board, the date set for the 1121  
hearing shall be within fifteen days, but not earlier than seven 1122  
days, after the physician assistant requests the hearing, unless 1123  
otherwise agreed to by both the board and the license holder. 1124

A summary suspension imposed under this division shall 1125  
remain in effect, unless reversed on appeal, until a final 1126  
adjudicative order issued by the board pursuant to this section 1127  
and Chapter 119. of the Revised Code becomes effective. The 1128  
board shall issue its final adjudicative order within sixty days 1129  
after completion of its hearing. Failure to issue the order 1130  
within sixty days shall result in dissolution of the summary 1131  
suspension order, but shall not invalidate any subsequent, final 1132  
adjudicative order. 1133

(H) If the board takes action under division (B) (11), 1134  
(13), or (14) of this section, and the judicial finding of 1135  
guilt, guilty plea, or judicial finding of eligibility for 1136  
intervention in lieu of conviction is overturned on appeal, upon 1137  
exhaustion of the criminal appeal, a petition for 1138  
reconsideration of the order may be filed with the board along 1139  
with appropriate court documents. Upon receipt of a petition and 1140  
supporting court documents, the board shall reinstate the 1141  
individual's license. The board may then hold an adjudication 1142



under Chapter 119. of the Revised Code to determine whether the 1143  
individual committed the act in question. Notice of opportunity 1144  
for hearing shall be given in accordance with Chapter 119. of 1145  
the Revised Code. If the board finds, pursuant to an 1146  
adjudication held under this division, that the individual 1147  
committed the act, or if no hearing is requested, it may order 1148  
any of the sanctions identified under division (B) of this 1149  
section. 1150

(I) The license to practice issued to a physician 1151  
assistant and the physician assistant's practice in this state 1152  
are automatically suspended as of the date the physician 1153  
assistant pleads guilty to, is found by a judge or jury to be 1154  
guilty of, or is subject to a judicial finding of eligibility 1155  
for intervention in lieu of conviction in this state or 1156  
treatment or intervention in lieu of conviction in another state 1157  
for any of the following criminal offenses in this state or a 1158  
substantially equivalent criminal offense in another 1159  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 1160  
felonious assault, kidnapping, rape, sexual battery, gross 1161  
sexual imposition, aggravated arson, aggravated robbery, or 1162  
aggravated burglary. Continued practice after the suspension 1163  
shall be considered practicing without a license. 1164

The board shall notify the individual subject to the 1165  
suspension by certified mail or in person in accordance with 1166  
section 119.07 of the Revised Code. If an individual whose 1167  
license is suspended under this division fails to make a timely 1168  
request for an adjudication under Chapter 119. of the Revised 1169  
Code, the board shall enter a final order permanently revoking 1170  
the individual's license to practice. 1171

(J) In any instance in which the board is required by 1172

Chapter 119. of the Revised Code to give notice of opportunity 1173  
for hearing and the individual subject to the notice does not 1174  
timely request a hearing in accordance with section 119.07 of 1175  
the Revised Code, the board is not required to hold a hearing, 1176  
but may adopt, by an affirmative vote of not fewer than six of 1177  
its members, a final order that contains the board's findings. 1178  
In that final order, the board may order any of the sanctions 1179  
identified under division (A) or (B) of this section. 1180

(K) Any action taken by the board under division (B) of 1181  
this section resulting in a suspension shall be accompanied by a 1182  
written statement of the conditions under which the physician 1183  
assistant's license may be reinstated. The board shall adopt 1184  
rules in accordance with Chapter 119. of the Revised Code 1185  
governing conditions to be imposed for reinstatement. 1186  
Reinstatement of a license suspended pursuant to division (B) of 1187  
this section requires an affirmative vote of not fewer than six 1188  
members of the board. 1189

(L) When the board refuses to grant or issue to an 1190  
applicant a license to practice as a physician assistant, 1191  
revokes an individual's license, refuses to renew an 1192  
individual's license, or refuses to reinstate an individual's 1193  
license, the board may specify that its action is permanent. An 1194  
individual subject to a permanent action taken by the board is 1195  
forever thereafter ineligible to hold the license and the board 1196  
shall not accept an application for reinstatement of the license 1197  
or for issuance of a new license. 1198

(M) Notwithstanding any other provision of the Revised 1199  
Code, all of the following apply: 1200

(1) The surrender of a license issued under this chapter 1201  
is not effective unless or until accepted by the board. 1202

Reinstatement of a license surrendered to the board requires an	1203
affirmative vote of not fewer than six members of the board.	1204
(2) An application made under this chapter for a license	1205
may not be withdrawn without approval of the board.	1206
(3) Failure by an individual to renew a license in	1207
accordance with section 4730.14 of the Revised Code shall not	1208
remove or limit the board's jurisdiction to take disciplinary	1209
action under this section against the individual.	1210
<b>Sec. 5164.14.</b> The medicaid program may cover a health care	1211
service that a pharmacist provides to a medicaid recipient in	1212
accordance with Chapter 4729. of the Revised Code, including any	1213
of the following services:	1214
(A) Managing drug therapy under a consult agreement <del>with a</del>	1215
<del>physician</del> pursuant to section 4729.39 of the Revised Code;	1216
(B) Administering immunizations in accordance with section	1217
4729.41 of the Revised Code;	1218
(C) Administering drugs in accordance with section 4729.45	1219
of the Revised Code.	1220
<b>Section 2.</b> That existing sections 1751.91, 3923.89,	1221
4723.28, 4729.01, 4729.39, 4730.25, and 5164.14 of the Revised	1222
Code are hereby repealed.	1223