

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 253

Representatives John, Young

A BILL

To amend sections 2305.234, 2925.01, 2925.23, 1
2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 2
3715.872, 3719.121, 3719.13, 3719.81, 4729.01, 3
4729.51, 4731.22, 4731.25, 4743.09, 4755.48, 4
4761.01, 4761.03, 4761.032, 4761.06, 4761.061, 5
4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 6
4761.30, 4761.99, 4765.51, 4769.01, 5123.47, 7
5164.95, and 5903.12 and to enact sections 8
4761.033, 4761.20, 4761.21, 4761.31, 4761.311, 9
4761.32, 4761.33, 4761.34, 4761.35, 4761.36, 10
4761.37, 4761.38, 4761.39, 4761.391, 4761.40, 11
4761.41, 4761.42, 4761.44, 4761.45, 4761.46, and 12
4761.49 of the Revised Code to license advanced 13
practice respiratory therapists. 14

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

Section 1. That sections 2305.234, 2925.01, 2925.23, 15
2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3715.872, 16
3719.121, 3719.13, 3719.81, 4729.01, 4729.51, 4731.22, 4731.25, 17
4743.09, 4755.48, 4761.01, 4761.03, 4761.032, 4761.06, 4761.061, 18
4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 4761.30, 4761.99, 19
4765.51, 4769.01, 5123.47, 5164.95, and 5903.12 be amended and 20

sections 4761.033, 4761.20, 4761.21, 4761.31, 4761.311, 4761.32, 21
4761.33, 4761.34, 4761.35, 4761.36, 4761.37, 4761.38, 4761.39, 22
4761.391, 4761.40, 4761.41, 4761.42, 4761.44, 4761.45, 4761.46, 23
and 4761.49 of the Revised Code be enacted to read as follows: 24

Sec. 2305.234. (A) As used in this section: 25

(1) "Chiropractic claim," "medical claim," and "optometric 26
claim" have the same meanings as in section 2305.113 of the 27
Revised Code. 28

(2) "Dental claim" has the same meaning as in section 29
2305.113 of the Revised Code, except that it does not include 30
any claim arising out of a dental operation or any derivative 31
claim for relief that arises out of a dental operation. 32

(3) "Governmental health care program" has the same 33
meaning as in section 4731.65 of the Revised Code. 34

(4) "Health care facility or location" means a hospital, 35
clinic, ambulatory surgical facility, office of a health care 36
professional or associated group of health care professionals, 37
training institution for health care professionals, a free 38
clinic or other nonprofit shelter or health care facility as 39
those terms are defined in section 3701.071 of the Revised Code, 40
or any other place where medical, dental, or other health- 41
related diagnosis, care, or treatment is provided to a person. 42

(5) "Health care professional" means any of the following 43
who provide medical, dental, or other health-related diagnosis, 44
care, or treatment: 45

(a) Physicians authorized under Chapter 4731. of the 46
Revised Code to practice medicine and surgery or osteopathic 47
medicine and surgery; 48

(b) Advanced practice registered nurses, registered nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	49 50 51
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	52 53
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	54 55
(e) Physical therapists, physical therapist assistants, occupational therapists, occupational therapy assistants, and athletic trainers licensed under Chapter 4755. of the Revised Code;	56 57 58 59
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	60 61
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	62 63
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	64 65
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	66 67
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	68 69
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	70 71 72
(l) Respiratory care professionals <u>and advanced practice respiratory therapists</u> licensed under Chapter 4761. of the Revised Code;	73 74 75

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code;	76 77
(n) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, and marriage and family therapists, licensed under Chapter 4757. of the Revised Code;	78 79 80 81 82
(o) Psychologists licensed under Chapter 4732. of the Revised Code;	83 84
(p) Independent chemical dependency counselors-clinical supervisors, independent chemical dependency counselors, chemical dependency counselors III, and chemical dependency counselors II, licensed under Chapter 4758. of the Revised Code, and chemical dependency counselor assistants, prevention consultants, prevention specialists, prevention specialist assistants, and registered applicants, certified under that chapter.	85 86 87 88 89 90 91 92
(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.	93 94 95 96 97 98 99
(7) "Indigent and uninsured person" means a person who meets both of the following requirements:	100 101
(a) Relative to being indigent, the person's income is not greater than two hundred per cent of the federal poverty line, as defined by the United States office of management and budget	102 103 104

and revised in accordance with section 673(2) of the "Omnibus 105
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 106
9902, as amended, except in any case in which division (A) (7) (b) 107
(iii) of this section includes a person whose income is greater 108
than two hundred per cent of the federal poverty line. 109

(b) Relative to being uninsured, one of the following 110
applies: 111

(i) The person is not a policyholder, certificate holder, 112
insured, contract holder, subscriber, enrollee, member, 113
beneficiary, or other covered individual under a health 114
insurance or health care policy, contract, or plan. 115

(ii) The person is a policyholder, certificate holder, 116
insured, contract holder, subscriber, enrollee, member, 117
beneficiary, or other covered individual under a health 118
insurance or health care policy, contract, or plan, but the 119
insurer, policy, contract, or plan denies coverage or is the 120
subject of insolvency or bankruptcy proceedings in any 121
jurisdiction. 122

(iii) Until June 30, 2019, the person is eligible for the 123
medicaid program or is a medicaid recipient. 124

(iv) Except as provided in division (A) (7) (b) (iii) of this 125
section, the person is not eligible for or a recipient, 126
enrollee, or beneficiary of any governmental health care 127
program. 128

(8) "Nonprofit health care referral organization" means an 129
entity that is not operated for profit and refers patients to, 130
or arranges for the provision of, health-related diagnosis, 131
care, or treatment by a health care professional or health care 132
worker. 133

(9) "Operation" means any procedure that involves cutting 134
or otherwise infiltrating human tissue by mechanical means, 135
including surgery, laser surgery, ionizing radiation, 136
therapeutic ultrasound, or the removal of intraocular foreign 137
bodies. "Operation" does not include the administration of 138
medication by injection, unless the injection is administered in 139
conjunction with a procedure infiltrating human tissue by 140
mechanical means other than the administration of medicine by 141
injection. "Operation" does not include routine dental 142
restorative procedures, the scaling of teeth, or extractions of 143
teeth that are not impacted. 144

(10) "Tort action" means a civil action for damages for 145
injury, death, or loss to person or property other than a civil 146
action for damages for a breach of contract or another agreement 147
between persons or government entities. 148

(11) "Volunteer" means an individual who provides any 149
medical, dental, or other health-care related diagnosis, care, 150
or treatment without the expectation of receiving and without 151
receipt of any compensation or other form of remuneration from 152
an indigent and uninsured person, another person on behalf of an 153
indigent and uninsured person, any health care facility or 154
location, any nonprofit health care referral organization, or 155
any other person or government entity. 156

(12) "Community control sanction" has the same meaning as 157
in section 2929.01 of the Revised Code. 158

(13) "Deep sedation" means a drug-induced depression of 159
consciousness during which a patient cannot be easily aroused 160
but responds purposefully following repeated or painful 161
stimulation, a patient's ability to independently maintain 162
ventilatory function may be impaired, a patient may require 163

assistance in maintaining a patent airway and spontaneous 164
ventilation may be inadequate, and cardiovascular function is 165
usually maintained. 166

(14) "General anesthesia" means a drug-induced loss of 167
consciousness during which a patient is not arousable, even by 168
painful stimulation, the ability to independently maintain 169
ventilatory function is often impaired, a patient often requires 170
assistance in maintaining a patent airway, positive pressure 171
ventilation may be required because of depressed spontaneous 172
ventilation or drug-induced depression of neuromuscular 173
function, and cardiovascular function may be impaired. 174

(B) (1) Subject to divisions (F) and (G) (3) of this 175
section, a health care professional who is a volunteer and 176
complies with division (B) (2) of this section is not liable in 177
damages to any person or government entity in a tort or other 178
civil action, including an action on a medical, dental, 179
chiropractic, optometric, or other health-related claim, for 180
injury, death, or loss to person or property that allegedly 181
arises from an action or omission of the volunteer in the 182
provision to an indigent and uninsured person of medical, 183
dental, or other health-related diagnosis, care, or treatment, 184
including the provision of samples of medicine and other medical 185
products, unless the action or omission constitutes willful or 186
wanton misconduct. 187

(2) To qualify for the immunity described in division (B) 188
(1) of this section, a health care professional shall do all of 189
the following prior to providing diagnosis, care, or treatment: 190

(a) Determine, in good faith, that the indigent and 191
uninsured person is mentally capable of giving informed consent 192
to the provision of the diagnosis, care, or treatment and is not 193

subject to duress or under undue influence; 194

(b) Inform the person of the provisions of this section, 195
including notifying the person that, by giving informed consent 196
to the provision of the diagnosis, care, or treatment, the 197
person cannot hold the health care professional liable for 198
damages in a tort or other civil action, including an action on 199
a medical, dental, chiropractic, optometric, or other health- 200
related claim, unless the action or omission of the health care 201
professional constitutes willful or wanton misconduct; 202

(c) Obtain the informed consent of the person and a 203
written waiver, signed by the person or by another individual on 204
behalf of and in the presence of the person, that states that 205
the person is mentally competent to give informed consent and, 206
without being subject to duress or under undue influence, gives 207
informed consent to the provision of the diagnosis, care, or 208
treatment subject to the provisions of this section. A written 209
waiver under division (B) (2) (c) of this section shall state 210
clearly and in conspicuous type that the person or other 211
individual who signs the waiver is signing it with full 212
knowledge that, by giving informed consent to the provision of 213
the diagnosis, care, or treatment, the person cannot bring a 214
tort or other civil action, including an action on a medical, 215
dental, chiropractic, optometric, or other health-related claim, 216
against the health care professional unless the action or 217
omission of the health care professional constitutes willful or 218
wanton misconduct. 219

(3) A physician or podiatrist who is not covered by 220
medical malpractice insurance, but complies with division (B) (2) 221
of this section, is not required to comply with division (A) of 222
section 4731.143 of the Revised Code. 223

(C) Subject to divisions (F) and (G) (3) of this section, 224
health care workers who are volunteers are not liable in damages 225
to any person or government entity in a tort or other civil 226
action, including an action upon a medical, dental, 227
chiropractic, optometric, or other health-related claim, for 228
injury, death, or loss to person or property that allegedly 229
arises from an action or omission of the health care worker in 230
the provision to an indigent and uninsured person of medical, 231
dental, or other health-related diagnosis, care, or treatment, 232
unless the action or omission constitutes willful or wanton 233
misconduct. 234

(D) Subject to divisions (F) and (G) (3) of this section, a 235
nonprofit health care referral organization is not liable in 236
damages to any person or government entity in a tort or other 237
civil action, including an action on a medical, dental, 238
chiropractic, optometric, or other health-related claim, for 239
injury, death, or loss to person or property that allegedly 240
arises from an action or omission of the nonprofit health care 241
referral organization in referring indigent and uninsured 242
persons to, or arranging for the provision of, medical, dental, 243
or other health-related diagnosis, care, or treatment by a 244
health care professional described in division (B) (1) of this 245
section or a health care worker described in division (C) of 246
this section, unless the action or omission constitutes willful 247
or wanton misconduct. 248

(E) Subject to divisions (F) and (G) (3) of this section 249
and to the extent that the registration requirements of section 250
3701.071 of the Revised Code apply, a health care facility or 251
location associated with a health care professional described in 252
division (B) (1) of this section, a health care worker described 253
in division (C) of this section, or a nonprofit health care 254

referral organization described in division (D) of this section 255
is not liable in damages to any person or government entity in a 256
tort or other civil action, including an action on a medical, 257
dental, chiropractic, optometric, or other health-related claim, 258
for injury, death, or loss to person or property that allegedly 259
arises from an action or omission of the health care 260
professional or worker or nonprofit health care referral 261
organization relative to the medical, dental, or other health- 262
related diagnosis, care, or treatment provided to an indigent 263
and uninsured person on behalf of or at the health care facility 264
or location, unless the action or omission constitutes willful 265
or wanton misconduct. 266

(F) (1) Except as provided in division (F) (2) of this 267
section, the immunities provided by divisions (B), (C), (D), and 268
(E) of this section are not available to a health care 269
professional, health care worker, nonprofit health care referral 270
organization, or health care facility or location if, at the 271
time of an alleged injury, death, or loss to person or property, 272
the health care professionals or health care workers involved 273
are providing one of the following: 274

(a) Any medical, dental, or other health-related 275
diagnosis, care, or treatment pursuant to a community service 276
work order entered by a court under division (B) of section 277
2951.02 of the Revised Code or imposed by a court as a community 278
control sanction; 279

(b) Performance of an operation to which any one of the 280
following applies: 281

(i) The operation requires the administration of deep 282
sedation or general anesthesia. 283

(ii) The operation is a procedure that is not typically performed in an office.	284 285
(iii) The individual involved is a health care professional, and the operation is beyond the scope of practice or the education, training, and competence, as applicable, of the health care professional.	286 287 288 289
(c) Delivery of a baby or any other purposeful termination of a human pregnancy.	290 291
(2) Division (F) (1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.	292 293 294 295 296
(G) (1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location.	297 298 299 300
(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment.	301 302 303 304 305 306 307 308
(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope	309 310 311 312

of authority of health care professionals or health care workers. 313
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In the case of the diagnosis, care, or treatment of an indigent and uninsured person who is eligible for the medicaid program or is a medicaid recipient, this section grants an immunity from tort or other civil liability only if the person's diagnosis, care, or treatment is provided in a free clinic, as defined in section 3701.071 of the Revised Code. 315
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(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral organization to comply with any applicable law of this state or rule of an agency of this state. 321
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(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety. 325
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Sec. 2925.01. As used in this chapter: 331

(A) "Administer," "controlled substance," "controlled substance analog," "dispense," "distribute," "hypodermic," "manufacturer," "official written order," "person," "pharmacist," "pharmacy," "sale," "schedule I," "schedule II," "schedule III," "schedule IV," "schedule V," and "wholesaler" have the same meanings as in section 3719.01 of the Revised Code. 332
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(B) "Drug of abuse" and "person with a drug dependency" have the same meanings as in section 3719.011 of the Revised Code. 339
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(C) "Drug," "dangerous drug," "licensed health professional authorized to prescribe drugs," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(D) "Bulk amount" of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (D)(2), (5), or (6) of this section, whichever of the following is applicable:

(a) An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I opiate or opium derivative;

(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a schedule I stimulant or depressant;

(d) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II opiate or opium derivative;

(e) An amount equal to or exceeding five grams or ten unit 371
doses of a compound, mixture, preparation, or substance that is 372
or contains any amount of phencyclidine; 373

(f) An amount equal to or exceeding one hundred twenty 374
grams or thirty times the maximum daily dose in the usual dose 375
range specified in a standard pharmaceutical reference manual of 376
a compound, mixture, preparation, or substance that is or 377
contains any amount of a schedule II stimulant that is in a 378
final dosage form manufactured by a person authorized by the 379
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 380
U.S.C.A. 301, as amended, and the federal drug abuse control 381
laws, as defined in section 3719.01 of the Revised Code, that is 382
or contains any amount of a schedule II depressant substance or 383
a schedule II hallucinogenic substance; 384

(g) An amount equal to or exceeding three grams of a 385
compound, mixture, preparation, or substance that is or contains 386
any amount of a schedule II stimulant, or any of its salts or 387
isomers, that is not in a final dosage form manufactured by a 388
person authorized by the Federal Food, Drug, and Cosmetic Act 389
and the federal drug abuse control laws. 390

(2) An amount equal to or exceeding one hundred twenty 391
grams or thirty times the maximum daily dose in the usual dose 392
range specified in a standard pharmaceutical reference manual of 393
a compound, mixture, preparation, or substance that is or 394
contains any amount of a schedule III or IV substance other than 395
an anabolic steroid or a schedule III opiate or opium 396
derivative; 397

(3) An amount equal to or exceeding twenty grams or five 398
times the maximum daily dose in the usual dose range specified 399
in a standard pharmaceutical reference manual of a compound, 400

mixture, preparation, or substance that is or contains any 401
amount of a schedule III opiate or opium derivative; 402

(4) An amount equal to or exceeding two hundred fifty 403
milliliters or two hundred fifty grams of a compound, mixture, 404
preparation, or substance that is or contains any amount of a 405
schedule V substance; 406

(5) An amount equal to or exceeding two hundred solid 407
dosage units, sixteen grams, or sixteen milliliters of a 408
compound, mixture, preparation, or substance that is or contains 409
any amount of a schedule III anabolic steroid; 410

(6) For any compound, mixture, preparation, or substance 411
that is a combination of a fentanyl-related compound and any 412
other compound, mixture, preparation, or substance included in 413
schedule III, schedule IV, or schedule V, if the defendant is 414
charged with a violation of section 2925.11 of the Revised Code 415
and the sentencing provisions set forth in divisions (C)(10)(b) 416
and (C)(11) of that section will not apply regarding the 417
defendant and the violation, the bulk amount of the controlled 418
substance for purposes of the violation is the amount specified 419
in division (D)(1), (2), (3), (4), or (5) of this section for 420
the other schedule III, IV, or V controlled substance that is 421
combined with the fentanyl-related compound. 422

(E) "Unit dose" means an amount or unit of a compound, 423
mixture, or preparation containing a controlled substance that 424
is separately identifiable and in a form that indicates that it 425
is the amount or unit by which the controlled substance is 426
separately administered to or taken by an individual. 427

(F) "Cultivate" includes planting, watering, fertilizing, 428
or tilling. 429

(G) "Drug abuse offense" means any of the following:	430
(1) A violation of division (A) of section 2913.02 that	431
constitutes theft of drugs, or a violation of section 2925.02,	432
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12,	433
2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36,	434
or 2925.37 of the Revised Code;	435
(2) A violation of an existing or former law of this or	436
any other state or of the United States that is substantially	437
equivalent to any section listed in division (G)(1) of this	438
section;	439
(3) An offense under an existing or former law of this or	440
any other state, or of the United States, of which planting,	441
cultivating, harvesting, processing, making, manufacturing,	442
producing, shipping, transporting, delivering, acquiring,	443
possessing, storing, distributing, dispensing, selling, inducing	444
another to use, administering to another, using, or otherwise	445
dealing with a controlled substance is an element;	446
(4) A conspiracy to commit, attempt to commit, or	447
complicity in committing or attempting to commit any offense	448
under division (G)(1), (2), or (3) of this section.	449
(H) "Felony drug abuse offense" means any drug abuse	450
offense that would constitute a felony under the laws of this	451
state, any other state, or the United States.	452
(I) "Harmful intoxicant" does not include beer or	453
intoxicating liquor but means any of the following:	454
(1) Any compound, mixture, preparation, or substance the	455
gas, fumes, or vapor of which when inhaled can induce	456
intoxication, excitement, giddiness, irrational behavior,	457
depression, stupefaction, paralysis, unconsciousness,	458

asphyxiation, or other harmful physiological effects, and	459
includes, but is not limited to, any of the following:	460
(a) Any volatile organic solvent, plastic cement, model	461
cement, fingernail polish remover, lacquer thinner, cleaning	462
fluid, gasoline, or other preparation containing a volatile	463
organic solvent;	464
(b) Any aerosol propellant;	465
(c) Any fluorocarbon refrigerant;	466
(d) Any anesthetic gas.	467
(2) Gamma Butyrolactone;	468
(3) 1,4 Butanediol.	469
(J) "Manufacture" means to plant, cultivate, harvest,	470
process, make, prepare, or otherwise engage in any part of the	471
production of a drug, by propagation, extraction, chemical	472
synthesis, or compounding, or any combination of the same, and	473
includes packaging, repackaging, labeling, and other activities	474
incident to production.	475
(K) "Possess" or "possession" means having control over a	476
thing or substance, but may not be inferred solely from mere	477
access to the thing or substance through ownership or occupation	478
of the premises upon which the thing or substance is found.	479
(L) "Sample drug" means a drug or pharmaceutical	480
preparation that would be hazardous to health or safety if used	481
without the supervision of a licensed health professional	482
authorized to prescribe drugs, or a drug of abuse, and that, at	483
one time, had been placed in a container plainly marked as a	484
sample by a manufacturer.	485

(M) "Standard pharmaceutical reference manual" means the 486
current edition, with cumulative changes if any, of references 487
that are approved by the state board of pharmacy. 488

(N) "Juvenile" means a person under eighteen years of age. 489

(O) "Counterfeit controlled substance" means any of the 490
following: 491

(1) Any drug that bears, or whose container or label 492
bears, a trademark, trade name, or other identifying mark used 493
without authorization of the owner of rights to that trademark, 494
trade name, or identifying mark; 495

(2) Any unmarked or unlabeled substance that is 496
represented to be a controlled substance manufactured, 497
processed, packed, or distributed by a person other than the 498
person that manufactured, processed, packed, or distributed it; 499

(3) Any substance that is represented to be a controlled 500
substance but is not a controlled substance or is a different 501
controlled substance; 502

(4) Any substance other than a controlled substance that a 503
reasonable person would believe to be a controlled substance 504
because of its similarity in shape, size, and color, or its 505
markings, labeling, packaging, distribution, or the price for 506
which it is sold or offered for sale. 507

(P) An offense is "committed in the vicinity of a school" 508
if the offender commits the offense on school premises, in a 509
school building, or within one thousand feet of the boundaries 510
of any school premises, regardless of whether the offender knows 511
the offense is being committed on school premises, in a school 512
building, or within one thousand feet of the boundaries of any 513
school premises. 514

(Q) "School" means any school operated by a board of 515
education, any community school established under Chapter 3314. 516
of the Revised Code, or any nonpublic school for which the 517
director of education and workforce prescribes minimum standards 518
under section 3301.07 of the Revised Code, whether or not any 519
instruction, extracurricular activities, or training provided by 520
the school is being conducted at the time a criminal offense is 521
committed. 522

(R) "School premises" means either of the following: 523

(1) The parcel of real property on which any school is 524
situated, whether or not any instruction, extracurricular 525
activities, or training provided by the school is being 526
conducted on the premises at the time a criminal offense is 527
committed; 528

(2) Any other parcel of real property that is owned or 529
leased by a board of education of a school, the governing 530
authority of a community school established under Chapter 3314. 531
of the Revised Code, or the governing body of a nonpublic school 532
for which the director of education and workforce prescribes 533
minimum standards under section 3301.07 of the Revised Code and 534
on which some of the instruction, extracurricular activities, or 535
training of the school is conducted, whether or not any 536
instruction, extracurricular activities, or training provided by 537
the school is being conducted on the parcel of real property at 538
the time a criminal offense is committed. 539

(S) "School building" means any building in which any of 540
the instruction, extracurricular activities, or training 541
provided by a school is conducted, whether or not any 542
instruction, extracurricular activities, or training provided by 543
the school is being conducted in the school building at the time 544

a criminal offense is committed. 545

(T) "Disciplinary counsel" means the disciplinary counsel 546
appointed by the board of commissioners on grievances and 547
discipline of the supreme court under the Rules for the 548
Government of the Bar of Ohio. 549

(U) "Certified grievance committee" means a duly 550
constituted and organized committee of the Ohio state bar 551
association or of one or more local bar associations of the 552
state of Ohio that complies with the criteria set forth in Rule 553
V, section 6 of the Rules for the Government of the Bar of Ohio. 554

(V) "Professional license" means any license, permit, 555
certificate, registration, qualification, admission, temporary 556
license, temporary permit, temporary certificate, or temporary 557
registration that is described in divisions (W)(1) to (37) of 558
this section and that qualifies a person as a professionally 559
licensed person. 560

(W) "Professionally licensed person" means any of the 561
following: 562

(1) A person who has received a certificate or temporary 563
certificate as a certified public accountant or who has 564
registered as a public accountant under Chapter 4701. of the 565
Revised Code and who holds an Ohio permit issued under that 566
chapter; 567

(2) A person who holds a certificate of qualification to 568
practice architecture issued or renewed and registered under 569
Chapter 4703. of the Revised Code; 570

(3) A person who is registered as a landscape architect 571
under Chapter 4703. of the Revised Code or who holds a permit as 572
a landscape architect issued under that chapter; 573

(4) A person licensed under Chapter 4707. of the Revised Code;	574 575
(5) A person who has been issued a barber's license, barber instructor's license, assistant barber instructor's license, or independent contractor's license under Chapter 4709. of the Revised Code;	576 577 578 579
(6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter 4710. of the Revised Code;	580 581 582
(7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced license to practice cosmetology, advanced license to practice hair design, advanced license to practice manicuring, advanced license to practice esthetics, advanced license to practice natural hair styling, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Chapter 4713. of the Revised Code;	583 584 585 586 587 588 589 590 591 592 593
(8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under Chapter 4715. of the Revised Code;	594 595 596 597 598
(9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Chapter 4717. of the	599 600 601 602

Revised Code;	603
(10) A person who has been licensed as a registered nurse	604
or practical nurse, or who has been issued a certificate for the	605
practice of nurse-midwifery under Chapter 4723. of the Revised	606
Code;	607
(11) A person who has been licensed to practice optometry	608
or to engage in optical dispensing under Chapter 4725. of the	609
Revised Code;	610
(12) A person licensed to act as a pawnbroker under	611
Chapter 4727. of the Revised Code;	612
(13) A person licensed to act as a precious metals dealer	613
under Chapter 4728. of the Revised Code;	614
(14) A person licensed under Chapter 4729. of the Revised	615
Code as a pharmacist or pharmacy intern or registered under that	616
chapter as a registered pharmacy technician, certified pharmacy	617
technician, or pharmacy technician trainee;	618
(15) A person licensed under Chapter 4729. of the Revised	619
Code as a manufacturer of dangerous drugs, outsourcing facility,	620
third-party logistics provider, repackager of dangerous drugs,	621
wholesale distributor of dangerous drugs, or terminal	622
distributor of dangerous drugs;	623
(16) A person who is authorized to practice as a physician	624
assistant under Chapter 4730. of the Revised Code;	625
(17) A person who has been issued a license to practice	626
medicine and surgery, osteopathic medicine and surgery, or	627
podiatric medicine and surgery under Chapter 4731. of the	628
Revised Code or has been issued a certificate to practice a	629
limited branch of medicine under that chapter;	630

- (18) A person licensed as a psychologist, independent school psychologist, or school psychologist under Chapter 4732. of the Revised Code; 631
632
633
- (19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code; 634
635
636
- (20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code; 637
638
- (21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code; 639
640
- (22) A person registered as a registered environmental health specialist under Chapter 3776. of the Revised Code; 641
642
- (23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code; 643
644
- (24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code; 645
646
- (25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code; 647
648
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code; 649
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- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code; 653
654
655
- (28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or 656
657

security guard employee under Chapter 4749. of the Revised Code;	658
(29) A person licensed to practice as a nursing home administrator under Chapter 4751. of the Revised Code;	659 660
(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;	661 662 663
(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;	664 665 666
(32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Chapter 4757. of the Revised Code;	667 668 669 670 671 672
(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;	673 674
(34) A person who has been issued a license or limited permit to practice respiratory therapy <u>or a license to practice as an advanced practice respiratory therapist</u> under Chapter 4761. of the Revised Code;	675 676 677 678
(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;	679 680
(36) A person who has been issued a home inspector license under Chapter 4764. of the Revised Code;	681 682
(37) A person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.	683 684 685

(X) "Cocaine" means any of the following:	686
(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;	687 688
(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine;	689 690 691 692
(3) A salt, compound, derivative, or preparation of a substance identified in division (X) (1) or (2) of this section that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.	693 694 695 696 697 698
(Y) "L.S.D." means lysergic acid diethylamide.	699
(Z) "Hashish" means a resin or a preparation of a resin to which both of the following apply:	700 701
(1) It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.	702 703 704
(2) It has a delta-9 tetrahydrocannabinol concentration of more than three-tenths per cent.	705 706
"Hashish" does not include a hemp byproduct in the possession of a licensed hemp processor under Chapter 928. of the Revised Code, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under section 928.03 of the Revised Code.	707 708 709 710 711
(AA) "Marihuana" has the same meaning as in section 3719.01 of the Revised Code, except that it does not include	712 713

hashish. 714

(BB) An offense is "committed in the vicinity of a 715
juvenile" if the offender commits the offense within one hundred 716
feet of a juvenile or within the view of a juvenile, regardless 717
of whether the offender knows the age of the juvenile, whether 718
the offender knows the offense is being committed within one 719
hundred feet of or within view of the juvenile, or whether the 720
juvenile actually views the commission of the offense. 721

(CC) "Presumption for a prison term" or "presumption that 722
a prison term shall be imposed" means a presumption, as 723
described in division (D) of section 2929.13 of the Revised 724
Code, that a prison term is a necessary sanction for a felony in 725
order to comply with the purposes and principles of sentencing 726
under section 2929.11 of the Revised Code. 727

(DD) "Major drug offender" has the same meaning as in 728
section 2929.01 of the Revised Code. 729

(EE) "Minor drug possession offense" means either of the 730
following: 731

(1) A violation of section 2925.11 of the Revised Code as 732
it existed prior to July 1, 1996; 733

(2) A violation of section 2925.11 of the Revised Code as 734
it exists on and after July 1, 1996, that is a misdemeanor or a 735
felony of the fifth degree. 736

(FF) "Mandatory prison term" has the same meaning as in 737
section 2929.01 of the Revised Code. 738

(GG) "Adulterate" means to cause a drug to be adulterated 739
as described in section 3715.63 of the Revised Code. 740

(HH) "Public premises" means any hotel, restaurant, 741

tavern, store, arena, hall, or other place of public	742
accommodation, business, amusement, or resort.	743
(II) "Methamphetamine" means methamphetamine, any salt,	744
isomer, or salt of an isomer of methamphetamine, or any	745
compound, mixture, preparation, or substance containing	746
methamphetamine or any salt, isomer, or salt of an isomer of	747
methamphetamine.	748
(JJ) "Deception" has the same meaning as in section	749
2913.01 of the Revised Code.	750
(KK) "Fentanyl-related compound" means any of the	751
following:	752
(1) Fentanyl;	753
(2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-	754
phenyl)ethyl-4- piperidyl]propionanilide; 1-(1-methyl-2-	755
phenylethyl)-4-(N-propanilido) piperidine);	756
(3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-	757
thienyl)ethyl-4- piperidinyl]-N-phenylpropanamide);	758
(4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-	759
piperidinyl] -N-phenylpropanamide);	760
(5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-	761
hydroxy-2- phenethyl)-3-methyl-4-piperidinyl]-N-	762
phenylpropanamide);	763
(6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-	764
piperidyl]-N- phenylpropanamide);	765
(7) 3-methylthiofentanyl (N-[3-methyl-1-[2-	766
(thienyl)ethyl]-4- piperidinyl]-N-phenylpropanamide);	767
(8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-	768

phenethyl)-4- piperidinyl]propanamide;	769
(9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;	770
	771
(10) Alfentanil;	772
(11) Carfentanil;	773
(12) Remifentanil;	774
(13) Sufentanil;	775
(14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4- piperidinyl]-N-phenylacetamide); and	776
	777
(15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:	778
	779
	780
	781
	782
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	784
(a) A chemical scaffold consisting of both of the following:	785
	786
(i) A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;	787
	788
(ii) An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.	789
	790
	791
(b) A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;	792
	793
	794
(c) An alkyl or aryl substitution off the ring nitrogen of	795

the chemical scaffold; and 796

(d) The compound has not been approved for medical use by 797
the United States food and drug administration. 798

(LL) "First degree felony mandatory prison term" means one 799
of the definite prison terms prescribed in division (A) (1) (b) of 800
section 2929.14 of the Revised Code for a felony of the first 801
degree, except that if the violation for which sentence is being 802
imposed is committed on or after March 22, 2019, it means one of 803
the minimum prison terms prescribed in division (A) (1) (a) of 804
that section for a felony of the first degree. 805

(MM) "Second degree felony mandatory prison term" means 806
one of the definite prison terms prescribed in division (A) (2) 807
(b) of section 2929.14 of the Revised Code for a felony of the 808
second degree, except that if the violation for which sentence 809
is being imposed is committed on or after March 22, 2019, it 810
means one of the minimum prison terms prescribed in division (A) 811
(2) (a) of that section for a felony of the second degree. 812

(NN) "Maximum first degree felony mandatory prison term" 813
means the maximum definite prison term prescribed in division 814
(A) (1) (b) of section 2929.14 of the Revised Code for a felony of 815
the first degree, except that if the violation for which 816
sentence is being imposed is committed on or after March 22, 817
2019, it means the longest minimum prison term prescribed in 818
division (A) (1) (a) of that section for a felony of the first 819
degree. 820

(OO) "Maximum second degree felony mandatory prison term" 821
means the maximum definite prison term prescribed in division 822
(A) (2) (b) of section 2929.14 of the Revised Code for a felony of 823
the second degree, except that if the violation for which 824

sentence is being imposed is committed on or after March 22, 825
2019, it means the longest minimum prison term prescribed in 826
division (A) (2) (a) of that section for a felony of the second 827
degree. 828

(PP) "Delta-9 tetrahydrocannabinol" has the same meaning 829
as in section 928.01 of the Revised Code. 830

(QQ) An offense is "committed in the vicinity of a 831
substance addiction services provider or a recovering addict" if 832
either of the following apply: 833

(1) The offender commits the offense on the premises of a 834
substance addiction services provider's facility, including a 835
facility licensed prior to June 29, 2019, under section 5119.391 836
of the Revised Code to provide methadone treatment or an opioid 837
treatment program licensed on or after that date under section 838
5119.37 of the Revised Code, or within five hundred feet of the 839
premises of a substance addiction services provider's facility 840
and the offender knows or should know that the offense is being 841
committed within the vicinity of the substance addiction 842
services provider's facility. 843

(2) The offender sells, offers to sell, delivers, or 844
distributes the controlled substance or controlled substance 845
analog to a person who is receiving treatment at the time of the 846
commission of the offense, or received treatment within thirty 847
days prior to the commission of the offense, from a substance 848
addiction services provider and the offender knows that the 849
person is receiving or received that treatment. 850

(RR) "Substance addiction services provider" means an 851
agency, association, corporation or other legal entity, 852
individual, or program that provides one or more of the 853

following at a facility: 854

(1) Either alcohol addiction services, or drug addiction 855
services, or both such services that are certified by the 856
director of mental health and addiction services under section 857
5119.36 of the Revised Code; 858

(2) Recovery supports that are related to either alcohol 859
addiction services, or drug addiction services, or both such 860
services and paid for with federal, state, or local funds 861
administered by the department of mental health and addiction 862
services or a board of alcohol, drug addiction, and mental 863
health services. 864

(SS) "Premises of a substance addiction services 865
provider's facility" means the parcel of real property on which 866
any substance addiction service provider's facility is situated. 867

(TT) "Alcohol and drug addiction services" has the same 868
meaning as in section 5119.01 of the Revised Code. 869

Sec. 2925.23. (A) No person shall knowingly make a false 870
statement in any prescription, order, report, or record required 871
by Chapter 3719. or 4729. of the Revised Code. 872

(B) No person shall intentionally make, utter, or sell, or 873
knowingly possess any of the following that is a false or 874
forged: 875

(1) Prescription; 876

(2) Uncompleted preprinted prescription blank used for 877
writing a prescription; 878

(3) Official written order; 879

(4) License for a terminal distributor of dangerous drugs, 880

as defined in section 4729.01 of the Revised Code; 881

(5) License for a manufacturer of dangerous drugs, 882
outsourcing facility, third-party logistics provider, repackager 883
of dangerous drugs, or wholesale distributor of dangerous drugs, 884
as defined in section 4729.01 of the Revised Code. 885

(C) No person, by theft as defined in section 2913.02 of 886
the Revised Code, shall acquire any of the following: 887

(1) A prescription; 888

(2) An uncompleted preprinted prescription blank used for 889
writing a prescription; 890

(3) An official written order; 891

(4) A blank official written order; 892

(5) A license or blank license for a terminal distributor 893
of dangerous drugs, as defined in section 4729.01 of the Revised 894
Code; 895

(6) A license or blank license for a manufacturer of 896
dangerous drugs, outsourcing facility, third-party logistics 897
provider, repackager of dangerous drugs, or wholesale 898
distributor of dangerous drugs, as defined in section 4729.01 of 899
the Revised Code. 900

(D) No person shall knowingly make or affix any false or 901
forged label to a package or receptacle containing any dangerous 902
drugs. 903

(E) Divisions (A) and (D) of this section do not apply to 904
licensed health professionals authorized to prescribe drugs, 905
pharmacists, owners of pharmacies, and other persons whose 906
conduct is in accordance with Chapters 3719., 4715., 4723., 907

4725., 4729., 4730., 4731., ~~and 4741.~~, and 4761. of the Revised Code. 908
909

(F) Whoever violates this section is guilty of illegal 910
processing of drug documents. If the offender violates division 911
(B) (2), (4), or (5) or division (C) (2), (4), (5), or (6) of this 912
section, illegal processing of drug documents is a felony of the 913
fifth degree. If the offender violates division (A), division 914
(B) (1) or (3), division (C) (1) or (3), or division (D) of this 915
section, the penalty for illegal processing of drug documents 916
shall be determined as follows: 917

(1) If the drug involved is a compound, mixture, 918
preparation, or substance included in schedule I or II, with the 919
exception of marihuana, illegal processing of drug documents is 920
a felony of the fourth degree, and division (C) of section 921
2929.13 of the Revised Code applies in determining whether to 922
impose a prison term on the offender. 923

(2) If the drug involved is a dangerous drug or a 924
compound, mixture, preparation, or substance included in 925
schedule III, IV, or V or is marihuana, illegal processing of 926
drug documents is a felony of the fifth degree, and division (C) 927
of section 2929.13 of the Revised Code applies in determining 928
whether to impose a prison term on the offender. 929

(G) (1) In addition to any prison term authorized or 930
required by division (F) of this section and sections 2929.13 931
and 2929.14 of the Revised Code and in addition to any other 932
sanction imposed for the offense under this section or sections 933
2929.11 to 2929.18 of the Revised Code, the court that sentences 934
an offender who is convicted of or pleads guilty to any 935
violation of divisions (A) to (D) of this section may suspend 936
for not more than five years the offender's driver's or 937

commercial driver's license or permit. However, if the offender 938
pleaded guilty to or was convicted of a violation of section 939
4511.19 of the Revised Code or a substantially similar municipal 940
ordinance or the law of another state or the United States 941
arising out of the same set of circumstances as the violation, 942
the court shall suspend the offender's driver's or commercial 943
driver's license or permit for not more than five years. 944

If the offender is a professionally licensed person, in 945
addition to any other sanction imposed for a violation of this 946
section, the court immediately shall comply with section 2925.38 947
of the Revised Code. 948

(2) Any offender who received a mandatory suspension of 949
the offender's driver's or commercial driver's license or permit 950
under this section prior to September 13, 2016, may file a 951
motion with the sentencing court requesting the termination of 952
the suspension. However, an offender who pleaded guilty to or 953
was convicted of a violation of section 4511.19 of the Revised 954
Code or a substantially similar municipal ordinance or law of 955
another state or the United States that arose out of the same 956
set of circumstances as the violation for which the offender's 957
license or permit was suspended under this section shall not 958
file such a motion. 959

Upon the filing of a motion under division (G) (2) of this 960
section, the sentencing court, in its discretion, may terminate 961
the suspension. 962

(H) Notwithstanding any contrary provision of section 963
3719.21 of the Revised Code, the clerk of court shall pay a fine 964
imposed for a violation of this section pursuant to division (A) 965
of section 2929.18 of the Revised Code in accordance with and 966
subject to the requirements of division (F) of section 2925.03 967

of the Revised Code. The agency that receives the fine shall use 968
the fine as specified in division (F) of section 2925.03 of the 969
Revised Code. 970

Sec. 2925.55. (A) As used in sections 2925.55 to 2925.58 971
of the Revised Code: 972

(1) "Consumer product" means any food or drink that is 973
consumed or used by humans and any drug, including a drug that 974
may be provided legally only pursuant to a prescription, that is 975
intended to be consumed or used by humans. 976

(2) "Terminal distributor of dangerous drugs" has the same 977
meaning as in section 4729.01 of the Revised Code. 978

(3) "Pseudoephedrine" means any material, compound, 979
mixture, or preparation that contains any quantity of 980
pseudoephedrine, any of its salts, optical isomers, or salts of 981
optical isomers. 982

(4) "Pseudoephedrine product" means a consumer product 983
that contains pseudoephedrine. 984

(5) "Retailer" means a place of business that offers 985
consumer products for sale to the general public. 986

(6) "Single-ingredient preparation" means a compound, 987
mixture, preparation, or substance that contains a single active 988
ingredient. 989

(7) "Ephedrine" means any material, compound, mixture, or 990
preparation that contains any quantity of ephedrine, any of its 991
salts, optical isomers, or salts of optical isomers. 992

(8) "Ephedrine product" means a consumer product that 993
contains ephedrine. 994

(B) (1) No individual shall knowingly purchase, receive, or 995
otherwise acquire an amount of pseudoephedrine product or 996
ephedrine product that is greater than either of the following 997
unless the pseudoephedrine product or ephedrine product is 998
dispensed by a pharmacist pursuant to a valid prescription 999
issued by a licensed health professional authorized to prescribe 1000
drugs and the conduct of the pharmacist and the licensed health 1001
professional authorized to prescribe drugs is in accordance with 1002
Chapter 3719., 4715., 4723., 4729., 4730., 4731., ~~or~~ 4741., or 1003
4761. of the Revised Code: 1004

(a) Three and six tenths grams within a period of a single 1005
day; 1006

(b) Nine grams within a period of thirty consecutive days. 1007

The limits specified in divisions (B) (1) (a) and (b) of 1008
this section apply to the total amount of base pseudoephedrine 1009
or base ephedrine in the pseudoephedrine product or ephedrine 1010
product, respectively. The limits do not apply to the product's 1011
overall weight. 1012

(2) It is not a violation of division (B) (1) of this 1013
section for an individual to receive or accept more than an 1014
amount of pseudoephedrine product or ephedrine product specified 1015
in division (B) (1) (a) or (b) of this section if the individual 1016
is an employee of a retailer or terminal distributor of 1017
dangerous drugs, and the employee receives or accepts from the 1018
retailer or terminal distributor of dangerous drugs the 1019
pseudoephedrine product or ephedrine product in a sealed 1020
container in connection with manufacturing, warehousing, 1021
placement, stocking, bagging, loading, or unloading of the 1022
product. 1023

(C) (1) No individual under eighteen years of age shall 1024
knowingly purchase, receive, or otherwise acquire a 1025
pseudoephedrine product or ephedrine product unless the 1026
pseudoephedrine product or ephedrine product is dispensed by a 1027
pharmacist pursuant to a valid prescription issued by a licensed 1028
health professional authorized to prescribe drugs and the 1029
conduct of the pharmacist and the licensed health professional 1030
authorized to prescribe drugs is in accordance with Chapter 1031
3719., 4715., 4723., 4729., 4730., 4731., ~~or 4741.~~, or 4761. of 1032
the Revised Code. 1033

(2) Division (C) (1) of this section does not apply to an 1034
individual under eighteen years of age who purchases, receives, 1035
or otherwise acquires a pseudoephedrine product or ephedrine 1036
product from any of the following: 1037

(a) A licensed health professional authorized to prescribe 1038
drugs or pharmacist who dispenses, sells, or otherwise provides 1039
the pseudoephedrine product or ephedrine product to that 1040
individual and whose conduct is in accordance with Chapter 1041
3719., 4715., 4723., 4729., 4730., 4731., ~~or 4741.~~, or 4761. of 1042
the Revised Code; 1043

(b) A parent or guardian of that individual who provides 1044
the pseudoephedrine product or ephedrine product to the 1045
individual; 1046

(c) A person, as authorized by that individual's parent or 1047
guardian, who dispenses, sells, or otherwise provides the 1048
pseudoephedrine product or ephedrine product to the individual; 1049

(d) A retailer or terminal distributor of dangerous drugs 1050
who provides the pseudoephedrine product or ephedrine product to 1051
that individual if the individual is an employee of the retailer 1052

or terminal distributor of dangerous drugs and the individual 1053
receives or accepts from the retailer or terminal distributor of 1054
dangerous drugs the pseudoephedrine product or ephedrine product 1055
in a sealed container in connection with manufacturing, 1056
warehousing, placement, stocking, bagging, loading, or unloading 1057
of the product. 1058

(D) No individual under eighteen years of age shall 1059
knowingly show or give false information concerning the 1060
individual's name, age, or other identification for the purpose 1061
of purchasing, receiving, or otherwise acquiring a 1062
pseudoephedrine product or ephedrine product. 1063

(E) No individual shall knowingly fail to comply with the 1064
requirements of division (B) of section 3715.051 of the Revised 1065
Code. 1066

(F) Whoever violates division (B) (1) of this section is 1067
guilty of unlawful purchase of a pseudoephedrine product or 1068
ephedrine product, a misdemeanor of the first degree. 1069

(G) Whoever violates division (C) (1) of this section is 1070
guilty of underage purchase of a pseudoephedrine product or 1071
ephedrine product, a delinquent act that would be a misdemeanor 1072
of the fourth degree if it could be committed by an adult. 1073

(H) Whoever violates division (D) of this section is 1074
guilty of using false information to purchase a pseudoephedrine 1075
product or ephedrine product, a delinquent act that would be a 1076
misdemeanor of the first degree if it could be committed by an 1077
adult. 1078

(I) Whoever violates division (E) of this section is 1079
guilty of improper purchase of a pseudoephedrine product or 1080
ephedrine product, a misdemeanor of the fourth degree. 1081

Sec. 2925.56. (A) (1) Except as provided in division (A) (2) 1082
of this section, no retailer or terminal distributor of 1083
dangerous drugs or an employee of a retailer or terminal 1084
distributor of dangerous drugs shall knowingly sell, offer to 1085
sell, hold for sale, deliver, or otherwise provide to any 1086
individual an amount of pseudoephedrine product or ephedrine 1087
product that is greater than either of the following: 1088

(a) Three and six-tenths grams within a period of a single 1089
day; 1090

(b) Nine grams within a period of thirty consecutive days. 1091

The maximum amounts specified in divisions (A) (1) (a) and 1092
(b) of this section apply to the total amount of base 1093
pseudoephedrine or base ephedrine in the pseudoephedrine product 1094
or ephedrine product, respectively. The maximum amounts do not 1095
apply to the product's overall weight. 1096

(2) (a) Division (A) (1) of this section does not apply to 1097
any quantity of pseudoephedrine product or ephedrine product 1098
dispensed by a pharmacist pursuant to a valid prescription 1099
issued by a licensed health professional authorized to prescribe 1100
drugs if the conduct of the pharmacist and the licensed health 1101
professional authorized to prescribe drugs is in accordance with 1102
Chapter 3719., 4715., 4723., 4729., 4730., 4731., ~~or~~ 4741., or 1103
4761. of the Revised Code. 1104

(b) It is not a violation of division (A) (1) of this 1105
section for a retailer, terminal distributor of dangerous drugs, 1106
or employee of either to provide to an individual more than an 1107
amount of pseudoephedrine product or ephedrine product specified 1108
in division (A) (1) (a) or (b) of this section under either of the 1109
following circumstances: 1110

(i) The individual is an employee of the retailer or 1111
terminal distributor of dangerous drugs, and the employee 1112
receives or accepts from the retailer, terminal distributor of 1113
dangerous drugs, or employee the pseudoephedrine product or 1114
ephedrine product in a sealed container in connection with 1115
manufacturing, warehousing, placement, stocking, bagging, 1116
loading, or unloading of the product; 1117

(ii) A stop-sale alert is generated after the submission 1118
of information to the national precursor log exchange under the 1119
conditions described in division (A) (2) of section 3715.052 of 1120
the Revised Code. 1121

(B) (1) Except as provided in division (B) (2) of this 1122
section, no retailer or terminal distributor of dangerous drugs 1123
or an employee of a retailer or terminal distributor of 1124
dangerous drugs shall sell, offer to sell, hold for sale, 1125
deliver, or otherwise provide a pseudoephedrine product or 1126
ephedrine product to an individual who is under eighteen years 1127
of age. 1128

(2) Division (B) (1) of this section does not apply to any 1129
of the following: 1130

(a) A licensed health professional authorized to prescribe 1131
drugs or pharmacist who dispenses, sells, or otherwise provides 1132
a pseudoephedrine product or ephedrine product to an individual 1133
under eighteen years of age and whose conduct is in accordance 1134
with Chapter 3719., 4715., 4723., 4729., 4730., 4731., ~~or 4741.~~ 1135
or 4761. of the Revised Code; 1136

(b) A parent or guardian of an individual under eighteen 1137
years of age who provides a pseudoephedrine product or ephedrine 1138
product to the individual; 1139

(c) A person who, as authorized by the individual's parent 1140
or guardian, dispenses, sells, or otherwise provides a 1141
pseudoephedrine product or ephedrine product to an individual 1142
under eighteen years of age; 1143

(d) The provision by a retailer, terminal distributor of 1144
dangerous drugs, or employee of either of a pseudoephedrine 1145
product or ephedrine product in a sealed container to an 1146
employee of the retailer or terminal distributor of dangerous 1147
drugs who is under eighteen years of age in connection with 1148
manufacturing, warehousing, placement, stocking, bagging, 1149
loading, or unloading of the product. 1150

(C) No retailer or terminal distributor of dangerous drugs 1151
shall fail to comply with the requirements of division (A) of 1152
section 3715.051 or division (A) (2) of section 3715.052 of the 1153
Revised Code. 1154

(D) No retailer or terminal distributor of dangerous drugs 1155
shall fail to comply with the requirements of division (A) (1) of 1156
section 3715.052 of the Revised Code. 1157

(E) Whoever violates division (A) (1) of this section is 1158
guilty of unlawfully selling a pseudoephedrine product or 1159
ephedrine product, a misdemeanor of the first degree. 1160

(F) Whoever violates division (B) (1) of this section is 1161
guilty of unlawfully selling a pseudoephedrine product or 1162
ephedrine product to a minor, a misdemeanor of the fourth 1163
degree. 1164

(G) Whoever violates division (C) of this section is 1165
guilty of improper sale of a pseudoephedrine product or 1166
ephedrine product, a misdemeanor of the second degree. 1167

(H) Whoever violates division (D) of this section is 1168

guilty of failing to submit information to the national 1169
precursor log exchange, a misdemeanor for which the offender 1170
shall be fined not more than one thousand dollars per violation. 1171

Sec. 2929.42. (A) The prosecutor in any case against any 1172
person licensed, certified, registered, or otherwise authorized 1173
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1174
4731., 4734., ~~or 4741.~~ or 4761. of the Revised Code shall 1175
notify the appropriate licensing board, on forms provided by the 1176
board, of any of the following regarding the person: 1177

(1) A plea of guilty to, or a conviction of, a felony, or 1178
a court order dismissing a felony charge on technical or 1179
procedural grounds; 1180

(2) A plea of guilty to, or a conviction of, a misdemeanor 1181
committed in the course of practice or in the course of 1182
business, or a court order dismissing such a misdemeanor charge 1183
on technical or procedural grounds; 1184

(3) A plea of guilty to, or a conviction of, a misdemeanor 1185
involving moral turpitude, or a court order dismissing such a 1186
charge on technical or procedural grounds. 1187

(B) The report required by division (A) of this section 1188
shall include the name and address of the person, the nature of 1189
the offense, and certified copies of court entries in the 1190
action. 1191

Sec. 3701.048. (A) As used in this section: 1192

(1) "Board of health" means the board of health of a city 1193
or general health district or the authority having the duties of 1194
a board of health under section 3709.05 of the Revised Code. 1195

(2) "Controlled substance" has the same meaning as in 1196

section 3719.01 of the Revised Code.	1197
(3) "Drug," "dangerous drug," and "licensed health professional authorized to prescribe drugs" have the same meanings as in section 4729.01 of the Revised Code.	1198 1199 1200
(4) "Registered volunteer" has the same meaning as in section 5502.281 of the Revised Code.	1201 1202
(B) In consultation with the appropriate professional regulatory boards of this state, the director of health shall develop one or more protocols that authorize the following individuals to administer, deliver, or distribute drugs, other than schedule II and III controlled substances, during a period of time described in division (E) of this section, notwithstanding any statute or rule that otherwise prohibits or restricts the administration, delivery, or distribution of drugs by those individuals:	1203 1204 1205 1206 1207 1208 1209 1210 1211
(1) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;	1212 1213 1214
(2) A physician assistant licensed under Chapter 4730. of the Revised Code;	1215 1216
(3) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	1217 1218
(4) A registered nurse licensed under Chapter 4723. of the Revised Code, including an advanced practice registered nurse, as defined in section 4723.01 of the Revised Code;	1219 1220 1221
(5) A licensed practical nurse licensed under Chapter 4723. of the Revised Code;	1222 1223
(6) An optometrist licensed under Chapter 4725. of the	1224

Revised Code;	1225
(7) A pharmacist or pharmacy intern licensed under Chapter 4729. of the Revised Code;	1226 1227
(8) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	1228 1229 1230
(9) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic who holds a certificate to practice issued under Chapter 4765. of the Revised Code;	1231 1232 1233 1234
(10) A veterinarian licensed under Chapter 4741. of the Revised Code.	1235 1236
(C) In consultation with the executive director of the emergency management agency, the director of health shall develop one or more protocols that authorize employees of boards of health and registered volunteers to deliver or distribute drugs, other than schedule II and III controlled substances, during a period of time described in division (E) of this section, notwithstanding any statute or rule that otherwise prohibits or restricts the delivery or distribution of drugs by those individuals.	1237 1238 1239 1240 1241 1242 1243 1244 1245
(D) In consultation with the state board of pharmacy, the director of health shall develop one or more protocols that authorize pharmacists and pharmacy interns to dispense, during a period of time described in division (E) of this section, limited quantities of dangerous drugs, other than schedule II and III controlled substances, without a written, oral, or electronic prescription from a licensed health professional authorized to prescribe drugs or without a record of a	1246 1247 1248 1249 1250 1251 1252 1253

prescription, notwithstanding any statute or rule that otherwise 1254
prohibits or restricts the dispensing of drugs without a 1255
prescription or record of a prescription. 1256

(E) On the governor's declaration of an emergency that 1257
affects the public health, the director of health may issue an 1258
order to implement one or more of the protocols developed 1259
pursuant to division (B), (C), or (D) of this section. At a 1260
minimum, the director's order shall identify the one or more 1261
protocols to be implemented and the period of time during which 1262
the one or more protocols are to be effective. 1263

(F) (1) An individual who administers, delivers, 1264
distributes, or dispenses a drug or dangerous drug in accordance 1265
with one or more of the protocols implemented under division (E) 1266
of this section is not liable for damages in any civil action 1267
unless the individual's acts or omissions in performing those 1268
activities constitute willful or wanton misconduct. 1269

(2) An individual who administers, delivers, distributes, 1270
or dispenses a drug or dangerous drug in accordance with one or 1271
more of the protocols implemented under division (E) of this 1272
section is not subject to criminal prosecution or professional 1273
disciplinary action under any chapter in Title XLVII of the 1274
Revised Code. 1275

Sec. 3701.74. (A) As used in this section and section 1276
3701.741 of the Revised Code: 1277

(1) "Ambulatory care facility" means a facility that 1278
provides medical, diagnostic, or surgical treatment to patients 1279
who do not require hospitalization, including a dialysis center, 1280
ambulatory surgical facility, cardiac catheterization facility, 1281
diagnostic imaging center, extracorporeal shock wave lithotripsy 1282

center, home health agency, inpatient hospice, birthing center, 1283
radiation therapy center, emergency facility, and an urgent care 1284
center. "Ambulatory care facility" does not include the private 1285
office of a physician or dentist, whether the office is for an 1286
individual or group practice. 1287

(2) "Chiropractor" means an individual licensed under 1288
Chapter 4734. of the Revised Code to practice chiropractic. 1289

(3) "Emergency facility" means a hospital emergency 1290
department or any other facility that provides emergency medical 1291
services. 1292

(4) "Health care practitioner" means all of the following: 1293

(a) A dentist or dental hygienist licensed under Chapter 1294
4715. of the Revised Code; 1295

(b) A registered or licensed practical nurse licensed 1296
under Chapter 4723. of the Revised Code; 1297

(c) An optometrist licensed under Chapter 4725. of the 1298
Revised Code; 1299

(d) A dispensing optician, spectacle dispensing optician, 1300
or spectacle-contact lens dispensing optician licensed under 1301
Chapter 4725. of the Revised Code; 1302

(e) A pharmacist licensed under Chapter 4729. of the 1303
Revised Code; 1304

(f) A physician; 1305

(g) A physician assistant authorized under Chapter 4730. 1306
of the Revised Code to practice as a physician assistant; 1307

(h) A practitioner of a limited branch of medicine issued 1308
a certificate under Chapter 4731. of the Revised Code; 1309

(i) A psychologist licensed under Chapter 4732. of the Revised Code;	1310 1311
(j) A chiropractor;	1312
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	1313 1314
(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	1315 1316
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	1317 1318
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	1319 1320
(o) A licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	1321 1322 1323 1324 1325
(p) A dietitian licensed under Chapter 4759. of the Revised Code;	1326 1327
(q) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	1328 1329 1330
(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	1331 1332 1333 1334
(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency	1335 1336

facility, or health care practitioner. 1337

(6) "Hospital" has the same meaning as in section 3727.01 1338
of the Revised Code. 1339

(7) "Long-term care facility" means a nursing home, 1340
residential care facility, or home for the aging, as those terms 1341
are defined in section 3721.01 of the Revised Code; a 1342
residential facility licensed under section 5119.34 of the 1343
Revised Code that provides accommodations, supervision, and 1344
personal care services for three to sixteen unrelated adults; a 1345
nursing facility, as defined in section 5165.01 of the Revised 1346
Code; a skilled nursing facility, as defined in section 5165.01 1347
of the Revised Code; and an intermediate care facility for 1348
individuals with intellectual disabilities, as defined in 1349
section 5124.01 of the Revised Code. 1350

(8) "Medical record" means data in any form that pertains 1351
to a patient's medical history, diagnosis, prognosis, or medical 1352
condition and that is generated and maintained by a health care 1353
provider in the process of the patient's health care treatment. 1354

(9) "Medical records company" means a person who stores, 1355
locates, or copies medical records for a health care provider, 1356
or is compensated for doing so by a health care provider, and 1357
charges a fee for providing medical records to a patient or 1358
patient's representative. 1359

(10) "Patient" means either of the following: 1360

(a) An individual who received health care treatment from 1361
a health care provider; 1362

(b) A guardian, as defined in section 1337.11 of the 1363
Revised Code, of an individual described in division (A) (10) (a) 1364
of this section. 1365

(11) "Patient's personal representative" means a minor 1366
patient's parent or other person acting in loco parentis, a 1367
court-appointed guardian, or a person with durable power of 1368
attorney for health care for a patient, the executor or 1369
administrator of the patient's estate, or the person responsible 1370
for the patient's estate if it is not to be probated. "Patient's 1371
personal representative" does not include an insurer authorized 1372
under Title XXXIX of the Revised Code to do the business of 1373
sickness and accident insurance in this state, a health insuring 1374
corporation holding a certificate of authority under Chapter 1375
1751. of the Revised Code, or any other person not named in this 1376
division. 1377

(12) "Pharmacy" has the same meaning as in section 4729.01 1378
of the Revised Code. 1379

(13) "Physician" means a person authorized under Chapter 1380
4731. of the Revised Code to practice medicine and surgery, 1381
osteopathic medicine and surgery, or podiatric medicine and 1382
surgery. 1383

(14) "Authorized person" means a person to whom a patient 1384
has given written authorization to act on the patient's behalf 1385
regarding the patient's medical record. 1386

(B) A patient, a patient's personal representative, or an 1387
authorized person who wishes to examine or obtain a copy of part 1388
or all of a medical record shall submit to the health care 1389
provider a written request signed by the patient, personal 1390
representative, or authorized person dated not more than one 1391
year before the date on which it is submitted. The request shall 1392
indicate whether the copy is to be sent to the requestor, 1393
physician or chiropractor, or held for the requestor at the 1394
office of the health care provider. Within a reasonable time 1395

after receiving a request that meets the requirements of this 1396
division and includes sufficient information to identify the 1397
record requested, a health care provider that has the patient's 1398
medical records shall permit the patient to examine the record 1399
during regular business hours without charge or, on request, 1400
shall provide a copy of the record in accordance with section 1401
3701.741 of the Revised Code, except that if a physician, 1402
psychologist, licensed professional clinical counselor, licensed 1403
professional counselor, independent social worker, social 1404
worker, independent marriage and family therapist, marriage and 1405
family therapist, or chiropractor who has treated the patient 1406
determines for clearly stated treatment reasons that disclosure 1407
of the requested record is likely to have an adverse effect on 1408
the patient, the health care provider shall provide the record 1409
to a physician, psychologist, licensed professional clinical 1410
counselor, licensed professional counselor, independent social 1411
worker, social worker, independent marriage and family 1412
therapist, marriage and family therapist, or chiropractor 1413
designated by the patient. The health care provider shall take 1414
reasonable steps to establish the identity of the person making 1415
the request to examine or obtain a copy of the patient's record. 1416

(C) If a health care provider fails to furnish a medical 1417
record as required by division (B) of this section, the patient, 1418
personal representative, or authorized person who requested the 1419
record may bring a civil action to enforce the patient's right 1420
of access to the record. 1421

(D) (1) This section does not apply to medical records 1422
whose release is covered by section 173.20 or 3721.13 of the 1423
Revised Code, by Chapter 1347., 5119., or 5122. of the Revised 1424
Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug 1425
Abuse Patient Records," or by 42 C.F.R. 483.10. 1426

(2) Nothing in this section is intended to supersede the 1427
confidentiality provisions of sections 2305.24, 2305.25, 1428
2305.251, and 2305.252 of the Revised Code. 1429

Sec. 3715.872. (A) As used in this section, "health care 1430
professional" means any of the following who provide medical, 1431
dental, or other health-related diagnosis, care, or treatment: 1432

(1) Individuals authorized under Chapter 4731. of the 1433
Revised Code to practice medicine and surgery, osteopathic 1434
medicine and surgery, or podiatric medicine and surgery; 1435

(2) Registered nurses and licensed practical nurses 1436
licensed under Chapter 4723. of the Revised Code; 1437

(3) Physician assistants licensed under Chapter 4730. of 1438
the Revised Code; 1439

(4) Dentists and dental hygienists licensed under Chapter 1440
4715. of the Revised Code; 1441

(5) Optometrists licensed under Chapter 4725. of the 1442
Revised Code; 1443

(6) Pharmacists licensed under Chapter 4729. of the 1444
Revised Code; 1445

(7) Advanced practice respiratory therapists licensed 1446
under Chapter 4761. of the Revised Code. 1447

(B) For matters related to activities conducted under the 1448
drug repository program, all of the following apply: 1449

(1) A pharmacy, drug manufacturer, health care facility, 1450
or other person or government entity that donates or gives drugs 1451
to the program, and any person or government entity that 1452
facilitates the donation or gift, shall not be subject to 1453

liability in tort or other civil action for injury, death, or 1454
loss to person or property. 1455

(2) A pharmacy, hospital, or nonprofit clinic that accepts 1456
or distributes drugs under the program shall not be subject to 1457
liability in tort or other civil action for injury, death, or 1458
loss to person or property, unless an action or omission of the 1459
pharmacy, hospital, or nonprofit clinic constitutes willful and 1460
wanton misconduct. 1461

(3) A health care professional who accepts, dispenses, or 1462
personally furnishes drugs under the program on behalf of a 1463
pharmacy, hospital, or nonprofit clinic participating in the 1464
program, and the pharmacy, hospital, or nonprofit clinic that 1465
employs or otherwise uses the services of the health care 1466
professional, shall not be subject to liability in tort or other 1467
civil action for injury, death, or loss to person or property, 1468
unless an action or omission of the health care professional, 1469
pharmacy, hospital, or nonprofit clinic constitutes willful and 1470
wanton misconduct. 1471

(4) The state board of pharmacy shall not be subject to 1472
liability in tort or other civil action for injury, death, or 1473
loss to person or property, unless an action or omission of the 1474
board constitutes willful and wanton misconduct. 1475

(5) In addition to the civil immunity granted under 1476
division (B)(1) of this section, a pharmacy, drug manufacturer, 1477
health care facility, or other person or government entity that 1478
donates or gives drugs to the program, and any person or 1479
government entity that facilitates the donation or gift, shall 1480
not be subject to criminal prosecution for matters related to 1481
activities that it conducts or another party conducts under the 1482
program, unless an action or omission of the party that donates, 1483

gives, or facilitates the donation or gift of the drugs does not 1484
comply with the provisions of this chapter or the rules adopted 1485
under it. 1486

(6) In the case of a drug manufacturer, the immunities 1487
from civil liability and criminal prosecution granted to another 1488
party under divisions (B) (1) and (5) of this section extend to 1489
the manufacturer when any drug it manufactures is the subject of 1490
an activity conducted under the program. This extension of 1491
immunities includes, but is not limited to, immunity from 1492
liability or prosecution for failure to transfer or communicate 1493
product or consumer information or the expiration date of a drug 1494
that is donated or given. 1495

Sec. 3719.121. (A) Except as otherwise provided in section 1496
4723.28, 4723.35, 4730.25, 4731.22, 4734.39, ~~or~~ 4734.41, or 1497
4761.09 of the Revised Code, the license, certificate, or 1498
registration of any dentist, chiropractor, physician, 1499
podiatrist, registered nurse, advanced practice registered 1500
nurse, licensed practical nurse, physician assistant, advanced 1501
practice respiratory therapist, pharmacist, pharmacy intern, 1502
pharmacy technician trainee, registered pharmacy technician, 1503
certified pharmacy technician, optometrist, or veterinarian who 1504
is or becomes addicted to the use of controlled substances shall 1505
be suspended by the board that authorized the person's license, 1506
certificate, or registration until the person offers 1507
satisfactory proof to the board that the person no longer is 1508
addicted to the use of controlled substances. 1509

(B) If the board under which a person has been issued a 1510
license, certificate, or evidence of registration determines 1511
that there is clear and convincing evidence that continuation of 1512
the person's professional practice or method of administering, 1513

prescribing, preparing, distributing, dispensing, or personally 1514
furnishing controlled substances or other dangerous drugs 1515
presents a danger of immediate and serious harm to others, the 1516
board may suspend the person's license, certificate, or 1517
registration without a hearing. Except as otherwise provided in 1518
sections 4715.30, 4723.281, 4729.16, 4730.25, 4731.22, ~~and~~ 1519
4734.36, and 4761.09 of the Revised Code, the board shall follow 1520
the procedure for suspension without a prior hearing in section 1521
119.07 of the Revised Code. The suspension shall remain in 1522
effect, unless removed by the board, until the board's final 1523
adjudication order becomes effective, except that if the board 1524
does not issue its final adjudication order within ninety days 1525
after the hearing, the suspension shall be void on the ninety- 1526
first day after the hearing. 1527

(C) On receiving notification pursuant to section 2929.42 1528
or 3719.12 of the Revised Code, the board under which a person 1529
has been issued a license, certificate, or evidence of 1530
registration immediately shall suspend the license, certificate, 1531
or registration of that person on a plea of guilty to, a finding 1532
by a jury or court of the person's guilt of, or conviction of a 1533
felony drug abuse offense; a finding by a court of the person's 1534
eligibility for intervention in lieu of conviction; a plea of 1535
guilty to, or a finding by a jury or court of the person's guilt 1536
of, or the person's conviction of an offense in another 1537
jurisdiction that is essentially the same as a felony drug abuse 1538
offense; or a finding by a court of the person's eligibility for 1539
treatment or intervention in lieu of conviction in another 1540
jurisdiction. The board shall notify the holder of the license, 1541
certificate, or registration of the suspension, which shall 1542
remain in effect until the board holds an adjudicatory hearing 1543
under Chapter 119. of the Revised Code. 1544

Sec. 3719.13. Prescriptions, orders, and records, required 1545
by Chapter 3719. of the Revised Code, and stocks of dangerous 1546
drugs and controlled substances, shall be open for inspection 1547
only to federal, state, county, and municipal officers, and 1548
employees of the state board of pharmacy whose duty it is to 1549
enforce the laws of this state or of the United States relating 1550
to controlled substances. Such prescriptions, orders, records, 1551
and stocks shall be open for inspection by employees of the 1552
state medical board for purposes of enforcing Chapters 4730. ~~and~~ 1553
4731., and 4761. of the Revised Code, employees of the board of 1554
nursing for purposes of enforcing Chapter 4723. of the Revised 1555
Code, and employees of the department of mental health and 1556
addiction services for purposes of section 5119.37 of the 1557
Revised Code. No person having knowledge of any such 1558
prescription, order, or record shall divulge such knowledge, 1559
except in connection with a prosecution or proceeding in court 1560
or before a licensing or registration board or officer, to which 1561
prosecution or proceeding the person to whom such prescriptions, 1562
orders, or records relate is a party. 1563

Sec. 3719.81. (A) As used in this section, "sample drug" 1564
has the same meaning as in section 2925.01 of the Revised Code. 1565

(B) A person may furnish another a sample drug, if all of 1566
the following apply: 1567

(1) The sample drug is furnished free of charge by a 1568
manufacturer, manufacturer's representative, or wholesale dealer 1569
in pharmaceuticals to a licensed health professional authorized 1570
to prescribe drugs, other than an advanced practice respiratory 1571
therapist, or is furnished free of charge by ~~such a professional~~ 1572
the prescriber who received the sample drug to a patient for use 1573
as medication; 1574

(2) The sample drug is in the original container in which 1575
it was placed by the manufacturer, and the container is plainly 1576
marked as a sample; 1577

(3) Prior to its being furnished, the sample drug has been 1578
stored under the proper conditions to prevent its deterioration 1579
or contamination; 1580

(4) If the sample drug is of a type which deteriorates 1581
with time, the sample container is plainly marked with the date 1582
beyond which the sample drug is unsafe to use, and the date has 1583
not expired on the sample furnished. Compliance with the 1584
labeling requirements of the "Federal Food, Drug, and Cosmetic 1585
Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, shall 1586
be deemed compliance with this section. 1587

(5) The sample drug is distributed, stored, or discarded 1588
in such a way that the sample drug may not be acquired or used 1589
by any unauthorized person, or by any person, including a child, 1590
for whom it may present a health or safety hazard. 1591

(C) Division (B) of this section does not do any of the 1592
following: 1593

(1) Apply to or restrict the furnishing of any sample of a 1594
nonnarcotic substance if the substance may, under the "Federal 1595
Food, Drug, and Cosmetic Act" and under the laws of this state, 1596
otherwise be lawfully sold over the counter without a 1597
prescription; 1598

(2) Authorize a ~~licensed health professional authorized to~~ 1599
~~prescribe drugs~~ prescriber who is a clinical nurse specialist, 1600
certified nurse-midwife, certified nurse practitioner, 1601
optometrist, or physician assistant to furnish a sample drug 1602
that is not a drug the ~~professional~~ prescriber is authorized to 1603

prescribe. 1604

(3) Prohibit a ~~licensed health professional authorized to~~ 1605
~~prescribe drugs~~prescriber, manufacturer of dangerous drugs, 1606
wholesale distributor of dangerous drugs, or representative of a 1607
manufacturer of dangerous drugs from furnishing a sample drug to 1608
a charitable pharmacy in accordance with section 3719.811 of the 1609
Revised Code. 1610

(4) Prohibit a pharmacist working, whether or not for 1611
compensation, in a charitable pharmacy from dispensing a sample 1612
drug to a person in accordance with section 3719.811 of the 1613
Revised Code. 1614

(D) The state board of pharmacy shall, in accordance with 1615
Chapter 119. of the Revised Code, adopt rules as necessary to 1616
give effect to this section. 1617

Sec. 4729.01. As used in this chapter: 1618

(A) "Pharmacy," except when used in a context that refers 1619
to the practice of pharmacy, means any area, room, rooms, place 1620
of business, department, or portion of any of the foregoing 1621
where the practice of pharmacy is conducted. 1622

(B) "Practice of pharmacy" means providing pharmacist care 1623
requiring specialized knowledge, judgment, and skill derived 1624
from the principles of biological, chemical, behavioral, social, 1625
pharmaceutical, and clinical sciences. As used in this division, 1626
"pharmacist care" includes the following: 1627

(1) Interpreting prescriptions; 1628

(2) Dispensing drugs and drug therapy related devices; 1629

(3) Compounding drugs; 1630

(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;

(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;

(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;

(7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;

(8) Acting pursuant to a consult agreement, if an agreement has been established;

(9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code;

(10) Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code.

(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:

(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;

(2) Pursuant to the modification of a prescription made in

accordance with a consult agreement; 1659

(3) As an incident to research, teaching activities, or 1660
chemical analysis; 1661

(4) In anticipation of orders for drugs pursuant to 1662
prescriptions, based on routine, regularly observed dispensing 1663
patterns; 1664

(5) Pursuant to a request made by a licensed health 1665
professional authorized to prescribe drugs for a drug that is to 1666
be used by the professional for the purpose of direct 1667
administration to patients in the course of the professional's 1668
practice, if all of the following apply: 1669

(a) At the time the request is made, the drug is not 1670
commercially available regardless of the reason that the drug is 1671
not available, including the absence of a manufacturer for the 1672
drug or the lack of a readily available supply of the drug from 1673
a manufacturer. 1674

(b) A limited quantity of the drug is compounded and 1675
provided to the professional. 1676

(c) The drug is compounded and provided to the 1677
professional as an occasional exception to the normal practice 1678
of dispensing drugs pursuant to patient-specific prescriptions. 1679

(D) "Consult agreement" means an agreement that has been 1680
entered into under section 4729.39 of the Revised Code. 1681

(E) "Drug" means: 1682

(1) Any article recognized in the United States 1683
pharmacopoeia and national formulary, or any supplement to them, 1684
intended for use in the diagnosis, cure, mitigation, treatment, 1685
or prevention of disease in humans or animals; 1686

(2) Any other article intended for use in the diagnosis, 1687
cure, mitigation, treatment, or prevention of disease in humans 1688
or animals; 1689

(3) Any article, other than food, intended to affect the 1690
structure or any function of the body of humans or animals; 1691

(4) Any article intended for use as a component of any 1692
article specified in division (E) (1), (2), or (3) of this 1693
section; but does not include devices or their components, 1694
parts, or accessories. 1695

"Drug" does not include "hemp" or a "hemp product" as 1696
those terms are defined in section 928.01 of the Revised Code. 1697

(F) "Dangerous drug" means any of the following: 1698

(1) Any drug to which either of the following applies: 1699

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 1700
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is 1701
required to bear a label containing the legend "Caution: Federal 1702
law prohibits dispensing without prescription" or "Caution: 1703
Federal law restricts this drug to use by or on the order of a 1704
licensed veterinarian" or any similar restrictive statement, or 1705
the drug may be dispensed only upon a prescription; 1706

(b) Under Chapter 3715. or 3719. of the Revised Code, the 1707
drug may be dispensed only upon a prescription. 1708

(2) Any drug that contains a schedule V controlled 1709
substance and that is exempt from Chapter 3719. of the Revised 1710
Code or to which that chapter does not apply; 1711

(3) Any drug intended for administration by injection into 1712
the human body other than through a natural orifice of the human 1713
body; 1714

(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code.	1715 1716
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	1717 1718
(H) "Prescription" means all of the following:	1719
(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;	1720 1721 1722 1723
(2) For purposes of sections 4723.4810, 4729.282, 4730.432, and 4731.93 of the Revised Code, a written, electronic, or oral order for a drug to treat chlamydia, gonorrhea, or trichomoniasis issued to and in the name of a patient who is not the intended user of the drug but is the sexual partner of the intended user;	1724 1725 1726 1727 1728 1729
(3) For purposes of sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 4731.96, and 5101.76 of the Revised Code, a written, electronic, or oral order for an epinephrine autoinjector issued to and in the name of a school, school district, or camp;	1730 1731 1732 1733 1734
(4) For purposes of Chapter 3728. and sections 4723.483, 4729.88, 4730.433, and 4731.96 of the Revised Code, a written, electronic, or oral order for an epinephrine autoinjector issued to and in the name of a qualified entity, as defined in section 3728.01 of the Revised Code;	1735 1736 1737 1738 1739
(5) For purposes of sections 3313.7115, 3313.7116, 3314.147, 3326.60, 3328.38, 4723.4811, 4730.437, 4731.92, and 5101.78 of the Revised Code, a written, electronic, or oral order for injectable or nasally administered glucagon in the	1740 1741 1742 1743

name of a school, school district, or camp. 1744

(I) "Licensed health professional authorized to prescribe 1745
drugs" or "prescriber" means an individual who is authorized by 1746
law to prescribe drugs or dangerous drugs or drug therapy 1747
related devices in the course of the individual's professional 1748
practice, including only the following: 1749

(1) A dentist licensed under Chapter 4715. of the Revised 1750
Code; 1751

(2) A clinical nurse specialist, certified nurse-midwife, 1752
or certified nurse practitioner who holds a current, valid 1753
license issued under Chapter 4723. of the Revised Code to 1754
practice nursing as an advanced practice registered nurse; 1755

(3) A certified registered nurse anesthetist who holds a 1756
current, valid license issued under Chapter 4723. of the Revised 1757
Code to practice nursing as an advanced practice registered 1758
nurse, but only to the extent of the nurse's authority under 1759
sections 4723.43 and 4723.434 of the Revised Code; 1760

(4) An optometrist licensed under Chapter 4725. of the 1761
Revised Code to practice optometry; 1762

(5) A physician authorized under Chapter 4731. of the 1763
Revised Code to practice medicine and surgery, osteopathic 1764
medicine and surgery, or podiatric medicine and surgery; 1765

(6) A physician assistant who holds a license to practice 1766
as a physician assistant issued under Chapter 4730. of the 1767
Revised Code, holds a valid prescriber number issued by the 1768
state medical board, and has been granted physician-delegated 1769
prescriptive authority; 1770

(7) A veterinarian licensed under Chapter 4741. of the 1771

Revised Code;	1772
<u>(8) An advanced practice respiratory therapist who holds a license to practice as an advanced practice respiratory therapist issued under Chapter 4761. of the Revised Code and has been granted physician-delegated prescriptive authority.</u>	1773 1774 1775 1776
(J) "Sale" or "sell" includes any transaction made by any person, whether as principal proprietor, agent, or employee, to do or offer to do any of the following: deliver, distribute, broker, exchange, gift or otherwise give away, or transfer, whether the transfer is by passage of title, physical movement, or both.	1777 1778 1779 1780 1781 1782
(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.	1783 1784 1785
(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.	1786 1787
(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.	1788 1789 1790 1791 1792
(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:	1793 1794 1795
(1) The proprietary name of the drug product;	1796
(2) The established (generic) name of the drug product;	1797
(3) The strength of the drug product if the product contains a single active ingredient or if the drug product	1798 1799

contains more than one active ingredient and a relevant strength 1800
can be associated with the product without indicating each 1801
active ingredient. The established name and quantity of each 1802
active ingredient are required if such a relevant strength 1803
cannot be so associated with a drug product containing more than 1804
one ingredient. 1805

(4) The dosage form; 1806

(5) The price charged for a specific quantity of the drug 1807
product. The stated price shall include all charges to the 1808
consumer, including, but not limited to, the cost of the drug 1809
product, professional fees, handling fees, if any, and a 1810
statement identifying professional services routinely furnished 1811
by the pharmacy. Any mailing fees and delivery fees may be 1812
stated separately without repetition. The information shall not 1813
be false or misleading. 1814

(O) "Wholesale distributor of dangerous drugs" or 1815
"wholesale distributor" means a person engaged in the sale of 1816
dangerous drugs at wholesale and includes any agent or employee 1817
of such a person authorized by the person to engage in the sale 1818
of dangerous drugs at wholesale. 1819

(P) "Manufacturer of dangerous drugs" or "manufacturer" 1820
means a person, other than a pharmacist or prescriber, who 1821
manufactures dangerous drugs and who is engaged in the sale of 1822
those dangerous drugs. 1823

(Q) "Terminal distributor of dangerous drugs" or "terminal 1824
distributor" means a person who is engaged in the sale of 1825
dangerous drugs at retail, or any person, other than a 1826
manufacturer, repackager, outsourcing facility, third-party 1827
logistics provider, wholesale distributor, or pharmacist, who 1828

has possession, custody, or control of dangerous drugs for any 1829
purpose other than for that person's own use and consumption. 1830
"Terminal distributor" includes pharmacies, hospitals, nursing 1831
homes, and laboratories and all other persons who procure 1832
dangerous drugs for sale or other distribution by or under the 1833
supervision of a pharmacist, licensed health professional 1834
authorized to prescribe drugs, or other person authorized by the 1835
state board of pharmacy. 1836

(R) "Promote to the public" means disseminating a 1837
representation to the public in any manner or by any means, 1838
other than by labeling, for the purpose of inducing, or that is 1839
likely to induce, directly or indirectly, the purchase of a 1840
dangerous drug at retail. 1841

(S) "Person" includes any individual, partnership, 1842
association, limited liability company, or corporation, the 1843
state, any political subdivision of the state, and any district, 1844
department, or agency of the state or its political 1845
subdivisions. 1846

(T) (1) "Animal shelter" means a facility operated by a 1847
humane society or any society organized under Chapter 1717. of 1848
the Revised Code or a dog pound operated pursuant to Chapter 1849
955. of the Revised Code. 1850

(2) "County dog warden" means a dog warden or deputy dog 1851
warden appointed or employed under section 955.12 of the Revised 1852
Code. 1853

(U) "Food" has the same meaning as in section 3715.01 of 1854
the Revised Code. 1855

(V) "Pain management clinic" has the same meaning as in 1856
section 4731.054 of the Revised Code. 1857

(W) "Investigational drug or product" means a drug or product that has successfully completed phase one of the United States food and drug administration clinical trials and remains under clinical trial, but has not been approved for general use by the United States food and drug administration.

"Investigational drug or product" does not include controlled substances in schedule I, as defined in section 3719.01 of the Revised Code.

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

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

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

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

(BB) "Laboratory" means a laboratory licensed under this chapter as a terminal distributor of dangerous drugs and

entrusted to have custody of any of the following drugs and to 1887
use the drugs for scientific and clinical purposes and for 1888
purposes of instruction: dangerous drugs that are not controlled 1889
substances, as defined in section 3719.01 of the Revised Code; 1890
dangerous drugs that are controlled substances, as defined in 1891
that section; and controlled substances in schedule I, as 1892
defined in that section. 1893

(CC) "Overdose reversal drug" means both of the following: 1894

(1) Naloxone; 1895

(2) Any other drug that the state board of pharmacy, 1896
through rules adopted in accordance with Chapter 119. of the 1897
Revised Code, designates as a drug that is approved by the 1898
federal food and drug administration for the reversal of a known 1899
or suspected opioid-related overdose. 1900

Sec. 4729.51. (A) No person other than a licensed 1901
manufacturer of dangerous drugs, outsourcing facility, third- 1902
party logistics provider, repackager of dangerous drugs, or 1903
wholesale distributor of dangerous drugs shall possess for sale, 1904
sell, distribute, or deliver, at wholesale, dangerous drugs or 1905
investigational drugs or products, except as follows: 1906

(1) A licensed terminal distributor of dangerous drugs 1907
that is a pharmacy may make occasional sales of dangerous drugs 1908
or investigational drugs or products at wholesale. 1909

(2) A licensed terminal distributor of dangerous drugs 1910
having more than one licensed location may transfer or deliver 1911
dangerous drugs from one licensed location to another licensed 1912
location owned by the terminal distributor if the license issued 1913
for each location is in effect at the time of the transfer or 1914
delivery. 1915

(3) A licensed terminal distributor of dangerous drugs	1916
that is not a pharmacy may make occasional sales of the	1917
following at wholesale:	1918
(a) Overdose reversal drugs;	1919
(b) Dangerous drugs if the drugs being sold are in	1920
shortage, as defined in rules adopted under section 4729.26 of	1921
the Revised Code;	1922
(c) Dangerous drugs other than those described in	1923
divisions (A) (3) (a) and (b) of this section or investigational	1924
drugs or products if authorized by rules adopted under section	1925
4729.26 of the Revised Code.	1926
(B) No licensed manufacturer, outsourcing facility, third-	1927
party logistics provider, repackager, or wholesale distributor	1928
shall possess for sale, sell, or distribute, at wholesale,	1929
dangerous drugs or investigational drugs or products to any	1930
person other than the following:	1931
(1) Subject to division (D) of this section, a licensed	1932
terminal distributor of dangerous drugs;	1933
(2) Subject to division (C) of this section, any person	1934
exempt from licensure as a terminal distributor of dangerous	1935
drugs under section 4729.541 of the Revised Code;	1936
(3) A licensed manufacturer, outsourcing facility, third-	1937
party logistics provider, repackager, or wholesale distributor;	1938
(4) A terminal distributor, manufacturer, outsourcing	1939
facility, third-party logistics provider, repackager, or	1940
wholesale distributor that is located in another state, is not	1941
engaged in the sale of dangerous drugs within this state, and is	1942
actively licensed to engage in the sale of dangerous drugs by	1943

the state in which the distributor conducts business. 1944

(C) No licensed manufacturer, outsourcing facility, third- 1945
party logistics provider, repackager, or wholesale distributor 1946
shall possess for sale, sell, or distribute, at wholesale, 1947
dangerous drugs or investigational drugs or products to either 1948
of the following: 1949

(1) A prescriber who is employed by a pain management 1950
clinic that is not licensed as a terminal distributor of 1951
dangerous drugs with a pain management clinic classification 1952
issued under section 4729.552 of the Revised Code; 1953

(2) A business entity described in division (A) (2) or (3) 1954
of section 4729.541 of the Revised Code that is, or is 1955
operating, a pain management clinic without a license as a 1956
terminal distributor of dangerous drugs with a pain management 1957
clinic classification issued under section 4729.552 of the 1958
Revised Code. 1959

(D) No licensed manufacturer, outsourcing facility, third- 1960
party logistics provider, repackager, or wholesale distributor 1961
shall possess dangerous drugs or investigational drugs or 1962
products for sale at wholesale, or sell or distribute such drugs 1963
at wholesale, to a licensed terminal distributor of dangerous 1964
drugs, except as follows: 1965

(1) In the case of a terminal distributor with a category 1966
II license, only dangerous drugs in category II, as defined in 1967
division (A) (1) of section 4729.54 of the Revised Code; 1968

(2) In the case of a terminal distributor with a category 1969
III license, dangerous drugs in category II and category III, as 1970
defined in divisions (A) (1) and (2) of section 4729.54 of the 1971
Revised Code; 1972

(3) In the case of a terminal distributor with a limited category II or III license, only the dangerous drugs specified in the license.	1973 1974 1975
(E) (1) Except as provided in division (E) (2) of this section, no person shall do any of the following:	1976 1977
(a) Sell or distribute, at retail, dangerous drugs;	1978
(b) Possess for sale, at retail, dangerous drugs;	1979
(c) Possess dangerous drugs.	1980
(2) (a) Divisions (E) (1) (a), (b), and (c) of this section do not apply to any of the following:	1981 1982
(i) A licensed terminal distributor of dangerous drugs;	1983
(ii) 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. , and <u>4761.</u> of the Revised Code;	1984 1985 1986 1987
(iii) Any of the persons identified in divisions (A) (1) to (5) and (18) of section 4729.541 of the Revised Code, but only to the extent specified in that section.	1988 1989 1990
(b) Division (E) (1) (c) of this section does not apply to any of the following:	1991 1992
(i) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;	1993 1994
(ii) Any of the persons identified in divisions (A) (6) to (16) of section 4729.541 of the Revised Code, but only to the extent specified in that section.	1995 1996 1997
(F) No licensed terminal distributor of dangerous drugs or person that is exempt from licensure under section 4729.541 of	1998 1999

the Revised Code shall purchase dangerous drugs or 2000
investigational drugs or products from any person other than a 2001
licensed manufacturer, outsourcing facility, third-party 2002
logistics provider, repackager, or wholesale distributor, except 2003
as follows: 2004

(1) A licensed terminal distributor of dangerous drugs or 2005
person that is exempt from licensure under section 4729.541 of 2006
the Revised Code may make occasional purchases of dangerous 2007
drugs or investigational drugs or products that are sold in 2008
accordance with division (A)(1) or (3) of this section. 2009

(2) A licensed terminal distributor of dangerous drugs 2010
having more than one licensed location may transfer or deliver 2011
dangerous drugs or investigational drugs or products from one 2012
licensed location to another licensed location if the license 2013
issued for each location is in effect at the time of the 2014
transfer or delivery. 2015

(G) No licensed terminal distributor of dangerous drugs 2016
shall engage in the retail sale or other distribution of 2017
dangerous drugs or investigational drugs or products or maintain 2018
possession, custody, or control of dangerous drugs or 2019
investigational drugs or products for any purpose other than the 2020
distributor's personal use or consumption, at any establishment 2021
or place other than that or those described in the license 2022
issued by the state board of pharmacy to such terminal 2023
distributor. 2024

(H) Nothing in this section shall be construed to 2025
interfere with the performance of official duties by any law 2026
enforcement official authorized by municipal, county, state, or 2027
federal law to collect samples of any drug, regardless of its 2028
nature or in whose possession it may be. 2029

(I) Notwithstanding anything to the contrary in this section, the board of education of a city, local, exempted village, or joint vocational school district may distribute epinephrine autoinjectors for use in accordance with section 3313.7110 of the Revised Code, may distribute inhalers for use in accordance with section 3313.7113 of the Revised Code, and may distribute injectable or nasally administered glucagon for use in accordance with section 3313.7115 of the Revised Code.

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to grant a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate if the individual applying for or holding the license or certificate is found by the board to have committed fraud during the administration of the examination for a license or certificate to practice or to have committed fraud, misrepresentation, or deception in applying for, renewing, or securing any license or certificate to practice or certificate to recommend issued by the board.

(B) Except as provided in division (P) of this section, the board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to issue a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate for one or more of the following reasons:

(1) Permitting one's name or one's license or certificate
to practice to be used by a person, group, or corporation when
the individual concerned is not actually directing the treatment
given;

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

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

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a
professional confidence" does not include providing any
information, documents, or reports under sections 307.621 to
307.629 of the Revised Code to a child fatality review board;
does not include providing any information, documents, or
reports under sections 307.631 to 307.6410 of the Revised Code
to a drug overdose fatality review committee, a suicide fatality
review committee, or hybrid drug overdose fatality and suicide
fatality review committee; does not include providing any
information, documents, or reports under sections 307.651 to
307.659 of the Revised Code to a domestic violence fatality
review board; does not include providing any information,
documents, or reports to the director of health pursuant to

guidelines established under section 3701.70 of the Revised Code; does not include written notice to a mental health professional under section 4731.62 of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil 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 license or 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, 2120
minimal standards of care of similar practitioners under the 2121
same or similar circumstances, whether or not actual injury to a 2122
patient is established; 2123
- (7) Representing, with the purpose of obtaining 2124
compensation or other advantage as personal gain or for any 2125
other person, that an incurable disease or injury, or other 2126
incurable condition, can be permanently cured; 2127
- (8) The obtaining of, or attempting to obtain, money or 2128
anything of value by fraudulent misrepresentations in the course 2129
of practice; 2130
- (9) A plea of guilty to, a judicial finding of guilt of, 2131
or a judicial finding of eligibility for intervention in lieu of 2132
conviction for, a felony; 2133
- (10) Commission of an act that constitutes a felony in 2134
this state, regardless of the jurisdiction in which the act was 2135
committed; 2136
- (11) A plea of guilty to, a judicial finding of guilt of, 2137
or a judicial finding of eligibility for intervention in lieu of 2138
conviction for, a misdemeanor committed in the course of 2139
practice; 2140
- (12) Commission of an act in the course of practice that 2141
constitutes a misdemeanor in this state, regardless of the 2142
jurisdiction in which the act was committed; 2143
- (13) A plea of guilty to, a judicial finding of guilt of, 2144
or a judicial finding of eligibility for intervention in lieu of 2145
conviction for, a misdemeanor involving moral turpitude; 2146
- (14) Commission of an act involving moral turpitude that 2147

constitutes a misdemeanor in this state, regardless of the 2148
jurisdiction in which the act was committed; 2149

(15) Violation of the conditions of limitation placed by 2150
the board upon a license or certificate to practice; 2151

(16) Failure to pay license renewal fees specified in this 2152
chapter; 2153

(17) Except as authorized in section 4731.31 of the 2154
Revised Code, engaging in the division of fees for referral of 2155
patients, or the receiving of a thing of value in return for a 2156
specific referral of a patient to utilize a particular service 2157
or business; 2158

(18) Subject to section 4731.226 of the Revised Code, 2159
violation of any provision of a code of ethics of the American 2160
medical association, the American osteopathic association, the 2161
American podiatric medical association, or any other national 2162
professional organizations that the board specifies by rule. The 2163
state medical board shall obtain and keep on file current copies 2164
of the codes of ethics of the various national professional 2165
organizations. The individual whose license or certificate is 2166
being suspended or revoked shall not be found to have violated 2167
any provision of a code of ethics of an organization not 2168
appropriate to the individual's profession. 2169

For purposes of this division, a "provision of a code of 2170
ethics of a national professional organization" does not include 2171
any provision that would preclude the making of a report by a 2172
physician of an employee's use of a drug of abuse, or of a 2173
condition of an employee other than one involving the use of a 2174
drug of abuse, to the employer of the employee as described in 2175
division (B) of section 2305.33 of the Revised Code. Nothing in 2176

this division affects the immunity from civil liability 2177
conferred by that section upon a physician who makes either type 2178
of report in accordance with division (B) of that section. As 2179
used in this division, "employee," "employer," and "physician" 2180
have the same meanings as in section 2305.33 of the Revised 2181
Code. 2182

(19) Inability to practice according to acceptable and 2183
prevailing standards of care by reason of mental illness or 2184
physical illness, including, but not limited to, physical 2185
deterioration that adversely affects cognitive, motor, or 2186
perceptive skills. 2187

In enforcing this division, the board, upon a showing of a 2188
possible violation, shall refer any individual who is authorized 2189
to practice by this chapter or who has submitted an application 2190
pursuant to this chapter to the monitoring organization that 2191
conducts the confidential monitoring program established under 2192
section 4731.25 of the Revised Code. The board also may compel 2193
the individual to submit to a mental examination, physical 2194
examination, including an HIV test, or both a mental and a 2195
physical examination. The expense of the examination is the 2196
responsibility of the individual compelled to be examined. 2197
Failure to submit to a mental or physical examination or consent 2198
to an HIV test ordered by the board constitutes an admission of 2199
the allegations against the individual unless the failure is due 2200
to circumstances beyond the individual's control, and a default 2201
and final order may be entered without the taking of testimony 2202
or presentation of evidence. If the board finds an individual 2203
unable to practice because of the reasons set forth in this 2204
division, the board shall require the individual to submit to 2205
care, counseling, or treatment by physicians approved or 2206
designated by the board, as a condition for initial, continued, 2207

reinstated, or renewed authority to practice. An individual 2208
affected under this division shall be afforded an opportunity to 2209
demonstrate to the board the ability to resume practice in 2210
compliance with acceptable and prevailing standards under the 2211
provisions of the individual's license or certificate. For the 2212
purpose of this division, any individual who applies for or 2213
receives a license or certificate to practice under this chapter 2214
accepts the privilege of practicing in this state and, by so 2215
doing, shall be deemed to have given consent to submit to a 2216
mental or physical examination when directed to do so in writing 2217
by the board, and to have waived all objections to the 2218
admissibility of testimony or examination reports that 2219
constitute a privileged communication. 2220

(20) Except as provided in division (F)(1)(b) of section 2221
4731.282 of the Revised Code or when civil penalties are imposed 2222
under section 4731.225 of the Revised Code, and subject to 2223
section 4731.226 of the Revised Code, violating or attempting to 2224
violate, directly or indirectly, or assisting in or abetting the 2225
violation of, or conspiring to violate, any provisions of this 2226
chapter or any rule promulgated by the board. 2227

This division does not apply to a violation or attempted 2228
violation of, assisting in or abetting the violation of, or a 2229
conspiracy to violate, any provision of this chapter or any rule 2230
adopted by the board that would preclude the making of a report 2231
by a physician of an employee's use of a drug of abuse, or of a 2232
condition of an employee other than one involving the use of a 2233
drug of abuse, to the employer of the employee as described in 2234
division (B) of section 2305.33 of the Revised Code. Nothing in 2235
this division affects the immunity from civil liability 2236
conferred by that section upon a physician who makes either type 2237
of report in accordance with division (B) of that section. As 2238

used in this division, "employee," "employer," and "physician" 2239
have the same meanings as in section 2305.33 of the Revised 2240
Code. 2241

(21) The violation of section 3701.79 of the Revised Code 2242
or of any abortion rule adopted by the director of health 2243
pursuant to section 3701.341 of the Revised Code; 2244

(22) Any of the following actions taken by an agency 2245
responsible for authorizing, certifying, or regulating an 2246
individual to practice a health care occupation or provide 2247
health care services in this state or another jurisdiction, for 2248
any reason other than the nonpayment of fees: the limitation, 2249
revocation, or suspension of an individual's license to 2250
practice; acceptance of an individual's license surrender; 2251
denial of a license; refusal to renew or reinstate a license; 2252
imposition of probation; or issuance of an order of censure or 2253
other reprimand; 2254

(23) The violation of section 2919.12 of the Revised Code 2255
or the performance or inducement of an abortion upon a pregnant 2256
woman with actual knowledge that the conditions specified in 2257
division (B) of section 2317.56 of the Revised Code have not 2258
been satisfied or with a heedless indifference as to whether 2259
those conditions have been satisfied, unless an affirmative 2260
defense as specified in division (H) (2) of that section would 2261
apply in a civil action authorized by division (H) (1) of that 2262
section; 2263

(24) The revocation, suspension, restriction, reduction, 2264
or termination of clinical privileges by the United States 2265
department of defense or department of veterans affairs or the 2266
termination or suspension of a certificate of registration to 2267
prescribe drugs by the drug enforcement administration of the 2268

United States department of justice; 2269

(25) Termination or suspension from participation in the 2270
medicare or medicaid programs by the department of health and 2271
human services or other responsible agency; 2272

(26) Impairment of ability to practice according to 2273
acceptable and prevailing standards of care because of substance 2274
use disorder or excessive use or abuse of drugs, alcohol, or 2275
other substances that may impair ability to practice. 2276

For the purposes of this division, any individual 2277
authorized to practice by this chapter accepts the privilege of 2278
practicing in this state subject to supervision by the board. By 2279
filing an application for or holding a license or certificate to 2280
practice under this chapter, an individual shall be deemed to 2281
have given consent to submit to a mental or physical examination 2282
when ordered to do so by the board in writing, and to have 2283
waived all objections to the admissibility of testimony or 2284
examination reports that constitute privileged communications. 2285

If it has reason to believe that any individual authorized 2286
to practice by this chapter or any applicant for licensure or 2287
certification to practice suffers such impairment, the board 2288
shall refer the individual to the monitoring organization that 2289
conducts the confidential monitoring program established under 2290
section 4731.25 of the Revised Code. The board also may compel 2291
the individual to submit to a mental or physical examination, or 2292
both. The expense of the examination is the responsibility of 2293
the individual compelled to be examined. Any mental or physical 2294
examination required under this division shall be undertaken by 2295
a treatment provider or physician who is qualified to conduct 2296
the examination and who is approved under section 4731.251 of 2297
the Revised Code. 2298

Failure to submit to a mental or physical examination 2299
ordered by the board constitutes an admission of the allegations 2300
against the individual unless the failure is due to 2301
circumstances beyond the individual's control, and a default and 2302
final order may be entered without the taking of testimony or 2303
presentation of evidence. If the board determines that the 2304
individual's ability to practice is impaired, the board shall 2305
suspend the individual's license or certificate or deny the 2306
individual's application and shall require the individual, as a 2307
condition for initial, continued, reinstated, or renewed 2308
licensure or certification to practice, to submit to treatment. 2309

Before being eligible to apply for reinstatement of a 2310
license or certificate suspended under this division, the 2311
impaired practitioner shall demonstrate to the board the ability 2312
to resume practice in compliance with acceptable and prevailing 2313
standards of care under the provisions of the practitioner's 2314
license or certificate. The demonstration shall include, but 2315
shall not be limited to, the following: 2316

(a) Certification from a treatment provider approved under 2317
section 4731.251 of the Revised Code that the individual has 2318
successfully completed any required inpatient treatment; 2319

(b) Evidence of continuing full compliance with an 2320
aftercare contract or consent agreement; 2321

(c) Two written reports indicating that the individual's 2322
ability to practice has been assessed and that the individual 2323
has been found capable of practicing according to acceptable and 2324
prevailing standards of care. The reports shall be made by 2325
individuals or providers approved by the board for making the 2326
assessments and shall describe the basis for their 2327
determination. 2328

The board may reinstate a license or certificate suspended 2329
under this division after that demonstration and after the 2330
individual has entered into a written consent agreement. 2331

When the impaired practitioner resumes practice, the board 2332
shall require continued monitoring of the individual. The 2333
monitoring shall include, but not be limited to, compliance with 2334
the written consent agreement entered into before reinstatement 2335
or with conditions imposed by board order after a hearing, and, 2336
upon termination of the consent agreement, submission to the 2337
board for at least two years of annual written progress reports 2338
made under penalty of perjury stating whether the individual has 2339
maintained sobriety. 2340

(27) A second or subsequent violation of section 4731.66 2341
or 4731.69 of the Revised Code; 2342

(28) Except as provided in division (N) of this section: 2343

(a) Waiving the payment of all or any part of a deductible 2344
or copayment that a patient, pursuant to a health insurance or 2345
health care policy, contract, or plan that covers the 2346
individual's services, otherwise would be required to pay if the 2347
waiver is used as an enticement to a patient or group of 2348
patients to receive health care services from that individual; 2349

(b) Advertising that the individual will waive the payment 2350
of all or any part of a deductible or copayment that a patient, 2351
pursuant to a health insurance or health care policy, contract, 2352
or plan that covers the individual's services, otherwise would 2353
be required to pay. 2354

(29) Failure to use universal blood and body fluid 2355
precautions established by rules adopted under section 4731.051 2356
of the Revised Code; 2357

(30) Failure to provide notice to, and receive 2358
acknowledgment of the notice from, a patient when required by 2359
section 4731.143 of the Revised Code prior to providing 2360
nonemergency professional services, or failure to maintain that 2361
notice in the patient's medical record; 2362

(31) Failure of a physician supervising a physician 2363
assistant to maintain supervision in accordance with the 2364
requirements of Chapter 4730. of the Revised Code and the rules 2365
adopted under that chapter; 2366

(32) Failure of a physician or podiatrist to enter into a 2367
standard care arrangement with a clinical nurse specialist, 2368
certified nurse-midwife, or certified nurse practitioner with 2369
whom the physician or podiatrist is in collaboration pursuant to 2370
section 4731.27 of the Revised Code or failure to fulfill the 2371
responsibilities of collaboration after entering into a standard 2372
care arrangement; 2373

(33) Failure to comply with the terms of a consult 2374
agreement entered into with a pharmacist pursuant to section 2375
4729.39 of the Revised Code; 2376

(34) Failure to cooperate in an investigation conducted by 2377
the board under division (F) of this section, including failure 2378
to comply with a subpoena or order issued by the board or 2379
failure to answer truthfully a question presented by the board 2380
in an investigative interview, an investigative office 2381
conference, at a deposition, or in written interrogatories, 2382
except that failure to cooperate with an investigation shall not 2383
constitute grounds for discipline under this section if a court 2384
of competent jurisdiction has issued an order that either 2385
quashes a subpoena or permits the individual to withhold the 2386
testimony or evidence in issue; 2387

(35) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	2388 2389 2390
(36) Assisting suicide, as defined in section 3795.01 of the Revised Code;	2391 2392
(37) Failure to comply with the requirements of section 2317.561 of the Revised Code;	2393 2394
(38) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	2395 2396 2397
(39) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	2398 2399 2400 2401
(40) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	2402 2403 2404 2405
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	2406 2407 2408 2409
(42) Failure to comply with the requirements of section 4729.79 or 4731.055 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;	2410 2411 2412 2413
(43) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure	2414 2415

to submit to the department of health in accordance with a court 2416
order a complete report as described in section 2919.171 or 2417
2919.202 of the Revised Code; 2418

(44) Practicing at a facility that is subject to licensure 2419
as a category III terminal distributor of dangerous drugs with a 2420
pain management clinic classification unless the person 2421
operating the facility has obtained and maintains the license 2422
with the classification; 2423

(45) Owning a facility that is subject to licensure as a 2424
category III terminal distributor of dangerous drugs with a pain 2425
management clinic classification unless the facility is licensed 2426
with the classification; 2427

(46) Failure to comply with any of the requirements 2428
regarding making or maintaining medical records or documents 2429
described in division (A) of section 2919.192, division (C) of 2430
section 2919.193, division (B) of section 2919.195, or division 2431
(A) of section 2919.196 of the Revised Code; 2432

(47) Failure to comply with the requirements in section 2433
3719.061 of the Revised Code before issuing for a minor a 2434
prescription for an opioid analgesic, as defined in section 2435
3719.01 of the Revised Code; 2436

(48) Failure to comply with the requirements of section 2437
4731.30 of the Revised Code or rules adopted under section 2438
4731.301 of the Revised Code when recommending treatment with 2439
medical marijuana; 2440

(49) A pattern of continuous or repeated violations of 2441
division (E) (2) or (3) of section 3963.02 of the Revised Code; 2442

(50) Failure to fulfill the responsibilities of a 2443
collaboration agreement entered into with an athletic trainer as 2444

described in section 4755.621 of the Revised Code; 2445

(51) Failure to take the steps specified in section 2446
4731.911 of the Revised Code following an abortion or attempted 2447
abortion in an ambulatory surgical facility or other location 2448
that is not a hospital when a child is born alive; 2449

(52) Failure of a physician supervising an advanced 2450
practice respiratory therapist to maintain supervision in 2451
accordance with the requirements of Chapter 4761. of the Revised 2452
Code and rules adopted under that chapter. 2453

(C) Disciplinary actions taken by the board under 2454
divisions (A) and (B) of this section shall be taken pursuant to 2455
an adjudication under Chapter 119. of the Revised Code, except 2456
that in lieu of an adjudication, the board may enter into a 2457
consent agreement with an individual to resolve an allegation of 2458
a violation of this chapter or any rule adopted under it. A 2459
consent agreement, when ratified by an affirmative vote of not 2460
fewer than six members of the board, shall constitute the 2461
findings and order of the board with respect to the matter 2462
addressed in the agreement. If the board refuses to ratify a 2463
consent agreement, the admissions and findings contained in the 2464
consent agreement shall be of no force or effect. 2465

A telephone conference call may be utilized for 2466
ratification of a consent agreement that revokes or suspends an 2467
individual's license or certificate to practice or certificate 2468
to recommend. The telephone conference call shall be considered 2469
a special meeting under division (F) of section 121.22 of the 2470
Revised Code. 2471

If the board takes disciplinary action against an 2472
individual under division (B) of this section for a second or 2473

subsequent plea of guilty to, or judicial finding of guilt of, a 2474
violation of section 2919.123 or 2919.124 of the Revised Code, 2475
the disciplinary action shall consist of a suspension of the 2476
individual's license or certificate to practice for a period of 2477
at least one year or, if determined appropriate by the board, a 2478
more serious sanction involving the individual's license or 2479
certificate to practice. Any consent agreement entered into 2480
under this division with an individual that pertains to a second 2481
or subsequent plea of guilty to, or judicial finding of guilt 2482
of, a violation of that section shall provide for a suspension 2483
of the individual's license or certificate to practice for a 2484
period of at least one year or, if determined appropriate by the 2485
board, a more serious sanction involving the individual's 2486
license or certificate to practice. 2487

(D) For purposes of divisions (B) (10), (12), and (14) of 2488
this section, the commission of the act may be established by a 2489
finding by the board, pursuant to an adjudication under Chapter 2490
119. of the Revised Code, that the individual committed the act. 2491
The board does not have jurisdiction under those divisions if 2492
the trial court renders a final judgment in the individual's 2493
favor and that judgment is based upon an adjudication on the 2494
merits. The board has jurisdiction under those divisions if the 2495
trial court issues an order of dismissal upon technical or 2496
procedural grounds. 2497

(E) The sealing or expungement of conviction records by 2498
any court shall have no effect upon a prior board order entered 2499
under this section or upon the board's jurisdiction to take 2500
action under this section if, based upon a plea of guilty, a 2501
judicial finding of guilt, or a judicial finding of eligibility 2502
for intervention in lieu of conviction, the board issued a 2503
notice of opportunity for a hearing prior to the court's order 2504

to seal or expunge the records. The board shall not be required 2505
to seal, expunge, destroy, redact, or otherwise modify its 2506
records to reflect the court's sealing of conviction records. 2507

(F) (1) The board shall investigate evidence that appears 2508
to show that a person has violated any provision of this chapter 2509
or any rule adopted under it. Any person may report to the board 2510
in a signed writing any information that the person may have 2511
that appears to show a violation of any provision of this 2512
chapter or any rule adopted under it. In the absence of bad 2513
faith, any person who reports information of that nature or who 2514
testifies before the board in any adjudication conducted under 2515
Chapter 119. of the Revised Code shall not be liable in damages 2516
in a civil action as a result of the report or testimony. Each 2517
complaint or allegation of a violation received by the board 2518
shall be assigned a case number and shall be recorded by the 2519
board. 2520

(2) Investigations of alleged violations of this chapter 2521
or any rule adopted under it shall be supervised by the 2522
supervising member elected by the board in accordance with 2523
section 4731.02 of the Revised Code and by the secretary as 2524
provided in section 4731.39 of the Revised Code. The president 2525
may designate another member of the board to supervise the 2526
investigation in place of the supervising member. No member of 2527
the board who supervises the investigation of a case shall 2528
participate in further adjudication of the case. 2529

(3) In investigating a possible violation of this chapter 2530
or any rule adopted under this chapter, or in conducting an 2531
inspection under division (E) of section 4731.054 of the Revised 2532
Code, the board may question witnesses, conduct interviews, 2533
administer oaths, order the taking of depositions, inspect and 2534

copy any books, accounts, papers, records, or documents, issue 2535
subpoenas, and compel the attendance of witnesses and production 2536
of books, accounts, papers, records, documents, and testimony, 2537
except that a subpoena for patient record information shall not 2538
be issued without consultation with the attorney general's 2539
office and approval of the secretary of the board. 2540

(a) Before issuance of a subpoena for patient record 2541
information, the secretary shall determine whether there is 2542
probable cause to believe that the complaint filed alleges a 2543
violation of this chapter or any rule adopted under it and that 2544
the records sought are relevant to the alleged violation and 2545
material to the investigation. The subpoena may apply only to 2546
records that cover a reasonable period of time surrounding the 2547
alleged violation. 2548

(b) On failure to comply with any subpoena issued by the 2549
board and after reasonable notice to the person being 2550
subpoenaed, the board may move for an order compelling the 2551
production of persons or records pursuant to the Rules of Civil 2552
Procedure. 2553

(c) A subpoena issued by the board may be served by a 2554
sheriff, the sheriff's deputy, or a board employee or agent 2555
designated by the board. Service of a subpoena issued by the 2556
board may be made by delivering a copy of the subpoena to the 2557
person named therein, reading it to the person, or leaving it at 2558
the person's usual place of residence, usual place of business, 2559
or address on file with the board. When serving a subpoena to an 2560
applicant for or the holder of a license or certificate issued 2561
under this chapter, service of the subpoena may be made by 2562
certified mail, return receipt requested, and the subpoena shall 2563
be deemed served on the date delivery is made or the date the 2564

person refuses to accept delivery. If the person being served 2565
refuses to accept the subpoena or is not located, service may be 2566
made to an attorney who notifies the board that the attorney is 2567
representing the person. 2568

(d) A sheriff's deputy who serves a subpoena shall receive 2569
the same fees as a sheriff. Each witness who appears before the 2570
board in obedience to a subpoena shall receive the fees and 2571
mileage provided for under section 119.094 of the Revised Code. 2572

(4) All hearings, investigations, and inspections of the 2573
board shall be considered civil actions for the purposes of 2574
section 2305.252 of the Revised Code. 2575

(5) A report required to be submitted to the board under 2576
this chapter, a complaint, or information received by the board 2577
pursuant to an investigation or pursuant to an inspection under 2578
division (E) of section 4731.054 of the Revised Code is 2579
confidential and not subject to discovery in any civil action. 2580

The board shall conduct all investigations or inspections 2581
and proceedings in a manner that protects the confidentiality of 2582
patients and persons who file complaints with the board. The 2583
board shall not make public the names or any other identifying 2584
information about patients or complainants unless proper consent 2585
is given or, in the case of a patient, a waiver of the patient 2586
privilege exists under division (B) of section 2317.02 of the 2587
Revised Code, except that consent or a waiver of that nature is 2588
not required if the board possesses reliable and substantial 2589
evidence that no bona fide physician-patient relationship 2590
exists. 2591

The board may share any information it receives pursuant 2592
to an investigation or inspection, including patient records and 2593

patient record information, with law enforcement agencies, other 2594
licensing boards, and other governmental agencies that are 2595
prosecuting, adjudicating, or investigating alleged violations 2596
of statutes or administrative rules. An agency or board that 2597
receives the information shall comply with the same requirements 2598
regarding confidentiality as those with which the state medical 2599
board must comply, notwithstanding any conflicting provision of 2600
the Revised Code or procedure of the agency or board that 2601
applies when it is dealing with other information in its 2602
possession. In a judicial proceeding, the information may be 2603
admitted into evidence only in accordance with the Rules of 2604
Evidence, but the court shall require that appropriate measures 2605
are taken to ensure that confidentiality is maintained with 2606
respect to any part of the information that contains names or 2607
other identifying information about patients or complainants 2608
whose confidentiality was protected by the state medical board 2609
when the information was in the board's possession. Measures to 2610
ensure confidentiality that may be taken by the court include 2611
sealing its records or deleting specific information from its 2612
records. 2613

(6) On a quarterly basis, the board shall prepare a report 2614
that documents the disposition of all cases during the preceding 2615
three months. The report shall contain the following information 2616
for each case with which the board has completed its activities: 2617

(a) The case number assigned to the complaint or alleged 2618
violation; 2619

(b) The type of license or certificate to practice, if 2620
any, held by the individual against whom the complaint is 2621
directed; 2622

(c) A description of the allegations contained in the 2623

complaint; 2624

(d) The disposition of the case. 2625

The report shall state how many cases are still pending 2626
and shall be prepared in a manner that protects the identity of 2627
each person involved in each case. The report shall be a public 2628
record under section 149.43 of the Revised Code. 2629

(G) If the secretary and supervising member determine both 2630
of the following, they may recommend that the board suspend an 2631
individual's license or certificate to practice or certificate 2632
to recommend without a prior hearing: 2633

(1) That there is clear and convincing evidence that an 2634
individual has violated division (B) of this section; 2635

(2) That the individual's continued practice presents a 2636
danger of immediate and serious harm to the public. 2637

Written allegations shall be prepared for consideration by 2638
the board. The board, upon review of those allegations and by an 2639
affirmative vote of not fewer than six of its members, excluding 2640
the secretary and supervising member, may suspend a license or 2641
certificate without a prior hearing. A telephone conference call 2642
may be utilized for reviewing the allegations and taking the 2643
vote on the summary suspension. 2644

The board shall serve a written order of suspension in 2645
accordance with sections 119.05 and 119.07 of the Revised Code. 2646
The order shall not be subject to suspension by the court during 2647
pendency of any appeal filed under section 119.12 of the Revised 2648
Code. If the individual subject to the summary suspension 2649
requests an adjudicatory hearing by the board, the date set for 2650
the hearing shall be within fifteen days, but not earlier than 2651
seven days, after the individual requests the hearing, unless 2652

otherwise agreed to by both the board and the individual. 2653

Any summary suspension imposed under this division shall 2654
remain in effect, unless reversed on appeal, until a final 2655
adjudicative order issued by the board pursuant to this section 2656
and Chapter 119. of the Revised Code becomes effective. The 2657
board shall issue its final adjudicative order within seventy- 2658
five days after completion of its hearing. A failure to issue 2659
the order within seventy-five days shall result in dissolution 2660
of the summary suspension order but shall not invalidate any 2661
subsequent, final adjudicative order. 2662

(H) If the board takes action under division (B) (9), (11), 2663
or (13) of this section and the judicial finding of guilt, 2664
guilty plea, or judicial finding of eligibility for intervention 2665
in lieu of conviction is overturned on appeal, upon exhaustion 2666
of the criminal appeal, a petition for reconsideration of the 2667
order may be filed with the board along with appropriate court 2668
documents. Upon receipt of a petition of that nature and 2669
supporting court documents, the board shall reinstate the 2670
individual's license or certificate to practice. The board may 2671
then hold an adjudication under Chapter 119. of the Revised Code 2672
to determine whether the individual committed the act in 2673
question. Notice of an opportunity for a hearing shall be given 2674
in accordance with Chapter 119. of the Revised Code. If the 2675
board finds, pursuant to an adjudication held under this 2676
division, that the individual committed the act or if no hearing 2677
is requested, the board may order any of the sanctions 2678
identified under division (B) of this section. 2679

(I) The license or certificate to practice issued to an 2680
individual under this chapter and the individual's practice in 2681
this state are automatically suspended as of the date of the 2682

individual's second or subsequent plea of guilty to, or judicial 2683
finding of guilt of, a violation of section 2919.123 or 2919.124 2684
of the Revised Code. In addition, the license or certificate to 2685
practice or certificate to recommend issued to an individual 2686
under this chapter and the individual's practice in this state 2687
are automatically suspended as of the date the individual pleads 2688
guilty to, is found by a judge or jury to be guilty of, or is 2689
subject to a judicial finding of eligibility for intervention in 2690
lieu of conviction in this state or treatment or intervention in 2691
lieu of conviction in another jurisdiction for any of the 2692
following criminal offenses in this state or a substantially 2693
equivalent criminal offense in another jurisdiction: aggravated 2694
murder, murder, voluntary manslaughter, felonious assault, 2695
kidnapping, rape, sexual battery, gross sexual imposition, 2696
aggravated arson, aggravated robbery, or aggravated burglary. 2697
Continued practice after suspension shall be considered 2698
practicing without a license or certificate. 2699

The board shall notify the individual subject to the 2700
suspension in accordance with sections 119.05 and 119.07 of the 2701
Revised Code. If an individual whose license or certificate is 2702
automatically suspended under this division fails to make a 2703
timely request for an adjudication under Chapter 119. of the 2704
Revised Code, the board shall do whichever of the following is 2705
applicable: 2706

(1) If the automatic suspension under this division is for 2707
a second or subsequent plea of guilty to, or judicial finding of 2708
guilt of, a violation of section 2919.123 or 2919.124 of the 2709
Revised Code, the board shall enter an order suspending the 2710
individual's license or certificate to practice for a period of 2711
at least one year or, if determined appropriate by the board, 2712
imposing a more serious sanction involving the individual's 2713

license or certificate to practice. 2714

(2) In all circumstances in which division (I)(1) of this 2715
section does not apply, enter a final order permanently revoking 2716
the individual's license or certificate to practice. 2717

(J) If the board is required by Chapter 119. of the 2718
Revised Code to give notice of an opportunity for a hearing and 2719
if the individual subject to the notice does not timely request 2720
a hearing in accordance with section 119.07 of the Revised Code, 2721
the board is not required to hold a hearing, but may adopt, by 2722
an affirmative vote of not fewer than six of its members, a 2723
final order that contains the board's findings. In that final 2724
order, the board may order any of the sanctions identified under 2725
division (A) or (B) of this section. 2726

(K) Any action taken by the board under division (B) of 2727
this section resulting in a suspension from practice shall be 2728
accompanied by a written statement of the conditions under which 2729
the individual's license or certificate to practice may be 2730
reinstated. The board shall adopt rules governing conditions to 2731
be imposed for reinstatement. Reinstatement of a license or 2732
certificate suspended pursuant to division (B) of this section 2733
requires an affirmative vote of not fewer than six members of 2734
the board. 2735

(L) When the board refuses to grant or issue a license or 2736
certificate to practice to an applicant, revokes an individual's 2737
license or certificate to practice, refuses to renew an 2738
individual's license or certificate to practice, or refuses to 2739
reinstate an individual's license or certificate to practice, 2740
the board may specify that its action is permanent. An 2741
individual subject to a permanent action taken by the board is 2742
forever thereafter ineligible to hold a license or certificate 2743

to practice and the board shall not accept an application for 2744
reinstatement of the license or certificate or for issuance of a 2745
new license or certificate. 2746

(M) Notwithstanding any other provision of the Revised 2747
Code, all of the following apply: 2748

(1) The surrender of a license or certificate issued under 2749
this chapter shall not be effective unless or until accepted by 2750
the board. A telephone conference call may be utilized for 2751
acceptance of the surrender of an individual's license or 2752
certificate to practice. The telephone conference call shall be 2753
considered a special meeting under division (F) of section 2754
121.22 of the Revised Code. Reinstatement of a license or 2755
certificate surrendered to the board requires an affirmative 2756
vote of not fewer than six members of the board. 2757

(2) An application for a license or certificate made under 2758
the provisions of this chapter may not be withdrawn without 2759
approval of the board. 2760

(3) Failure by an individual to renew a license or 2761
certificate to practice in accordance with this chapter or a 2762
certificate to recommend in accordance with rules adopted under 2763
section 4731.301 of the Revised Code does not remove or limit 2764
the board's jurisdiction to take any disciplinary action under 2765
this section against the individual. 2766

(4) The placement of an individual's license on retired 2767
status, as described in section 4731.283 of the Revised Code, 2768
does not remove or limit the board's jurisdiction to take any 2769
disciplinary action against the individual with regard to the 2770
license as it existed before being placed on retired status. 2771

(5) At the request of the board, a license or certificate 2772

holder shall immediately surrender to the board a license or 2773
certificate that the board has suspended, revoked, or 2774
permanently revoked. 2775

(N) Sanctions shall not be imposed under division (B) (28) 2776
of this section against any person who waives deductibles and 2777
copayments as follows: 2778

(1) In compliance with the health benefit plan that 2779
expressly allows such a practice. Waiver of the deductibles or 2780
copayments shall be made only with the full knowledge and 2781
consent of the plan purchaser, payer, and third-party 2782
administrator. Documentation of the consent shall be made 2783
available to the board upon request. 2784

(2) For professional services rendered to any other person 2785
authorized to practice pursuant to this chapter, to the extent 2786
allowed by this chapter and rules adopted by the board. 2787

(O) Under the board's investigative duties described in 2788
this section and subject to division (F) of this section, the 2789
board shall develop and implement a quality intervention program 2790
designed to improve through remedial education the clinical and 2791
communication skills of individuals authorized under this 2792
chapter to practice medicine and surgery, osteopathic medicine 2793
and surgery, and podiatric medicine and surgery. In developing 2794
and implementing the quality intervention program, the board may 2795
do all of the following: 2796

(1) Offer in appropriate cases as determined by the board 2797
an educational and assessment program pursuant to an 2798
investigation the board conducts under this section; 2799

(2) Select providers of educational and assessment 2800
services, including a quality intervention program panel of case 2801

reviewers; 2802

(3) Make referrals to educational and assessment service 2803
providers and approve individual educational programs 2804
recommended by those providers. The board shall monitor the 2805
progress of each individual undertaking a recommended individual 2806
educational program. 2807

(4) Determine what constitutes successful completion of an 2808
individual educational program and require further monitoring of 2809
the individual who completed the program or other action that 2810
the board determines to be appropriate; 2811

(5) Adopt rules in accordance with Chapter 119. of the 2812
Revised Code to further implement the quality intervention 2813
program. 2814

An individual who participates in an individual 2815
educational program pursuant to this division shall pay the 2816
financial obligations arising from that educational program. 2817

(P) The board shall not refuse to issue a license to an 2818
applicant because of a conviction, plea of guilty, judicial 2819
finding of guilt, judicial finding of eligibility for 2820
intervention in lieu of conviction, or the commission of an act 2821
that constitutes a criminal offense, unless the refusal is in 2822
accordance with section 9.79 of the Revised Code. 2823

Sec. 4731.25. (A) As used in this section and in sections 2824
4731.251 to 4731.255 of the Revised Code: 2825

(1) "Applicant" means an individual who has applied under 2826
Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 2827
4778. of the Revised Code for a license, training or other 2828
certificate, limited permit, or other authority to practice as 2829
any one of the following practitioners: a physician assistant, 2830

physician, podiatrist, limited branch of medicine practitioner, 2831
dietitian, anesthesiologist assistant, respiratory care 2832
professional, advanced practice respiratory therapist, 2833
acupuncturist, radiologist assistant, or genetic counselor. 2834
"Applicant" may include an individual who has been granted 2835
authority by the state medical board to practice as one type of 2836
practitioner, but has applied for authority to practice as 2837
another type of practitioner. 2838

(2) "Impaired" or "impairment" means either or both of the 2839
following: 2840

(a) Impairment of ability to practice as described in 2841
division (B) (5) of section 4730.25, division (B) (26) of section 2842
4731.22, division (A) (18) of section 4759.07, division (B) (6) of 2843
section 4760.13, division (A) (18) of section 4761.09, division 2844
(B) (6) of section 4762.13, division (B) (6) of section 4774.13, 2845
or division (B) (6) of section 4778.14 of the Revised Code; 2846

(b) Inability to practice as described in division (B) (4) 2847
of section 4730.25, division (B) (19) of section 4731.22, 2848
division (A) (14) of section 4759.07, division (B) (5) of section 2849
4760.13, division (A) (14) of section 4761.09, division (B) (5) of 2850
section 4762.13, division (B) (5) of section 4774.13, or division 2851
(B) (5) of section 4778.14 of the Revised Code. 2852

(3) "Practitioner" means any of the following: 2853

(a) An individual authorized under this chapter to 2854
practice medicine and surgery, osteopathic medicine and surgery, 2855
podiatric medicine and surgery, or a limited branch of medicine; 2856

(b) An individual licensed under Chapter 4730. of the 2857
Revised Code to practice as a physician assistant; 2858

(c) An individual authorized under Chapter 4759. of the 2859

Revised Code to practice as a dietitian;	2860
(d) An individual authorized under Chapter 4760. of the	2861
Revised Code to practice as an anesthesiologist assistant;	2862
(e) An individual authorized under Chapter 4761. of the	2863
Revised Code to practice respiratory care <u>or to practice as an</u>	2864
<u>advanced practice respiratory therapist;</u>	2865
(f) An individual licensed under Chapter 4762. of the	2866
Revised Code to practice as an acupuncturist;	2867
(g) An individual licensed under Chapter 4774. of the	2868
Revised Code to practice as a radiologist assistant;	2869
(h) An individual licensed under Chapter 4778. of the	2870
Revised Code to practice as a genetic counselor.	2871
(B) The state medical board shall establish a	2872
confidential, nondisciplinary program for the evaluation and	2873
treatment of practitioners and applicants who are, or may be,	2874
impaired and also meet the eligibility conditions described in	2875
section 4731.252 or 4731.253 of the Revised Code. The program	2876
shall be known as the confidential monitoring program.	2877
The board shall contract with a monitoring organization to	2878
conduct the program and perform monitoring services. To be	2879
qualified to contract with the board, an organization shall meet	2880
all of the following requirements:	2881
(1) Be a professionals health program sponsored by one or	2882
more professional associations or societies of practitioners;	2883
(2) Be organized as a not-for-profit entity and exempt	2884
from federal income taxation under subsection 501(c)(3) of the	2885
Internal Revenue Code;	2886

(3) Contract with or employ a medical director who is	2887
authorized under this chapter to practice medicine and surgery	2888
or osteopathic medicine and surgery and specializes or has	2889
training and expertise in addiction medicine;	2890
(4) Contract with or employ licensed health care	2891
professionals necessary for the organization's operation.	2892
(C) The monitoring organization shall do all of the	2893
following pursuant to the contract:	2894
(1) Receive from the board a referral regarding an	2895
applicant or receive any report of suspected practitioner	2896
impairment from any source, including from the board;	2897
(2) Notify a practitioner who is the subject of a report	2898
received under division (C)(1) of this section that the report	2899
has been made and that the practitioner may be eligible to	2900
participate in the program conducted under this section;	2901
(3) Provide a practitioner who is the subject of a report	2902
received under division (C)(1) of this section with the list of	2903
approved evaluators and treatment providers prepared and updated	2904
as described in section 4731.251 of the Revised Code;	2905
(4) Determine whether a practitioner reported or applicant	2906
referred to the monitoring organization is eligible to	2907
participate in the program, which in the case of an applicant	2908
may include evaluating records as described in division (E)(1)	2909
(d) of this section, and notify the practitioner or applicant of	2910
the determination;	2911
(5) In the case of a practitioner reported by a treatment	2912
provider, notify the treatment provider of the eligibility	2913
determination;	2914

(6) Report to the board any practitioner or applicant who is determined ineligible to participate in the program;	2915 2916
(7) Refer an eligible practitioner who chooses to participate in the program for evaluation by an evaluator approved by the monitoring organization, unless the report received by the monitoring organization was made by an approved evaluator and the practitioner has already been evaluated;	2917 2918 2919 2920 2921
(8) Monitor the evaluation of an eligible practitioner;	2922
(9) Refer an eligible practitioner who chooses to participate in the program to a treatment provider approved by the monitoring organization;	2923 2924 2925
(10) Establish, in consultation with the treatment provider to which a practitioner is referred, the terms and conditions with which the practitioner must comply for continued participation in and successful completion of the program;	2926 2927 2928 2929
(11) Report to the board any practitioner who does not complete evaluation or treatment or does not comply with any of the terms and conditions established by the monitoring organization and the treatment provider;	2930 2931 2932 2933
(12) Perform any other activities specified in the contract with the board or that the monitoring organization considers necessary to comply with this section and sections 4731.251 to 4731.255 of the Revised Code.	2934 2935 2936 2937
(D) The monitoring organization shall not disclose to the board the name of a practitioner or applicant or any records relating to a practitioner or applicant, unless any of the following occurs:	2938 2939 2940 2941
(1) The practitioner or applicant is determined to be	2942

ineligible to participate in the program.	2943
(2) The practitioner or applicant requests the disclosure.	2944
(3) The practitioner or applicant is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring.	2945 2946 2947
(4) The practitioner or applicant presents an imminent danger to oneself or the public, as a result of the practitioner's or applicant's impairment.	2948 2949 2950
(5) The practitioner's impairment has not been substantially alleviated by participation in the program.	2951 2952
(E) (1) The monitoring organization shall develop procedures governing each of the following:	2953 2954
(a) Receiving reports of practitioner impairment;	2955
(b) Notifying practitioners of reports and eligibility determinations;	2956 2957
(c) Receiving applicant referrals as described in section 4731.253 of the Revised Code;	2958 2959
(d) Evaluating records of referred applicants, in particular records from other jurisdictions regarding prior treatment for impairment or current or continued monitoring;	2960 2961 2962
(e) Notifying applicants of eligibility determinations;	2963
(f) Referring eligible practitioners for evaluation or treatment;	2964 2965
(g) Establishing individualized treatment plans for eligible practitioners, as recommended by treatment providers;	2966 2967
(h) Establishing individualized terms and conditions with	2968

which eligible practitioners or applicants must comply for 2969
continued participation in and successful completion of the 2970
program. 2971

(2) The monitoring organization, in consultation with the 2972
board, shall develop procedures governing each of the following: 2973

(a) Providing reports to the board on a periodic basis on 2974
the total number of practitioners or applicants participating in 2975
the program, without disclosing the names or records of any 2976
program participants other than those about whom reports are 2977
required by this section; 2978

(b) Reporting to the board any practitioner or applicant 2979
who due to impairment presents an imminent danger to oneself or 2980
the public; 2981

(c) Reporting to the board any practitioner or applicant 2982
who is unwilling or unable to complete or comply with any part 2983
of the program, including evaluation, treatment, or monitoring; 2984

(d) Reporting to the board any practitioner or applicant 2985
whose impairment was not substantially alleviated by 2986
participation in the program. 2987

Sec. 4743.09. (A) As used in this section: 2988

(1) "Durable medical equipment" means a type of equipment, 2989
such as a remote monitoring device utilized by a physician, 2990
physician assistant, or advanced practice registered nurse in 2991
accordance with this section, that can withstand repeated use, 2992
is primarily and customarily used to serve a medical purpose, 2993
and generally is not useful to a person in the absence of 2994
illness or injury and, in addition, includes repair and 2995
replacement parts for the equipment. 2996

(2) "Facility fee" means any fee charged or billed for telehealth services provided in a facility that is intended to compensate the facility for its operational expenses and is separate and distinct from a professional fee.	2997 2998 2999 3000
(3) "Health care professional" means:	3001
(a) An advanced practice registered nurse, as defined in section 4723.01 of the Revised Code;	3002 3003
(b) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry;	3004 3005
(c) A pharmacist licensed under Chapter 4729. of the Revised Code;	3006 3007
(d) A physician assistant licensed under Chapter 4730. of the Revised Code;	3008 3009
(e) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;	3010 3011 3012
(f) A psychologist, independent school psychologist, or school psychologist licensed under Chapter 4732. of the Revised Code;	3013 3014 3015
(g) A chiropractor licensed under Chapter 4734. of the Revised Code;	3016 3017
(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;	3018 3019
(i) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;	3020 3021
(j) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised	3022 3023

Code;	3024
(k) A professional clinical counselor, independent social worker, independent marriage and family therapist, art therapist, or music therapist licensed under Chapter 4757. of the Revised Code;	3025 3026 3027 3028
(l) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;	3029 3030
(m) A dietitian licensed under Chapter 4759. of the Revised Code;	3031 3032
(n) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	3033 3034 3035
(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;	3036 3037
(p) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code.	3038 3039
(4) "Health care professional licensing board" means any of the following:	3040 3041
(a) The board of nursing;	3042
(b) The state vision professionals board;	3043
(c) The state board of pharmacy;	3044
(d) The state medical board;	3045
(e) The state board of psychology;	3046
(f) The state chiropractic board;	3047
(g) The state speech and hearing professionals board;	3048

- (h) The Ohio occupational therapy, physical therapy, and athletic trainers board; 3049
3050
- (i) The counselor, social worker, and marriage and family therapist board; 3051
3052
- (j) The chemical dependency professionals board. 3053
- (5) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code. 3054
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- (6) "Telehealth services" means health care services provided through the use of information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where either of the following is located: 3056
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- (a) The patient receiving the services; 3061
- (b) Another health care professional with whom the provider of the services is consulting regarding the patient. 3062
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- (B) (1) Each health care professional licensing board shall permit a health care professional under its jurisdiction to provide the professional's services as telehealth services in accordance with this section. Subject to division (B) (2) of this section, a board may adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. Any such rules adopted by a board are not subject to the requirements of division (F) of section 121.95 of the Revised Code. 3064
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- (2) (a) Except as provided in division (B) (2) (b) of this section, the rules adopted by a health care professional licensing board under this section shall establish a standard of 3074
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care for telehealth services that is equal to the standard of 3077
care for in-person services. 3078

(b) Subject to division (B)(2)(c) of this section, a board 3079
may require an initial in-person visit prior to prescribing a 3080
schedule II controlled substance to a new patient, equivalent to 3081
applicable state and federal requirements. 3082

(c)(i) A board shall not require an initial in-person 3083
visit for a new patient whose medical record indicates that the 3084
patient is receiving hospice or palliative care, who is 3085
receiving medication-assisted treatment or any other medication 3086
for opioid-use disorder, who is a patient with a mental health 3087
condition, or who, as determined by the clinical judgment of a 3088
health care professional, is in an emergency situation. 3089

(ii) Notwithstanding division (B) of section 3796.01 of 3090
the Revised Code, medical marijuana shall not be considered a 3091
schedule II controlled substance. 3092

(C) With respect to the provision of telehealth services, 3093
all of the following apply: 3094

(1) A health care professional may use synchronous or 3095
asynchronous technology to provide telehealth services to a 3096
patient during an initial visit if the appropriate standard of 3097
care for an initial visit is satisfied. 3098

(2) A health care professional may deny a patient 3099
telehealth services and, instead, require the patient to undergo 3100
an in-person visit. 3101

(3) When providing telehealth services in accordance with 3102
this section, a health care professional shall comply with all 3103
requirements under state and federal law regarding the 3104
protection of patient information. A health care professional 3105

shall ensure that any username or password information and any 3106
electronic communications between the professional and a patient 3107
are securely transmitted and stored. 3108

(4) A health care professional may use synchronous or 3109
asynchronous technology to provide telehealth services to a 3110
patient during an annual visit if the appropriate standard of 3111
care for an annual visit is satisfied. 3112

(5) In the case of a health care professional who is a 3113
physician, physician assistant, or advanced practice registered 3114
nurse, both of the following apply: 3115

(a) The professional may provide telehealth services to a 3116
patient located outside of this state if permitted by the laws 3117
of the state in which the patient is located. 3118

(b) The professional may provide telehealth services 3119
through the use of medical devices that enable remote 3120
monitoring, including such activities as monitoring a patient's 3121
blood pressure, heart rate, or glucose level. 3122

(D) When a patient has consented to receiving telehealth 3123
services, the health care professional who provides those 3124
services is not liable in damages under any claim made on the 3125
basis that the services do not meet the same standard of care 3126
that would apply if the services were provided in-person. 3127

(E) (1) A health care professional providing telehealth 3128
services shall not charge a patient or a health plan issuer 3129
covering telehealth services under section 3902.30 of the 3130
Revised Code any of the following: a facility fee, an 3131
origination fee, or any fee associated with the cost of the 3132
equipment used at the provider site to provide telehealth 3133
services. 3134

A health care professional providing telehealth services 3135
may charge a health plan issuer for durable medical equipment 3136
used at a patient or client site. 3137

(2) A health care professional may negotiate with a health 3138
plan issuer to establish a reimbursement rate for fees 3139
associated with the administrative costs incurred in providing 3140
telehealth services as long as a patient is not responsible for 3141
any portion of the fee. 3142

(3) A health care professional providing telehealth 3143
services shall obtain a patient's consent before billing for the 3144
cost of providing the services, but the requirement to do so 3145
applies only once. 3146

(F) Nothing in this section limits or otherwise affects 3147
any other provision of the Revised Code that requires a health 3148
care professional who is not a physician to practice under the 3149
supervision of, in collaboration with, in consultation with, or 3150
pursuant to the referral of another health care professional. 3151

(G) It is the intent of the general assembly, through the 3152
amendments to this section, to expand access to and investment 3153
in telehealth services in this state in congruence with the 3154
expansion and investment in telehealth services made during the 3155
COVID-19 pandemic. 3156

Sec. 4755.48. (A) No person shall employ fraud or 3157
deception in applying for or securing a license to practice 3158
physical therapy or to be a physical therapist assistant. 3159

(B) No person shall practice or in any way imply or claim 3160
to the public by words, actions, or the use of letters as 3161
described in division (C) of this section to be able to practice 3162
physical therapy or to provide physical therapy services, 3163

including practice as a physical therapist assistant, unless the 3164
person holds a valid license under sections 4755.40 to 4755.56 3165
of the Revised Code or except for submission of claims as 3166
provided in section 4755.56 of the Revised Code. 3167

(C) No person shall use the words or letters, physical 3168
therapist, physical therapy, physical therapy services, 3169
physiotherapist, physiotherapy, physiotherapy services, licensed 3170
physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., 3171
D.P.T., M.S.P.T., P.T.A., physical therapy assistant, physical 3172
therapist assistant, physical therapy technician, licensed 3173
physical therapist assistant, L.P.T.A., R.P.T.A., or any other 3174
letters, words, abbreviations, or insignia, indicating or 3175
implying that the person is a physical therapist or physical 3176
therapist assistant without a valid license under sections 3177
4755.40 to 4755.56 of the Revised Code. 3178

(D) No person who practices physical therapy or assists in 3179
the provision of physical therapy treatments under the 3180
supervision of a physical therapist shall fail to display the 3181
person's current license granted under sections 4755.40 to 3182
4755.56 of the Revised Code in a conspicuous location in the 3183
place where the person spends the major part of the person's 3184
time so engaged. 3185

(E) Nothing in sections 4755.40 to 4755.56 of the Revised 3186
Code shall affect or interfere with the performance of the 3187
duties of any physical therapist or physical therapist assistant 3188
in active service in the army, navy, coast guard, marine corps, 3189
air force, public health service, or marine hospital service of 3190
the United States, while so serving. 3191

(F) Nothing in sections 4755.40 to 4755.56 of the Revised 3192
Code shall prevent or restrict the activities or services of a 3193

person pursuing a course of study leading to a degree in 3194
physical therapy in an accredited or approved educational 3195
program if the activities or services constitute a part of a 3196
supervised course of study and the person is designated by a 3197
title that clearly indicates the person's status as a student. 3198

(G) (1) Subject to division (G) (2) of this section, nothing 3199
in sections 4755.40 to 4755.56 of the Revised Code shall prevent 3200
or restrict the activities or services of any person who holds a 3201
current, unrestricted license to practice physical therapy in 3202
another state when that person, pursuant to contract or 3203
employment with an athletic team located in the state in which 3204
the person holds the license, provides physical therapy to any 3205
of the following while the team is traveling to or from or 3206
participating in a sporting event in this state: 3207

(a) A member of the athletic team; 3208

(b) A member of the athletic team's coaching, 3209
communications, equipment, or sports medicine staff; 3210

(c) A member of a band or cheerleading squad accompanying 3211
the athletic team; 3212

(d) The athletic team's mascot. 3213

(2) In providing physical therapy pursuant to division (G) 3214
(1) of this section, the person shall not do either of the 3215
following: 3216

(a) Provide physical therapy at a health care facility; 3217

(b) Provide physical therapy for more than sixty days in a 3218
calendar year. 3219

(3) The limitations described in divisions (G) (1) and (2) 3220
of this section do not apply to a person who is practicing in 3221

accordance with the compact privilege granted by this state 3222
through the "Physical Therapy Licensure Compact" entered into 3223
under section 4755.57 of the Revised Code. 3224

(4) The physical therapy section of the occupational 3225
therapy, physical therapy, and athletic trainers board shall not 3226
require a nonresident person who holds a license to practice 3227
physical therapy in another state to obtain a license in 3228
accordance with Chapter 4796. of the Revised Code to provide 3229
physical therapy services in the manner described under division 3230
(G) (1) of this section. 3231

(H) (1) Except as provided in division (H) (2) of this 3232
section and subject to division (I) of this section, no person 3233
shall practice physical therapy other than on the prescription 3234
of, or the referral of a patient by, a person who is licensed in 3235
this or another state to do at least one of the following: 3236

(a) Practice medicine and surgery, chiropractic, 3237
dentistry, osteopathic medicine and surgery, podiatric medicine 3238
and surgery; 3239

(b) Practice as a physician assistant; 3240

(c) Practice nursing as an advanced practice registered 3241
nurse; 3242

(d) Practice as an advanced practice respiratory 3243
therapist. 3244

(2) The prohibition in division (H) (1) of this section on 3245
practicing physical therapy other than on the prescription of, 3246
or the referral of a patient by, any of the persons described in 3247
that division does not apply if either of the following applies 3248
to the person: 3249

(a) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national physical therapy accreditation agency approved by the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board.

(b) On or before December 31, 2004, the person has completed at least two years of practical experience as a licensed physical therapist.

(I) To be authorized to prescribe physical therapy or refer a patient to a physical therapist for physical therapy, a person described in division (H) (1) of this section must be in good standing with the relevant licensing board in this state or the state in which the person is licensed and must act only within the person's scope of practice.

(J) In the prosecution of any person for violation of division (B) or (C) of this section, it is not necessary to allege or prove want of a valid license to practice physical therapy or to practice as a physical therapist assistant, but such matters shall be a matter of defense to be established by the accused.

Sec. 4761.01. As used in this chapter:

(A) "Respiratory care" means rendering or offering to render to individuals, groups, organizations, or the public any service involving the evaluation of cardiopulmonary function, the treatment of cardiopulmonary impairment, the assessment of treatment effectiveness, and the care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The practice of respiratory care includes:

(1) Obtaining, analyzing, testing, measuring, and	3279
monitoring blood and gas samples in the determination of	3280
cardiopulmonary parameters and related physiologic data,	3281
including flows, pressures, and volumes, and the use of	3282
equipment employed for this purpose;	3283
(2) Administering, monitoring, recording the results of,	3284
and instructing in the use of medical gases, aerosols, and	3285
bronchopulmonary hygiene techniques, including drainage,	3286
aspiration, and sampling, and applying, maintaining, and	3287
instructing in the use of artificial airways, ventilators, and	3288
other life support equipment employed in the treatment of	3289
cardiopulmonary impairment and provided in collaboration with	3290
other licensed health care professionals responsible for	3291
providing care;	3292
(3) Performing cardiopulmonary resuscitation and	3293
respiratory rehabilitation techniques;	3294
(4) Administering medications for the testing or treatment	3295
of cardiopulmonary impairment.	3296
(B) "Respiratory care professional" means a person who is	3297
licensed under this chapter to practice the full range of	3298
services described in division (A) of this section.	3299
(C) "Physician" means an individual authorized under	3300
Chapter 4731. of the Revised Code to practice medicine and	3301
surgery or osteopathic medicine and surgery.	3302
(D) "Registered nurse" means an individual licensed under	3303
Chapter 4723. of the Revised Code to engage in the practice of	3304
nursing as a registered nurse.	3305
(E) "Hospital" has the same meaning as in section 3722.01	3306
of the Revised Code.	3307

(F) "Nursing facility" has the same meaning as in section 3308
5165.01 of the Revised Code. 3309

(G) "Advanced practice registered nurse" has the same 3310
meaning as in section 4723.01 of the Revised Code. 3311

(H) "Physician assistant" means an individual who holds a 3312
valid license to practice as a physician assistant issued under 3313
Chapter 4730. of the Revised Code. 3314

(I) "Advanced practice respiratory care" means the 3315
performance of services delegated by a supervising physician to 3316
an advanced practice respiratory therapist in the diagnosis and 3317
treatment of patients with cardiopulmonary diseases or 3318
conditions, including prescribing, ordering, and administering 3319
drugs and medical devices. 3320

(J) "Advanced practice respiratory therapist" means an 3321
individual who holds a current, valid license issued under this 3322
chapter that authorizes the practice of advanced practice 3323
respiratory care. 3324

(K) "Health care facility" means any of the following: 3325

(1) A hospital; 3326

(2) Any other hospital-based facility designated by the 3327
state medical board in rules adopted pursuant to division (B) of 3328
section 4761.37 of the Revised Code. 3329

Sec. 4761.03. (A) The state medical board shall regulate 3330
the practice of respiratory care in this state and the persons 3331
to whom the board issues licenses and limited permits under this 3332
chapter. Rules adopted under this chapter that deal with the 3333
provision of respiratory care in a hospital, other than rules 3334
regulating the issuance of licenses or limited permits, shall be 3335

consistent with the conditions for participation under medicare, 3336
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 3337
42 U.S.C.A. 1395, as amended, and with the respiratory care 3338
accreditation standards of the joint commission or the American 3339
osteopathic association. 3340

(B) The board shall adopt, and may rescind or amend, rules 3341
in accordance with Chapter 119. of the Revised Code to carry out 3342
the purposes of this chapter, including rules prescribing the 3343
following: 3344

(1) The form and manner for filing applications under 3345
sections 4761.05 and 4761.06 of the Revised Code; 3346

(2) Standards for the approval of examinations and 3347
reexaminations administered by national organizations for 3348
licensure, license renewal, and license reinstatement; 3349

(3) Standards for the approval of educational programs 3350
required to qualify for licensure and approval of continuing 3351
education programs required for license renewal; 3352

(4) Continuing education courses and the number of hour 3353
requirements necessary for license renewal under section 4761.06 3354
of the Revised Code, including rules providing for pro rata 3355
reductions by month of the number of hours of continuing 3356
education that must be completed for license holders who are in 3357
their first renewal period, have been disabled by illness or 3358
accident, or have been absent from the country; 3359

(5) Procedures for the issuance and renewal of licenses 3360
and limited permits, including the duties that may be fulfilled 3361
by the board's executive director and other board employees; 3362

(6) Procedures for the limitation, suspension, and 3363
revocation of licenses and limited permits, the refusal to 3364

issue, renew, or reinstate licenses and limited permits, and the 3365
imposition of a reprimand or probation under section 4761.09 of 3366
the Revised Code; 3367

(7) Standards of ethical conduct for the practice of 3368
respiratory care; 3369

(8) The respiratory care tasks that may be performed by an 3370
individual practicing as a polysomnographic technologist 3371
pursuant to division (B) (3) of section 4761.10 of the Revised 3372
Code; 3373

(9) Requirements for criminal records checks of applicants 3374
under section 4776.03 of the Revised Code. 3375

(C) The board shall determine the sufficiency of an 3376
applicant's qualifications for admission to the licensing 3377
examination or a reexamination, and for the issuance or renewal 3378
of a license or limited permit. 3379

(D) The board shall determine the respiratory care 3380
educational programs that are acceptable for fulfilling the 3381
requirements of division (A) of section 4761.04 of the Revised 3382
Code. 3383

(E) (1) The board shall investigate evidence that appears 3384
to show that a person has violated any provision of this chapter 3385
or any rule adopted under it. Any person may report to the board 3386
in a signed writing any information that the person may have 3387
that appears to show a violation of any provision of this 3388
chapter or any rule adopted under it. In the absence of bad 3389
faith, any person who reports information of that nature or who 3390
testifies before the board in any adjudication conducted under 3391
Chapter 119. of the Revised Code shall not be liable in damages 3392
in a civil action as a result of the report or testimony. Each 3393

complaint or allegation of a violation received by the board 3394
shall be assigned a case number and shall be recorded by the 3395
board. 3396

(2) Investigations of alleged violations of this chapter 3397
or any rule adopted under it shall be supervised by the 3398
supervising member elected by the board in accordance with 3399
section 4731.02 of the Revised Code and by the secretary as 3400
provided in section 4761.012 of the Revised Code. The president 3401
may designate another member of the board to supervise the 3402
investigation in place of the supervising member. Upon a vote of 3403
the majority of the board to authorize the addition of a 3404
consumer member in the supervision of any part of any 3405
investigation, the president shall designate a consumer member 3406
for supervision of investigations as determined by the 3407
president. The authorization of consumer member participation in 3408
investigation supervision may be rescinded by a majority vote of 3409
the board. No member of the board who supervises the 3410
investigation of a case shall participate in further 3411
adjudication of the case. 3412

(3) In investigating a possible violation of this chapter 3413
or any rule adopted under it, the board may issue subpoenas, 3414
administer oaths, question witnesses, conduct interviews, order 3415
the taking of depositions, inspect and copy any books, accounts, 3416
papers, records, or documents, and compel the attendance of 3417
witnesses and production of books, accounts, papers, records, 3418
documents, and testimony, except that a subpoena for patient 3419
record information shall not be issued without consultation with 3420
the attorney general's office and approval of the secretary of 3421
the board. 3422

Before issuance of a subpoena for patient record 3423

information, the secretary shall determine whether there is 3424
probable cause to believe that the complaint filed alleges a 3425
violation of this chapter or any rule adopted under it and that 3426
the records sought are relevant to the alleged violation and 3427
material to the investigation. The subpoena may apply only to 3428
records that cover a reasonable period of time surrounding the 3429
alleged violation. 3430

On failure to comply with any subpoena issued by the board 3431
and after reasonable notice to the person being subpoenaed, the 3432
board may move for an order compelling the production of persons 3433
or records pursuant to the Rules of Civil Procedure. 3434

A subpoena issued by the board may be served by a sheriff, 3435
the sheriff's deputy, or a board employee or agent designated by 3436
the board. Service of a subpoena issued by the board may be made 3437
by delivering a copy of the subpoena to the person named 3438
therein, reading it to the person, or leaving it at the person's 3439
usual place of residence, usual place of business, or address on 3440
file with the board. When serving a subpoena to an applicant for 3441
or the holder of a license or limited permit issued under this 3442
chapter, service of the subpoena may be made by certified mail, 3443
return receipt requested, and the subpoena shall be deemed 3444
served on the date delivery is made or the date the person 3445
refuses to accept delivery. If the person being served refuses 3446
to accept the subpoena or is not located, service may be made to 3447
an attorney who notifies the board that the attorney is 3448
representing the person. 3449

A sheriff's deputy who serves a subpoena shall receive the 3450
same fees as a sheriff. Each witness who appears before the 3451
board in obedience to a subpoena shall receive the fees and 3452
mileage provided for under section 119.094 of the Revised Code. 3453

(4) In an investigation involving the practice or supervision of an advanced practice respiratory therapist pursuant to the policies of a health care facility, the board may require the health care facility to provide any information the board considers necessary to identify either or both of the following: 3454
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(a) The facility's policies for the practice of advanced practice respiratory therapists within the facility; 3460
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(b) The services that the facility has authorized a particular advanced practice respiratory therapist to provide for the facility. 3462
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(5) All hearings, investigations, and inspections of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code. 3465
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~~(5)~~(6) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action. 3468
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The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given. 3472
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The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations 3478
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of statutes or administrative rules. An agency or board that 3483
receives the information shall comply with the same requirements 3484
regarding confidentiality as those with which the state medical 3485
board must comply, notwithstanding any conflicting provision of 3486
the Revised Code or procedure of the agency or board that 3487
applies when it is dealing with other information in its 3488
possession. In a judicial proceeding, the information may be 3489
admitted into evidence only in accordance with the Rules of 3490
Evidence, but the court shall require that appropriate measures 3491
are taken to ensure that confidentiality is maintained with 3492
respect to any part of the information that contains names or 3493
other identifying information about patients or complainants 3494
whose confidentiality was protected by the state medical board 3495
when the information was in the board's possession. Measures to 3496
ensure confidentiality that may be taken by the court include 3497
sealing its records or deleting specific information from its 3498
records. 3499

No person shall knowingly access, use, or disclose 3500
confidential investigatory information in a manner prohibited by 3501
law. 3502

~~(6)~~ (7) On a quarterly basis, the board shall prepare a 3503
report that documents the disposition of all cases during the 3504
preceding three months. The report shall contain the following 3505
information for each case with which the board has completed its 3506
activities: 3507

(a) The case number assigned to the complaint or alleged 3508
violation; 3509

(b) The type of license or limited permit, if any, held by 3510
the individual against whom the complaint is directed; 3511

(c) A description of the allegations contained in the complaint;	3512 3513
(d) Whether witnesses were interviewed;	3514
(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;	3515 3516
(f) The disposition of the case.	3517
The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.	3518 3519 3520 3521
(7) <u>(8)</u> The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.	3522 3523 3524
(F) The board shall keep records of its proceedings and do other things as are necessary and proper to carry out and enforce the provisions of this chapter.	3525 3526 3527
(G) The board shall maintain and publish on its internet web site all of the following:	3528 3529
(1) The requirements for the issuance of licenses and limited permits under this chapter and rules adopted by the board;	3530 3531 3532
(2) A list of the names and locations of the institutions that each year granted degrees or certificates of completion in respiratory care.	3533 3534 3535
Sec. 4761.032. (A) The state medical board shall appoint a respiratory care advisory council for the purpose of advising the board on issues relating to the practice of respiratory	3536 3537 3538

care. The advisory council shall consist of not more than ~~seven-~~ 3539
nine individuals knowledgeable in the area of respiratory care. 3540

A majority of the council members shall be individuals 3541
licensed under this chapter who are actively engaged in the 3542
practice of respiratory care. The board shall include all of the 3543
following on the council: 3544

(1) One physician who is a member of the state medical 3545
board; 3546

(2) One physician who has clinical training and experience 3547
in pulmonary disease, and one physician who is a supervising 3548
physician of an advanced practice respiratory therapist. 3549

The Ohio state medical association, or its successor 3550
organization, may nominate not more than three individuals for 3551
consideration by the board in appointing the physician members 3552
described in division (A) (2) of this section. 3553

(3) One advanced practice respiratory therapist; 3554

(4) One individual who is not affiliated with any health 3555
care profession, who shall be appointed to represent the 3556
interest of consumers. 3557

The Ohio society for respiratory care, or its successor 3558
organization, may nominate not more than three individuals for 3559
consideration by the board in appointing any member of the 3560
council other than the members described in divisions (A) (1) and 3561
(2) of this section. 3562

~~The Ohio state medical association, or its successor~~ 3563
~~organization, may nominate not more than three individuals for~~ 3564
~~consideration by the board in appointing the physician member~~ 3565
~~described in division (A) (2) of this section.~~ 3566

~~The Ohio society for respiratory care, or its successor organization, may nominate not more than three individuals for consideration by the board in appointing any member of the council other than the physician members described in divisions (A) (1) and (2) of this section.~~

(B) Not later than ninety days after January 21, 2018, the board shall make initial appointments to the council. Initial members shall serve terms of office of one, two, or three years, as selected by the board. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as the term that it succeeds. A council member shall continue in office subsequent to the expiration date of the member's term until a successor is appointed and takes office, or until a period of sixty days has elapsed, whichever occurs first. Each council member shall hold office from the date of appointment until the end of the term for which the member was appointed.

(C) Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in performing their official duties.

(D) The council shall meet at least four times each year and at such other times as may be necessary to carry out its responsibilities.

(E) The council may submit to the board recommendations concerning all of the following:

(1) Requirements for issuing a license to practice as a respiratory care professional or as an advanced practice respiratory therapist and requirements for issuing a permit to practice as a limited permit holder, including the educational

and experience requirements that must be met to receive the 3596
license or permit; 3597

(2) Existing and proposed rules pertaining to the practice 3598
of respiratory care and advanced practice respiratory care, 3599
including the supervisory relationship between advanced practice 3600
respiratory therapists and supervising physicians, and existing 3601
and proposed rules that otherwise pertain to the administration 3602
and enforcement of this chapter; 3603

(3) Standards for the approval of educational programs 3604
required to qualify for licensure and continuing education 3605
programs for licensure renewal; 3606

(4) Standards for the approval of examinations and re- 3607
examinations administered by national organizations for 3608
licensure, license renewal, and license reinstatement; 3609

(5) Policies related to the issuance and renewal of 3610
licenses and limited permits; 3611

~~(5)~~ (6) Fees for the issuance and renewal of a license to 3612
~~practice respiratory care as a licensee or as a~~ licenses and 3613
~~limited permit holder permits;~~ 3614

~~(6)~~ (7) Standards of practice and ethical conduct in the 3615
practice of respiratory care; 3616

~~(7)~~ (8) The safe and effective practice of respiratory 3617
care, including scope of practice and minimal standards of care; 3618

(9) Any issue the board asks the council to consider. 3619

(F) In addition to the matters that are required to be 3620
reviewed under division (E) of this section, the council may 3621
review, and may submit to the board recommendations concerning, 3622
quality assurance activities to be performed by a supervising 3623

physician and advanced practice respiratory therapist under a 3624
quality assurance system established pursuant to division (F) of 3625
section 4761.40 of the Revised Code. 3626

(G) The board may permit meetings of the council to 3627
include the use of interactive videoconferencing, 3628
teleconferencing, or both if all of the following requirements 3629
are met: 3630

(1) The meeting location is open and accessible to the 3631
public. 3632

(2) Each council member is permitted to choose whether the 3633
member attends in person or through the use of the meeting's 3634
videoconferencing or teleconferencing. 3635

(3) Any meeting-related materials available before the 3636
meeting are sent to each council member by electronic mail, 3637
facsimile, or United States mail, or are hand-delivered. 3638

(4) If interactive videoconferencing is used, there is a 3639
clear video and audio connection that enables all participants 3640
at the meeting location to see and hear each council member. 3641

(5) If teleconferencing is used, there is a clear audio 3642
connection that enables all participants at the meeting location 3643
to hear each council member. 3644

(6) A roll call vote is recorded for each vote taken. 3645

(7) The meeting minutes specify for each member whether 3646
the member attended by videoconference, teleconference, or in 3647
person. 3648

Sec. 4761.033. In addition to rules that are specifically 3649
required or authorized by this chapter to be adopted, the state 3650
medical board may adopt any other rules necessary to govern the 3651

practice of advanced practice respiratory therapists, the 3652
supervisory relationship between advanced practice respiratory 3653
therapists and supervising physicians, and the administration 3654
and enforcement of this chapter. Rules adopted under this 3655
section shall be adopted in accordance with Chapter 119. of the 3656
Revised Code. 3657

Sec. 4761.06. (A) Each license to practice respiratory 3658
care shall expire on the date that is two years after the date 3659
of issuance and may be renewed for additional two-year periods. 3660
Each limited permit to practice respiratory care shall be 3661
renewed annually. Each person seeking to renew a license or 3662
limited permit to practice respiratory care shall apply to the 3663
state medical board in a manner prescribed by the board. 3664
Licenses and limited permits shall be renewed in accordance with 3665
the standard renewal procedure of Chapter 4745. of the Revised 3666
Code. The board shall renew a license if the holder pays the 3667
license renewal fee prescribed under section 4761.07 of the 3668
Revised Code and certifies that the holder has completed the 3669
continuing education or reexamination requirements of division 3670
(B) of this section. 3671

At least one month before a license expires, the board 3672
shall provide to the license holder a renewal notice. Failure of 3673
any license holder to receive a notice of renewal from the board 3674
shall not excuse the holder from the requirements contained in 3675
this section. Each license holder shall give notice to the board 3676
of a change in the holder's residence address, business address, 3677
or electronic mail address not later than thirty days after the 3678
change occurs. 3679

The board shall renew a limited permit if the holder pays 3680
the limited permit renewal fee prescribed under section 4761.07 3681

of the Revised Code and does either of the following: 3682

(1) If the limited permit was issued on the basis of 3683
division (B) (1) (a) of section 4761.05 of the Revised Code, 3684
certifies that the holder is enrolled and in good standing in an 3685
educational program that meets the requirements of division (A) 3686
(1) of section 4761.04 of the Revised Code or has graduated from 3687
such a program; 3688

(2) If the limited permit was issued on the basis of 3689
division (B) (1) (b) of section 4761.05 of the Revised Code, 3690
certifies that the applicant is employed as a provider of 3691
respiratory care under the supervision of a respiratory care 3692
professional. 3693

(B) On or before the annual renewal date, the holder of a 3694
limited permit issued under division (B) (1) (b) of section 3695
4761.05 of the Revised Code shall certify to the board that the 3696
holder has satisfactorily completed the number of hours of 3697
continuing education required by the board, which shall not be 3698
less than three nor more than ten hours of continuing education 3699
acceptable to the board. 3700

~~On~~ Subject to division (C) of section 4761.33 of the 3701
Revised Code, on or before the date a license expires, a license 3702
holder shall certify to the board that the license holder has 3703
satisfactorily completed the number of hours of continuing 3704
education required by the board, which shall be not less than 3705
six nor more than twenty hours of continuing education 3706
acceptable to the board, or has passed a reexamination in 3707
accordance with the board's renewal requirements. 3708

(C) (1) A license to practice respiratory care that is not 3709
renewed on or before its expiration date is automatically 3710

suspended on its expiration date. Continued practice after 3711
suspension shall be considered as practicing in violation of 3712
section 4761.10 of the Revised Code. 3713

(2) If a license has been suspended pursuant to division 3714
(C) (1) of this section for two years or less, it may be 3715
reinstated. The board shall reinstate the license upon the 3716
applicant's submission of a complete renewal application and 3717
payment of a reinstatement fee of one hundred dollars. 3718

If a license has been suspended pursuant to division (C) 3719
(1) of this section for more than two years, it may be restored. 3720
Subject to section 4761.061 of the Revised Code, the board may 3721
restore the license upon an applicant's submission of a complete 3722
restoration application and a restoration fee of one hundred 3723
twenty-five dollars and compliance with sections 4776.01 to 3724
4776.04 of the Revised Code. The board shall not restore a 3725
license unless the board, in its discretion, decides that the 3726
results of the criminal records check do not make the applicant 3727
ineligible for a license issued pursuant to division (A) of this 3728
section. 3729

(D) (1) The board may require a random sample of limited 3730
permit holders to submit materials documenting that the holder 3731
has completed the number of hours of continuing education as 3732
described in division (B) of this section. 3733

(2) The board may require a random sample of license 3734
holders to submit materials documenting that the holder has 3735
completed the number of hours of continuing education as 3736
described in division (B) of this section or has passed a 3737
reexamination. 3738

(3) Division (D) (1) or (2) of this section does not limit 3739

the board's authority to conduct investigations pursuant to 3740
section 4731.22 of the Revised Code. 3741

(E) (1) If, through a random sample conducted under 3742
division (D) of this section or through any other means, the 3743
board finds that an individual who certified passing the 3744
reexamination or completion of the number of hours and type of 3745
continuing education required to renew, reinstate, or restore a 3746
limited permit or license or to reactivate a license placed on 3747
retired status did not pass the reexamination or complete the 3748
requisite continuing education, the board may do either of the 3749
following: 3750

(a) Take disciplinary action against the individual under 3751
section 4761.09 of the Revised Code, impose a civil penalty, or 3752
both; 3753

(b) Permit the individual to agree in writing to pass the 3754
reexamination or complete the continuing education and pay a 3755
civil penalty. 3756

(2) The board's finding in any disciplinary action taken 3757
under division (E) (1) (a) of this section shall be made pursuant 3758
to an adjudication under Chapter 119. of the Revised Code and by 3759
an affirmative vote of not fewer than six of its members. 3760

(3) A civil penalty imposed under division (E) (1) (a) of 3761
this section or paid under division (E) (1) (b) of this section 3762
shall be in an amount specified by the board of not more than 3763
five thousand dollars. The board shall deposit civil penalties 3764
in accordance with section 4731.24 of the Revised Code. 3765

Sec. 4761.061. (A) This section applies to all of the 3766
following: 3767

(1) An applicant seeking restoration of a license issued 3768

under this chapter that has been in a suspended or inactive 3769
state for any cause for more than two years; 3770

(2) An applicant seeking issuance of a license pursuant to 3771
this chapter who for more than two years has not been engaged in 3772
the practice of respiratory care or advanced practice 3773
respiratory care as either of the following: 3774

(a) An active practitioner; 3775

(b) A student in an educational program as described in 3776
section 4761.04 or 4761.31 of the Revised Code. 3777

(3) An applicant seeking to reactivate a license placed on 3778
retired status. 3779

(B) Before issuing a license to an applicant subject to 3780
this section, or before restoring a license to good standing or 3781
reactivating a license placed on retired status for an applicant 3782
subject to this section, the state medical board may impose 3783
terms and conditions including any one or more of the following: 3784

(1) Requiring the applicant to pass an oral or written 3785
examination, or both, to determine the applicant's present 3786
fitness to resume practice; 3787

(2) Requiring the applicant to obtain additional training 3788
and to pass an examination upon completion of such training; 3789

(3) Requiring an assessment of the applicant's physical 3790
skills for purposes of determining whether the applicant's 3791
coordination, fine motor skills, and dexterity are sufficient 3792
for performing evaluations and procedures in a manner that meets 3793
the minimal standards of care; 3794

(4) Requiring an assessment of the applicant's skills in 3795
recognizing and understanding diseases and conditions; 3796

(5) Requiring the applicant to undergo a comprehensive physical examination, which may include an assessment of physical abilities, evaluation of sensory capabilities, or screening for the presence of neurological disorders;

(6) Restricting or limiting the extent, scope, or type of practice of the applicant.

The board shall consider the moral background and the activities of the applicant during the period of suspension, inactivity, or retirement. The board shall not issue, restore, or reactivate a license under this section unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

Sec. 4761.07. (A) The state medical board shall charge any license applicant or holder who is to take an examination required under division (A)(2) of section 4761.04 or a reexamination required under division (B) of section 4761.06 of the Revised Code for license renewal or under section 4761.09 of the Revised Code for license reinstatement, a nonrefundable examination fee, not to exceed the amount necessary to cover the expense of administering the examination. The license applicant or holder shall pay the fee at the time of application for licensure or renewal.

(B) The board shall establish the following additional nonrefundable fees and penalty:

(1) For an initial license to practice respiratory care, a fee of seventy-five dollars;

(2) For renewal of a license to practice respiratory care, a biennial license-renewal fee of seventy-five dollars;

(3) A limited permit fee of twenty dollars;

(4) A limited permit renewal fee of ten dollars;	3825
(5) <u>For an initial license to practice as an advanced practice respiratory therapist, a fee to be determined by the board in an amount not to exceed one hundred seventy-five dollars;</u>	3826 3827 3828 3829
(6) <u>For renewal of a license to practice as an advanced practice respiratory therapist, a biennial renewal fee to be determined by the board in an amount not to exceed one hundred twenty-five dollars;</u>	3830 3831 3832 3833
(7) <u>A duplicate license or limited permit fee of thirty-five dollars;</u>	3834 3835
(6) (8) <u>In the case of a person holding a license issued under this chapter, a license verification fee of fifty dollars.</u>	3836 3837
(C) Notwithstanding division (B) (4) of this section, after the third renewal of a limited permit that meets the exception in division (B) (3) of section 4761.05 of the Revised Code, the limited permit renewal fee shall be thirty-five dollars.	3838 3839 3840 3841
(D) All fees received by the board shall be deposited into the state treasury to the credit of the state medical board operating fund pursuant to section 4731.24 of the Revised Code.	3842 3843 3844
Sec. 4761.09. (A) The state medical board, by an affirmative vote of not fewer than six members, shall, except as provided in division (B) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited permit, refuse to reinstate a license or limited permit, or reprimand or place on probation the holder of a license or limited permit for one or more of the following reasons:	3845 3846 3847 3848 3849 3850 3851 3852 3853

(1) A plea of guilty to, a judicial finding of guilt of, 3854
or a judicial finding of eligibility for intervention in lieu of 3855
conviction for, a felony; 3856

(2) Commission of an act that constitutes a felony in this 3857
state, regardless of the jurisdiction in which the act was 3858
committed; 3859

(3) A plea of guilty to, a judicial finding of guilt of, 3860
or a judicial finding of eligibility for intervention in lieu of 3861
conviction for, a misdemeanor committed in the course of 3862
practice; 3863

(4) Commission of an act in the course of practice that 3864
constitutes a misdemeanor in this state, regardless of the 3865
jurisdiction in which the act was committed; 3866

(5) A plea of guilty to, a judicial finding of guilt of, 3867
or a judicial finding of eligibility for intervention in lieu of 3868
conviction for, a misdemeanor involving moral turpitude; 3869

(6) Commission of an act involving moral turpitude that 3870
constitutes a misdemeanor in this state, regardless of the 3871
jurisdiction in which the act was committed; 3872

(7) Except when civil penalties are imposed under section 3873
4761.091 of the Revised Code, violating or attempting to 3874
violate, directly or indirectly, or assisting in or abetting the 3875
violation of, or conspiring to violate, any provision of this 3876
chapter or the rules adopted by the board; 3877

(8) Making a false, fraudulent, deceptive, or misleading 3878
statement in ~~the~~ soliciting or advertising for employment, in 3879
connection with any solicitation of or advertising for 3880
patients, in relation to the practice of respiratory care, ~~or~~ 3881
advanced practice respiratory care, or in securing or attempting 3882

to secure any license or permit issued by the board under this chapter. 3883
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As used in division (A) (8) of this section, "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. 3885
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(9) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board; 3893
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(10) A departure from, or 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; 3897
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(11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care or advanced practice respiratory care; 3901
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(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; 3904
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(13) Violation of the conditions of limitation placed by the board upon a license or permit; 3907
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(14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that 3909
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adversely affects cognitive, motor, or perceptive skills; 3912

(15) Any of the following actions taken by an agency 3913
responsible for authorizing, certifying, or regulating an 3914
individual to practice a health care occupation or provide 3915
health care services in this state or another jurisdiction, for 3916
any reason other than the nonpayment of fees: the limitation, 3917
revocation, or suspension of an individual's license; acceptance 3918
of an individual's license surrender; denial of a license; 3919
refusal to renew or reinstate a license; imposition of 3920
probation; or issuance of an order of censure or other 3921
reprimand; 3922

(16) The revocation, suspension, restriction, reduction, 3923
or termination of practice privileges by the United States 3924
department of defense or department of veterans affairs; 3925

(17) Termination or suspension from participation in the 3926
medicare or medicaid programs by the department of health and 3927
human services or other responsible agency for any act or acts 3928
that also would constitute a violation of division (A) (10), 3929
(12), or (14) of this section; 3930

(18) Impairment of ability to practice according to 3931
acceptable and prevailing standards of care because of substance 3932
use disorder or excessive use or abuse of drugs, alcohol, or 3933
other substances that may impair ability to practice; 3934

(19) Failure to cooperate in an investigation conducted by 3935
the board under division (E) of section 4761.03 of the Revised 3936
Code, including failure to comply with a subpoena or order 3937
issued by the board or failure to answer truthfully a question 3938
presented by the board in an investigative interview, an 3939
investigative office conference, at a deposition, or in written 3940

interrogatories, except that failure to cooperate with an 3941
investigation shall not constitute grounds for discipline under 3942
this section if a court of competent jurisdiction has issued an 3943
order that either quashes a subpoena or permits the individual 3944
to withhold the testimony or evidence in issue; 3945

(20) Practicing in an area of respiratory care or advanced 3946
practice respiratory care for which the person is clearly 3947
untrained or incompetent or practicing in a manner that 3948
conflicts with section 4761.17 or 4761.37 of the Revised Code; 3949

(21) Employing, directing, or supervising a person who is 3950
not authorized to practice respiratory care under this chapter 3951
in the performance of respiratory care procedures; 3952

(22) Misrepresenting educational attainments or authorized 3953
functions for the purpose of obtaining some benefit related to 3954
the practice of respiratory care or advanced practice 3955
respiratory care; 3956

(23) Assisting suicide as defined in section 3795.01 of 3957
the Revised Code; 3958

(24) Representing, with the purpose of obtaining 3959
compensation or other advantage as personal gain or for any 3960
other person, that an incurable disease or injury, or other 3961
incurable condition, can be permanently cured; 3962

(25) Failure to comply with the requirements of this 3963
chapter, Chapter 4731. of the Revised Code, or any rules adopted 3964
by the board; 3965

(26) Violating or attempting to violate, directly or 3966
indirectly, or assisting in or abetting the violation of, or 3967
conspiring to violate, any provision of this chapter, Chapter 3968
4731. of the Revised Code, or the rules adopted by the board; 3969

(27) Failure to practice in accordance with the 3970
supervising physician's supervision agreement with the advanced 3971
practice respiratory therapist, including the policies of the 3972
health care facility in which the supervising physician and 3973
advanced practice respiratory therapist are practicing; 3974

(28) Administering drugs for purposes other than those 3975
authorized under this chapter; 3976

(29) A plea of guilty to, a judicial finding of guilt of, 3977
or a judicial finding of eligibility for intervention in lieu of 3978
conviction for violating any state or federal law regulating the 3979
possession, distribution, or use of any drug, including 3980
trafficking in drugs; 3981

(30) Willfully betraying a professional confidence; 3982

(31) Failure to use universal blood and body fluid 3983
precautions established by rules adopted under section 4731.051 3984
of the Revised Code; 3985

(32) Having the individual's qualification to practice 3986
advanced practice respiratory care from an organization that is 3987
recognized by the board expire, lapse, or otherwise fail to be 3988
active. 3989

Disciplinary actions taken by the board under division (A) 3990
of this section shall be taken pursuant to an adjudication under 3991
Chapter 119. of the Revised Code, except that in lieu of an 3992
adjudication, the board may enter into a consent agreement with 3993
an individual to resolve an allegation of a violation of this 3994
chapter or any rule adopted under it. A consent agreement, when 3995
ratified by an affirmative vote of not fewer than six members of 3996
the board, shall constitute the findings and order of the board 3997
with respect to the matter addressed in the agreement. If the 3998

board refuses to ratify a consent agreement, the admissions and 3999
findings contained in the consent agreement shall be of no 4000
effect. 4001

A telephone conference call may be utilized for 4002
ratification of a consent agreement that revokes or suspends an 4003
individual's license or permit. The telephone conference call 4004
shall be considered a special meeting under division (F) of 4005
section 121.22 of the Revised Code. 4006

(B) The board shall not refuse to issue a license or 4007
limited permit to an applicant because of a plea of guilty to, a 4008
judicial finding of guilt of, or a judicial finding of 4009
eligibility for intervention in lieu of conviction for an 4010
offense unless the refusal is in accordance with section 9.79 of 4011
the Revised Code. 4012

(C) Any action taken by the board under division (A) of 4013
this section resulting in a suspension from practice shall be 4014
accompanied by a written statement of the conditions under which 4015
the individual's license or permit may be reinstated. The board 4016
shall adopt rules governing conditions to be imposed for 4017
reinstatement. Reinstatement of a license or permit suspended 4018
pursuant to division (A) of this section requires an affirmative 4019
vote of not fewer than six members of the board. 4020

(D) When the board refuses to grant or issue a license or 4021
permit to an applicant, revokes an individual's license or 4022
permit, refuses to renew an individual's license or permit, or 4023
refuses to reinstate an individual's license or permit, the 4024
board may specify that its action is permanent. An individual 4025
subject to a permanent action taken by the board is forever 4026
thereafter ineligible to hold a license or permit and the board 4027
shall not accept an application for reinstatement of the license 4028

or permit or for issuance of a new license or permit. 4029

(E) If the board is required by Chapter 119. of the 4030
Revised Code to give notice of an opportunity for a hearing and 4031
if the individual subject to the notice does not timely request 4032
a hearing in accordance with section 119.07 of the Revised Code, 4033
the board is not required to hold a hearing, but may adopt, by 4034
an affirmative vote of not fewer than six of its members, a 4035
final order that contains the board's findings. In the final 4036
order, the board may order any of the sanctions identified under 4037
division (A) of this section. 4038

(F) In enforcing division (A)(14) of this section, the 4039
board, upon a showing of a possible violation, shall refer any 4040
individual authorized to practice by this chapter or who has 4041
submitted an application pursuant to this chapter to the 4042
monitoring organization that conducts the confidential 4043
monitoring program established under section 4731.25 of the 4044
Revised Code. The board also may compel the individual to submit 4045
to a mental examination, physical examination, including an HIV 4046
test, or both a mental and a physical examination. The expense 4047
of the examination is the responsibility of the individual 4048
compelled to be examined. Failure to submit to a mental or 4049
physical examination or consent to an HIV test ordered by the 4050
board constitutes an admission of the allegations against the 4051
individual unless the failure is due to circumstances beyond the 4052
individual's control, and a default and final order may be 4053
entered without the taking of testimony or presentation of 4054
evidence. If the board finds an individual unable to practice 4055
because of the reasons set forth in division (A)(14) of this 4056
section, the board shall require the individual to submit to 4057
care, counseling, or treatment by physicians approved or 4058
designated by the board, as a condition for initial, continued, 4059

reinstated, or renewed authority to practice. An individual 4060
affected under this division shall be afforded an opportunity to 4061
demonstrate to the board the ability to resume practice in 4062
compliance with acceptable and prevailing standards under the 4063
provisions of the individual's license or permit. For the 4064
purpose of division (A)(14) of this section, any individual who 4065
applies for or receives a license or permit to practice under 4066
this chapter accepts the privilege of practicing in this state 4067
and, by so doing, shall be deemed to have given consent to 4068
submit to a mental or physical examination when directed to do 4069
so in writing by the board, and to have waived all objections to 4070
the admissibility of testimony or examination reports that 4071
constitute a privileged communication. 4072

(G) For the purposes of division (A)(18) of this section, 4073
any individual authorized to practice by this chapter accepts 4074
the privilege of practicing in this state subject to supervision 4075
by the board. By filing an application for or holding a license 4076
or permit under this chapter, an individual shall be deemed to 4077
have given consent to submit to a mental or physical examination 4078
when ordered to do so by the board in writing, and to have 4079
waived all objections to the admissibility of testimony or 4080
examination reports that constitute privileged communications. 4081

If it has reason to believe that any individual authorized 4082
to practice by this chapter or any applicant for a license or 4083
permit suffers such impairment, the board shall refer the 4084
individual to the monitoring organization that conducts the 4085
confidential monitoring program established under section 4086
4731.25 of the Revised Code. The board also may compel the 4087
individual to submit to a mental or physical examination, or 4088
both. The expense of the examination is the responsibility of 4089
the individual compelled to be examined. Any mental or physical 4090

examination required under this division shall be undertaken by 4091
a treatment provider or physician who is qualified to conduct 4092
the examination and who is approved under section 4731.251 of 4093
the Revised Code. 4094

Failure to submit to a mental or physical examination 4095
ordered by the board constitutes an admission of the allegations 4096
against the individual unless the failure is due to 4097
circumstances beyond the individual's control, and a default and 4098
final order may be entered without the taking of testimony or 4099
presentation of evidence. If the board determines that the 4100
individual's ability to practice is impaired, the board shall 4101
suspend the individual's license or permit or deny the 4102
individual's application and shall require the individual, as a 4103
condition for an initial, continued, reinstated, or renewed 4104
license or permit, to submit to treatment. 4105

Before being eligible to apply for reinstatement of a 4106
license or permit suspended under this division, the impaired 4107
practitioner shall demonstrate to the board the ability to 4108
resume practice in compliance with acceptable and prevailing 4109
standards of care under the provisions of the practitioner's 4110
license or permit. The demonstration shall include, but shall 4111
not be limited to, the following: 4112

(1) Certification from a treatment provider approved under 4113
section 4731.251 of the Revised Code that the individual has 4114
successfully completed any required inpatient treatment; 4115

(2) Evidence of continuing full compliance with an 4116
aftercare contract or consent agreement; 4117

(3) Two written reports indicating that the individual's 4118
ability to practice has been assessed and that the individual 4119

has been found capable of practicing according to acceptable and 4120
prevailing standards of care. The reports shall be made by 4121
individuals or providers approved by the board for making the 4122
assessments and shall describe the basis for their 4123
determination. 4124

The board may reinstate a license or permit suspended 4125
under this division after that demonstration and after the 4126
individual has entered into a written consent agreement. 4127

When the impaired practitioner resumes practice, the board 4128
shall require continued monitoring of the individual. The 4129
monitoring shall include, but not be limited to, compliance with 4130
the written consent agreement entered into before reinstatement 4131
or with conditions imposed by board order after a hearing, and, 4132
upon termination of the consent agreement, submission to the 4133
board for at least two years of annual written progress reports 4134
made under penalty of perjury stating whether the individual has 4135
maintained sobriety. 4136

(H) (1) If either of the following circumstances occur, the 4137
secretary and supervising member may recommend that the board 4138
suspend an individual's license or permit without a prior 4139
hearing: 4140

(a) The secretary and supervising member determine both of 4141
the following: 4142

(i) That there is clear and convincing evidence that an 4143
individual has violated division (A) of this section; 4144

(ii) That the individual's continued practice presents a 4145
danger of immediate and serious harm to the public. 4146

(b) The board receives verifiable information that a 4147
licensee has been charged in any state or federal court for a 4148

crime classified as a felony under the charging court's law and 4149
the conduct charged constitutes a violation of division (A) of 4150
this section. 4151

(2) If a recommendation is made to suspend without a prior 4152
hearing pursuant to division (H) (1) of this section, written 4153
allegations shall be prepared for consideration by the board. 4154
The board, upon review of those allegations and by an 4155
affirmative vote of not fewer than six of its members, excluding 4156
the secretary and supervising member, may suspend a license or 4157
permit without a prior hearing. A telephone conference call may 4158
be utilized for reviewing the allegations and taking the vote on 4159
the summary suspension. 4160

The board shall serve a written order of suspension in 4161
accordance with sections 119.05 and 119.07 of the Revised Code. 4162
The order shall not be subject to suspension by the court during 4163
pendency of any appeal filed under section 119.12 of the Revised 4164
Code. If the individual subject to the summary suspension 4165
requests an adjudicatory hearing by the board, the date set for 4166
the hearing shall be within fifteen days, but not earlier than 4167
seven days, after the individual requests the hearing, unless 4168
otherwise agreed to by both the board and the individual. 4169

(3) Any summary suspension imposed under this division 4170
shall remain in effect, unless reversed on appeal, until a final 4171
adjudicative order issued by the board pursuant to this section 4172
and Chapter 119. of the Revised Code becomes effective. The 4173
board shall issue its final adjudicative order within seventy- 4174
five days after completion of its hearing. A failure to issue 4175
the order within seventy-five days shall result in dissolution 4176
of the summary suspension order but shall not invalidate any 4177
subsequent, final adjudicative order. 4178

(I) For purposes of divisions (A) (2), (4), and (6) of this 4179
section, the commission of the act may be established by a 4180
finding by the board, pursuant to an adjudication under Chapter 4181
119. of the Revised Code, that the individual committed the act. 4182
The board does not have jurisdiction under those divisions if 4183
the trial court renders a final judgment in the individual's 4184
favor and that judgment is based upon an adjudication on the 4185
merits. The board has jurisdiction under those divisions if the 4186
trial court issues an order of dismissal upon technical or 4187
procedural grounds. 4188

(J) The sealing or expungement of conviction records by 4189
any court shall have no effect upon a prior board order entered 4190
under this section or upon the board's jurisdiction to take 4191
action under this section if, based upon a plea of guilty, a 4192
judicial finding of guilt, or a judicial finding of eligibility 4193
for intervention in lieu of conviction, the board issued a 4194
notice of opportunity for a hearing prior to the court's order 4195
to seal or expunge the records. The board shall not be required 4196
to seal, destroy, redact, or otherwise modify its records to 4197
reflect the court's sealing or expungement of conviction 4198
records. 4199

(K) If the board takes action under division (A) (1), (3), 4200
or (5) of this section, and the judicial finding of guilt, 4201
guilty plea, or judicial finding of eligibility for intervention 4202
in lieu of conviction is overturned on appeal, upon exhaustion 4203
of the criminal appeal, a petition for reconsideration of the 4204
order may be filed with the board along with appropriate court 4205
documents. Upon receipt of a petition for reconsideration and 4206
supporting court documents, the board shall reinstate the 4207
individual's license or permit. The board may then hold an 4208
adjudication under Chapter 119. of the Revised Code to determine 4209

whether the individual committed the act in question. Notice of 4210
an opportunity for a hearing shall be given in accordance with 4211
Chapter 119. of the Revised Code. If the board finds, pursuant 4212
to an adjudication held under this division, that the individual 4213
committed the act or if no hearing is requested, the board may 4214
order any of the sanctions identified under division (A) of this 4215
section. 4216

(L) The license or permit issued to an individual under 4217
this chapter and the individual's practice in this state are 4218
automatically suspended as of the date the individual pleads 4219
guilty to, is found by a judge or jury to be guilty of, or is 4220
subject to a judicial finding of eligibility for intervention in 4221
lieu of conviction in this state or treatment or intervention in 4222
lieu of conviction in another jurisdiction for any of the 4223
following criminal offenses in this state or a substantially 4224
equivalent criminal offense in another jurisdiction: aggravated 4225
murder, murder, voluntary manslaughter, felonious assault, 4226
trafficking in persons, kidnapping, rape, sexual battery, gross 4227
sexual imposition, aggravated arson, aggravated robbery, or 4228
aggravated burglary. Continued practice after suspension shall 4229
be considered practicing without a license or permit. 4230

The board shall serve the individual subject to the 4231
suspension in accordance with sections 119.05 and 119.07 of the 4232
Revised Code. If an individual whose license or permit is 4233
automatically suspended under this division fails to make a 4234
timely request for an adjudication under Chapter 119. of the 4235
Revised Code, the board shall enter a final order permanently 4236
revoking the individual's license or permit. 4237

(M) Notwithstanding any other provision of the Revised 4238
Code, all of the following apply: 4239

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

(2) An application for a license or permit made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license or permit in accordance with this chapter does not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4761.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

(5) At the request of the board, a license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked.

Sec. 4761.13. (A) As used in this section, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B) The prosecutor in any case against any respiratory care professional, advanced practice respiratory therapist, or

~~an~~ individual holding a limited permit issued under this chapter 4269
shall promptly notify the state medical board of any of the 4270
following: 4271

(1) A plea of guilty to, or a finding of guilt by a jury 4272
or court of, a felony, or a case in which the trial court issues 4273
an order of dismissal upon technical or procedural grounds of a 4274
felony charge; 4275

(2) A plea of guilty to, or a finding of guilt by a jury 4276
or court of, a misdemeanor committed in the course of practice, 4277
or a case in which the trial court issues an order of dismissal 4278
upon technical or procedural grounds of a charge of a 4279
misdemeanor, if the alleged act was committed in the course of 4280
practice; 4281

(3) A plea of guilty to, or a finding of guilt by a jury 4282
or court of, a misdemeanor involving moral turpitude, or a case 4283
in which the trial court issues an order of dismissal upon 4284
technical or procedural grounds of a charge of a misdemeanor 4285
involving moral turpitude. 4286

(C) The report shall include the name and address of the 4287
respiratory care professional, advanced practice respiratory 4288
therapist, or person holding a limited permit, the nature of the 4289
offense for which the action was taken, and the certified court 4290
documents recording the action. The board may prescribe and 4291
provide forms for prosecutors to make reports under this 4292
section. The form may be the same as the form required to be 4293
provided under section 2929.42 of the Revised Code. 4294

Sec. 4761.14. (A) As used in this section, "criminal 4295
conduct" and "sexual misconduct" have the same meanings as in 4296
section 4731.224 of the Revised Code. 4297

(B) (1) An employer that disciplines or terminates the employment of a respiratory care professional, advanced practice respiratory therapist, or individual holding a limited permit issued under this chapter because of conduct that would be grounds for disciplinary action under section 4761.09 of the Revised Code shall, not later than thirty days after the discipline or termination, report the action to the state medical board. The report shall state the name of the respiratory care professional, advanced practice respiratory therapist, or individual holding the limited permit and the reason the employer took the action. If an employer fails to report to the board, the board may seek an order from the Franklin county court of common pleas, or any other court of competent jurisdiction, compelling submission of the report.

(2) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any respiratory care professional, advanced practice respiratory therapist, or individual holding a ~~valid license or~~ limited permit issued ~~pursuant to~~ under this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility or employer, shall report to the board the name of the respiratory care professional, advanced practice respiratory therapist, or individual holding the limited permit and a summary of the underlying facts related to the investigation being commenced.

(C) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this

chapter has committed or participated in criminal conduct or 4329
sexual misconduct the information upon which the belief is based 4330
shall be reported to the board within thirty days. 4331

This division does not apply to a professional association 4332
or society whose staff interacts with members of the association 4333
or society only in advocacy, governance, or educational 4334
capacities and whose staff does not regularly interact with 4335
members in practice settings. 4336

(D) In addition to the self-reporting of criminal offenses 4337
that is required for license renewal, an individual authorized 4338
to practice under this chapter shall report to the board 4339
criminal charges regarding criminal conduct, sexual misconduct, 4340
or any conduct involving the use of a motor vehicle while under 4341
the influence of alcohol or drugs, including offenses that are 4342
equivalent offenses under division (A) of section 4511.181 of 4343
the Revised Code, violations of division (D) of section 4511.194 4344
of the Revised Code, and violations of division (C) of section 4345
4511.79 of the Revised Code. Reports under this division shall 4346
be made within thirty days of the criminal charge being filed. 4347

Sec. 4761.17. All of the following apply to the practice 4348
of respiratory care by a person who holds a license or limited 4349
permit issued under this chapter: 4350

(A) The person shall practice only pursuant to a 4351
prescription or other order for respiratory care issued by any 4352
of the following: 4353

(1) A physician; 4354

(2) A clinical nurse specialist, certified nurse-midwife, 4355
or certified nurse practitioner who holds a current, valid 4356
license issued under Chapter 4723. of the Revised Code to 4357

practice nursing as an advanced practice registered nurse and 4358
has entered into a standard care arrangement with a physician; 4359

(3) A certified registered nurse anesthetist who holds a 4360
current, valid license issued under Chapter 4723. of the Revised 4361
Code to practice nursing as an advanced practice registered 4362
nurse and acts in compliance with sections 4723.43, 4723.433, 4363
and 4723.434 of the Revised Code; 4364

(4) A physician assistant who holds a valid prescriber 4365
number issued by the state medical board, has been granted 4366
physician-delegated prescriptive authority, and has entered into 4367
a supervision agreement that allows the physician assistant to 4368
prescribe or order respiratory care services; 4369

(5) An advanced practice respiratory therapist who has 4370
been granted physician-delegated prescriptive authority and has 4371
entered into a supervision agreement that allows the advanced 4372
practice respiratory therapist to prescribe and order 4373
respiratory care services. 4374

(B) The person shall practice only under the supervision 4375
of any of the following: 4376

(1) A physician; 4377

(2) A certified nurse practitioner, certified nurse- 4378
midwife, or clinical nurse specialist; 4379

(3) A physician assistant who is authorized to prescribe 4380
or order respiratory care services as provided in division (A) 4381

(4) of this section; 4382

(4) An advanced practice respiratory therapist who is 4383
authorized to prescribe or order respiratory care services as 4384
provided in division (A) (5) of this section. 4385

(C) (1) When practicing under the prescription or order of 4386
a certified nurse practitioner, certified nurse midwife, or 4387
clinical nurse specialist or under the supervision of such a 4388
nurse, the person's administration of medication that requires a 4389
prescription is limited to the drugs that the nurse is 4390
authorized to prescribe pursuant to section 4723.481 of the 4391
Revised Code. 4392

(2) When practicing under the order of a certified 4393
registered nurse anesthetist, the person's administration of 4394
medication is limited to the drugs that the nurse is authorized 4395
to order or direct the person to administer, as provided in 4396
sections 4723.43, 4723.433, and 4723.434 of the Revised Code. 4397

(3) When practicing under the prescription or order of a 4398
physician assistant or under the supervision of a physician 4399
assistant, the person's administration of medication that 4400
requires a prescription is limited to the drugs that the 4401
physician assistant is authorized to prescribe pursuant to the 4402
physician assistant's physician-delegated prescriptive 4403
authority. 4404

(4) When practicing under the prescription or order of an 4405
advanced practice respiratory therapist or under the supervision 4406
of an advanced practice respiratory therapist, the person's 4407
administration of medication that requires a prescription is 4408
limited to the drugs that an advanced practice respiratory 4409
therapist is authorized to prescribe pursuant to the advanced 4410
practice respiratory therapist's physician-delegated 4411
prescriptive authority. 4412

Sec. 4761.20. If the state medical board has reason to 4413
believe that any person who has been granted a license or 4414
limited permit under this chapter is mentally ill or mentally 4415

incompetent, it may file in the probate court of the county in 4416
which such person has a legal residence an affidavit in the form 4417
prescribed in section 5122.11 of the Revised Code and signed by 4418
the board secretary or a member of the secretary's staff, 4419
whereupon the same proceedings shall be had as provided in 4420
Chapter 5122. of the Revised Code. The attorney general may 4421
represent the board in any proceeding commenced under this 4422
section. 4423

If the license holder or limited permit holder is adjudged 4424
by a probate court to be mentally ill or mentally incompetent, 4425
the individual's license or limited permit shall be 4426
automatically suspended until the individual has filed with the 4427
board a certified copy of an adjudication by a probate court of 4428
being restored to competency or has submitted to the board 4429
proof, satisfactory to the board, of having been discharged as 4430
being restored to competency in the manner and form provided in 4431
section 5122.38 of the Revised Code. The judge of the court 4432
shall immediately notify the board of an adjudication of 4433
incompetence and note any suspension of a license in the margin 4434
of the court's record of the license. 4435

Sec. 4761.21. In the absence of fraud or bad faith, the 4436
state medical board, the board's respiratory care advisory 4437
council, a current or former board or council member, an agent 4438
of the board or council, a person formally requested by the 4439
board to be the board's representative or by the council to be 4440
the council's representative, or an employee of the board or 4441
council shall not be held liable in damages to any person as the 4442
result of any act, omission, proceeding, conduct, or decision 4443
related to official duties undertaken or performed pursuant to 4444
this chapter. If any such person requests to be defended by the 4445
state against any claim or action arising out of any act, 4446

omission, proceeding, conduct, or decision related to the 4447
person's official duties, and if the request is made in writing 4448
at a reasonable time before trial and the person requesting 4449
defense cooperates in good faith in the defense of the claim or 4450
action, the state shall provide and pay for the person's defense 4451
and shall pay any resulting judgment, compromise, or settlement. 4452
At no time shall the state pay any part of a claim or judgment 4453
that is for punitive or exemplary damages. 4454

Sec. 4761.30. A respiratory care professional or advanced 4455
practice respiratory therapist may provide telehealth services 4456
in accordance with section 4743.09 of the Revised Code. 4457

Sec. 4761.31. (A) An individual seeking an initial license 4458
to practice as an advanced practice respiratory therapist shall 4459
file with the state medical board a written application on a 4460
form prescribed and supplied by the board. The application shall 4461
be accompanied by the initial license fee determined by the 4462
board. The board shall deposit the fees in accordance with 4463
section 4731.24 of the Revised Code. 4464

(B) To be eligible for licensure as an advanced practice 4465
respiratory therapist, the individual's application must show, 4466
to the satisfaction of the board, all of the following: 4467

(1) That the individual has been issued a license to 4468
practice respiratory care under section 4761.05 of the Revised 4469
Code; 4470

(2) That the individual has successfully completed the 4471
requirements of a master's or doctoral educational program 4472
approved by the board that includes instruction in the following 4473
areas as they relate to cardiopulmonary disease: 4474
pathophysiology, symptomatology, differential diagnosis, disease 4475

management including the use and prescription of pharmacologic 4476
and nonpharmacologic interventions, health promotion, and 4477
disease prevention; 4478

(3) That the individual has passed an examination approved 4479
under rules adopted by the board that tests the applicant's 4480
knowledge of the biomedical and clinical sciences relating to 4481
advanced respiratory therapy theory and practice, professional 4482
skills and assessment, management and follow-up for 4483
cardiopulmonary disease, and such other subjects as the board 4484
considers useful in determining fitness to practice; 4485

(4) That the individual holds an active qualification to 4486
practice advanced practice respiratory care from an organization 4487
that is recognized by the board. 4488

Sec. 4761.311. An advanced practice respiratory therapist 4489
who fails to maintain an active qualification to practice 4490
advanced practice respiratory care from an organization that is 4491
recognized by the state medical board shall notify the board not 4492
later than fourteen days after the qualification is no longer 4493
active. 4494

Sec. 4761.32. (A) The state medical board shall review 4495
each application for a license to practice as an advanced 4496
practice respiratory therapist received under section 4761.31 of 4497
the Revised Code. Not later than sixty days after receiving a 4498
complete application, the board shall determine whether the 4499
applicant meets the requirements to receive the license, as 4500
specified in section 4761.31 of the Revised Code. 4501

(B) If the board determines that an applicant meets the 4502
requirements to receive the license, the secretary of the board 4503
shall register the applicant as an advanced practice respiratory 4504

therapist and issue to the applicant a license to practice as an 4505
advanced practice respiratory therapist. 4506

Sec. 4761.33. (A) A license to practice as an advanced 4507
practice respiratory therapist shall be valid for a two-year 4508
period unless revoked or suspended. The license shall expire on 4509
the date that is two years after the date of issuance and may be 4510
renewed for additional two-year periods in accordance with this 4511
section. A person seeking to renew a license shall apply to the 4512
state medical board for renewal prior to the license's 4513
expiration date. The board shall provide renewal notices to 4514
license holders at least one month prior to the expiration date. 4515

Applications shall be submitted to the board in a manner 4516
prescribed by the board. Each application shall be accompanied 4517
by the biennial renewal fee determined by the board. The board 4518
shall deposit the fees in accordance with section 4731.24 of the 4519
Revised Code. 4520

The applicant shall report any criminal offense that 4521
constitutes grounds for refusing to issue a license to practice 4522
under section 4761.09 of the Revised Code to which the applicant 4523
has pleaded guilty, of which the applicant has been found 4524
guilty, or for which the applicant has been found eligible for 4525
intervention in lieu of conviction, since last signing an 4526
application for a license to practice as an advanced practice 4527
respiratory therapist. 4528

(B) To be eligible for renewal of a license, an applicant 4529
is subject to both of the following: 4530

(1) The applicant must certify to the board that the 4531
applicant has maintained an active qualification to practice 4532
advanced practice respiratory care from an organization that is 4533

recognized by the board. 4534

(2) The applicant must comply with the renewal eligibility requirements established under section 4761.49 of the Revised Code that pertain to the applicant. 4535
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(C) If an applicant submits a complete renewal application and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed license to practice as an advanced practice respiratory therapist. 4538
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Completion of the continuing education required for an advanced practice respiratory therapist to maintain an active qualification to practice advanced practice respiratory care from an organization that is recognized by the board shall constitute satisfactory completion of continuing education or reexamination requirements for renewal of a license to practice respiratory care as set forth in division (B) of section 4761.06 of the Revised Code. 4543
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(D) The board may require a random sample of advanced practice respiratory therapists to submit materials documenting both of the following: 4551
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(1) Maintenance of an active qualification to practice advanced practice respiratory care from an organization that is recognized by the board. 4554
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(2) Completion of the continuing education in pharmacology required by section 4761.49 of the Revised Code. 4557
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Division (D) of this section does not limit the board's authority to conduct investigations pursuant to section 4761.09 of the Revised Code. 4559
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(E) (1) A license to practice that is not renewed on or 4562
before its expiration date is automatically suspended on its 4563
expiration date. Continued practice after suspension of the 4564
license shall be considered as practicing in violation of 4565
section 4761.34 of the Revised Code. 4566

(2) If an advanced practice respiratory therapist's 4567
license to practice as a respiratory care professional is 4568
classified as inactive for any cause, the advanced practice 4569
respiratory therapist's license to practice as an advanced 4570
practice respiratory therapist is automatically classified as 4571
inactive while the license to practice as a respiratory care 4572
professional remains inactive. If either license held by an 4573
advanced practice respiratory therapist is revoked under this 4574
chapter, the other license is automatically revoked. If either 4575
license is suspended under this chapter, including for failure 4576
to renew under this section or section 4761.06 of the Revised 4577
Code, the other license is automatically suspended while the 4578
suspension remains in effect. 4579

(F) If a license has been suspended pursuant to division 4580
(E) of this section for two years or less, it may be reinstated. 4581
The board shall reinstate a license suspended for failure to 4582
renew upon an applicant's submission of a renewal application, 4583
the biennial renewal fee, and any applicable monetary penalty. 4584

If a license has been suspended pursuant to division (E) 4585
of this section for more than two years, it may be restored. In 4586
accordance with section 4761.061 of the Revised Code, the board 4587
may restore a license suspended for failure to renew upon an 4588
applicant's submission of a restoration application, the 4589
biennial renewal fee, and any applicable monetary penalty, and 4590
compliance with sections 4776.01 to 4776.04 of the Revised Code. 4591

The board shall not restore to an applicant a license to 4592
practice as an advanced practice respiratory therapist unless 4593
the board, in its discretion, decides that the results of the 4594
criminal records check do not make the applicant ineligible for 4595
a license issued pursuant to section 4761.32 of the Revised 4596
Code. 4597

The penalty for reinstatement shall be fifty dollars and 4598
the penalty for restoration shall be one hundred dollars. The 4599
board shall deposit penalties in accordance with section 4731.24 4600
of the Revised Code. 4601

(G) (1) If, through a random sample conducted under 4602
division (D) of this section or any other means, the board finds 4603
that an individual who certified maintenance of an active 4604
qualification or completion of continuing education in 4605
pharmacology required to renew, reinstate, or restore a license 4606
to practice did not complete the requisite maintenance or 4607
continuing education, the board may do either of the following: 4608

(a) Take disciplinary action against the individual under 4609
section 4761.09 of the Revised Code, impose a civil penalty, or 4610
both; 4611

(b) Permit the individual to agree in writing to re- 4612
establish an active qualification or complete the continuing 4613
education and pay a civil penalty. 4614

(2) The board's finding in any disciplinary action taken 4615
under division (G) (1) (a) of this section shall be made pursuant 4616
to an adjudication under Chapter 119. of the Revised Code and by 4617
an affirmative vote of not fewer than six of its members. 4618

(3) A civil penalty imposed under division (G) (1) (a) of 4619
this section or paid under division (G) (1) (b) of this section 4620

shall be in an amount specified by the board of not more than 4621
five thousand dollars. The board shall deposit civil penalties 4622
in accordance with section 4731.24 of the Revised Code. 4623

Sec. 4761.34. (A) No person shall hold that person out as 4624
being able to function as an advanced practice respiratory 4625
therapist, or use any words or letters indicating or implying 4626
that the person is an advanced practice respiratory therapist, 4627
without a current, valid license to practice as an advanced 4628
practice respiratory therapist issued under this chapter. 4629

(B) No person shall practice as an advanced practice 4630
respiratory therapist without the supervision, control, and 4631
direction of a supervising physician who specializes in 4632
pulmonology, anesthesiology, critical care, or sleep medicine. 4633

(C) No person shall practice as an advanced practice 4634
respiratory therapist without having entered into a supervision 4635
agreement with a supervising physician under section 4761.38 of 4636
the Revised Code. 4637

(D) No person acting as the supervising physician of an 4638
advanced practice respiratory therapist shall authorize the 4639
advanced practice respiratory therapist to perform services if 4640
either of the following is the case: 4641

(1) The services are not within the physician's normal 4642
course of practice and expertise; 4643

(2) The services are inconsistent with the supervision 4644
agreement under which the advanced practice respiratory 4645
therapist is being supervised, including the policies of the 4646
health care facility in which the physician and the advanced 4647
practice respiratory therapist are practicing. 4648

(E) No person practicing as an advanced practice 4649

respiratory therapist shall perform general anesthesia, 4650
monitored anesthesia care, regional anesthesia, or neuraxial 4651
anesthesia. 4652

(F) No person shall advertise to provide services as an 4653
advanced practice respiratory therapist, except for the purpose 4654
of seeking employment. 4655

(G) No person practicing as an advanced practice 4656
respiratory therapist shall fail to wear at all times when on 4657
duty a placard, plate, or other device identifying that person 4658
as an advanced practice respiratory therapist. 4659

(H) No person practicing as an advanced practice 4660
respiratory therapist shall prescribe controlled substances. 4661

(I) Division (A) of this section does not apply to a 4662
person who meets all of the following conditions: 4663

(1) The person holds in good standing a valid license or 4664
other form of authority to practice as an advanced practice 4665
respiratory therapist issued by another state. 4666

(2) The person is practicing as a volunteer without 4667
remuneration during a charitable event that lasts not more than 4668
seven days. 4669

(3) The medical care provided by the person will be 4670
supervised by the medical director of the charitable event or by 4671
another physician. 4672

When a person meets the conditions of this division, the 4673
person shall be deemed to hold, during the course of the 4674
charitable event, a license to practice as an advanced practice 4675
respiratory therapist from the state medical board and shall be 4676
subject to the provisions of this chapter authorizing the board 4677

to take disciplinary action against a license holder. Not less 4678
than seven calendar days before the first day of the charitable 4679
event, the person or the event's organizer shall notify the 4680
board of the person's intent to practice as an advanced practice 4681
respiratory therapist at the event. During the course of the 4682
charitable event, the person's scope of practice is limited to 4683
the procedures that an advanced practice respiratory therapist 4684
licensed under this chapter is authorized to perform unless the 4685
person's scope of practice in the other state is more 4686
restrictive than in this state. If the latter is the case, the 4687
person's scope of practice is limited to the procedures that an 4688
advanced practice respiratory therapist in the other state may 4689
perform. 4690

Sec. 4761.35. Nothing in this chapter shall: 4691

(A) Be construed to affect or interfere with the 4692
performance of duties of any medical personnel who are either of 4693
the following: 4694

(1) In active service in the army, navy, coast guard, 4695
marine corps, air force, public health service, or marine 4696
hospital service of the United States while so serving; 4697

(2) Employed by the veterans administration of the United 4698
States while so employed. 4699

(B) Prevent any person from performing any of the services 4700
an advanced practice respiratory therapist may be authorized to 4701
perform, if the person's professional scope of practice 4702
established under any other chapter of the Revised Code 4703
authorizes the person to perform the services; 4704

(C) Prohibit a physician from delegating responsibilities 4705
to any nurse or other qualified person who does not hold a 4706

license to practice as an advanced practice respiratory 4707
therapist, provided that the individual does not hold the 4708
individual out to be an advanced practice respiratory therapist; 4709

(D) Be construed as authorizing an advanced practice 4710
respiratory therapist independently to order or direct the 4711
execution of procedures or techniques by a registered nurse or 4712
licensed practical nurse in the care and treatment of a person, 4713
except to the extent that an advanced practice respiratory 4714
therapist is authorized to do so by a physician who is 4715
responsible for supervising the advanced practice respiratory 4716
therapist and the policies of the health care facility in which 4717
the advanced practice respiratory therapist is practicing. 4718

Sec. 4761.36. (A) As used in this section: 4719

(1) "Disaster" means any imminent threat or actual 4720
occurrence of widespread or severe damage to or loss of 4721
property, personal hardship or injury, or loss of life that 4722
results from any natural phenomenon or act of a human. 4723

(2) "Emergency" means an occurrence or event that poses an 4724
imminent threat to the health or life of a human. 4725

(B) Nothing in this chapter prohibits any of the following 4726
individuals from providing medical care, to the extent the 4727
individual is able, in response to a need for medical care 4728
precipitated by a disaster or emergency: 4729

(1) An individual who holds a license to practice as an 4730
advanced practice respiratory therapist issued under this 4731
chapter; 4732

(2) An individual licensed or authorized to practice as an 4733
advanced practice respiratory therapist in another state; 4734

(3) An individual employed as an advanced practice respiratory therapist by an agency, office, or other instrumentality of the federal government. 4735
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(C) For purposes of the medical care provided by an advanced practice respiratory therapist pursuant to division (B) (1) of this section, both of the following apply notwithstanding any supervision requirement of this chapter to the contrary: 4738
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(1) The physician who supervises the advanced practice respiratory therapist pursuant to a supervision agreement entered into under section 4761.38 of the Revised Code is not required to meet the supervision requirements established under this chapter. 4742
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(2) The physician designated as the medical director of the disaster or emergency may supervise the medical care provided by the advanced practice respiratory therapist. 4747
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Sec. 4761.37. (A) A license to practice as an advanced practice respiratory therapist issued under this chapter authorizes the holder to practice as an advanced practice respiratory therapist as follows: 4750
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(1) The advanced practice respiratory therapist shall practice only under the supervision, control, and direction of a physician with whom the advanced practice respiratory therapist has entered into a supervision agreement under section 4761.38 of the Revised Code. 4754
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(2) The advanced practice respiratory therapist shall practice in accordance with the supervision agreement entered into with the physician who is responsible for supervising the advanced practice respiratory therapist, including the policies of the health care facility in which the advanced practice 4759
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respiratory therapist is practicing. 4764

(B) The state medical board may adopt rules designating 4765
hospital-based facilities to be included as health care 4766
facilities that are in addition to hospitals as specified in 4767
division (K) (1) of section 4761.01 of the Revised Code. Any 4768
rules adopted shall be adopted in accordance with Chapter 119. 4769
of the Revised Code. 4770

Sec. 4761.38. (A) Before initiating supervision of an 4771
advanced practice respiratory therapist, a physician shall enter 4772
into a supervision agreement with the advanced practice 4773
respiratory therapist who will be supervised. A supervision 4774
agreement may not apply to more than one advanced practice 4775
respiratory therapist. Only a physician who specializes in one 4776
or more of the following areas is authorized to enter into a 4777
supervision agreement with an advanced practice respiratory 4778
therapist under this section: pulmonology, anesthesiology, 4779
critical care, or sleep medicine. 4780

The supervision agreement shall specify that the physician 4781
agrees to supervise the advanced practice respiratory therapist 4782
and the advanced practice respiratory therapist agrees to 4783
practice under that physician's supervision. The supervision 4784
agreement shall clearly state that the supervising physician is 4785
legally responsible and assumes legal liability for the services 4786
provided by the advanced practice respiratory therapist. The 4787
agreement shall be signed by the physician and the advanced 4788
practice respiratory therapist. 4789

(B) A supervision agreement shall include all of the 4790
following: 4791

(1) Terms that require the advanced practice respiratory 4792

therapist to practice in accordance with the policies of the 4793
health care facility in which the advanced practice respiratory 4794
therapist is practicing; 4795

(2) Any limitations on the responsibilities to be 4796
fulfilled by the advanced practice respiratory therapist; 4797

(3) The circumstances under which the advanced practice 4798
respiratory therapist is required to refer a patient to the 4799
supervising physician; 4800

(4) If the supervising physician chooses to designate 4801
physicians to act as alternate supervising physicians, the 4802
names, business addresses, and business telephone numbers of the 4803
physicians who have agreed to act in that capacity. 4804

(C) The supervising physician who entered into a 4805
supervision agreement shall retain a copy of the agreement in 4806
the records maintained by the supervising physician. Each 4807
advanced practice respiratory therapist who entered into the 4808
supervision agreement shall retain a copy of the agreement in 4809
the records maintained by the advanced practice respiratory 4810
therapist. 4811

(D) (1) If the board finds, through a review conducted 4812
under this section or through any other means, any of the 4813
following, the board may take disciplinary action against the 4814
individual under section 4731.22 or 4761.09 of the Revised Code, 4815
impose a civil penalty, or both: 4816

(a) That an advanced practice respiratory therapist has 4817
practiced in a manner that departs from, or fails to conform to, 4818
the terms of a supervision agreement entered into under this 4819
section; 4820

(b) That a physician has supervised an advanced practice 4821

respiratory therapist in a manner that departs from, or fails to 4822
conform to, the terms of a supervision agreement entered into 4823
under this section; 4824

(c) That a physician or an advanced practice respiratory 4825
therapist failed to comply with division (A) or (B) of this 4826
section. 4827

(2) If the board finds, through a review conducted under 4828
this section or through any other means, that a physician or 4829
advanced practice respiratory therapist failed to comply with 4830
division (C) of this section, the board may do either of the 4831
following: 4832

(a) Take disciplinary action against the individual under 4833
section 4731.22 or 4761.09 of the Revised Code, impose a civil 4834
penalty, or both; 4835

(b) Permit the individual to agree in writing to update 4836
the records to comply with division (C) of this section and pay 4837
a civil penalty. 4838

(3) The board's finding in any disciplinary action taken 4839
under division (D) of this section shall be made pursuant to an 4840
adjudication conducted under Chapter 119. of the Revised Code. 4841

(4) A civil penalty imposed under division (D) (1) or (2) 4842
(a) of this section or paid under division (D) (2) (b) of this 4843
section shall be in an amount specified by the board of not more 4844
than five thousand dollars and shall be deposited in accordance 4845
with section 4731.24 of the Revised Code. 4846

Sec. 4761.39. (A) An advanced practice respiratory 4847
therapist licensed under this chapter may perform any of the 4848
following services authorized by the supervising physician that 4849
are part of the supervising physician's normal course of 4850

<u>practice and expertise:</u>	4851
<u>(1) Ordering diagnostic, therapeutic, and other medical services;</u>	4852 4853
<u>(2) Prescribing physical therapy or referring a patient to a physical therapist for physical therapy;</u>	4854 4855
<u>(3) Ordering occupational therapy or referring a patient to an occupational therapist for occupational therapy;</u>	4856 4857
<u>(4) If the advanced practice respiratory therapist has been granted physician-delegated prescriptive authority, ordering, prescribing, and administering drugs and medical devices;</u>	4858 4859 4860 4861
<u>(5) Any other services that are part of the supervising physician's normal course of practice and expertise.</u>	4862 4863
<u>(B) The services an advanced practice respiratory therapist may provide under the policies of a health care facility are limited to the services the facility authorizes the advanced practice respiratory therapist to provide for the facility. A facility shall not authorize an advanced practice respiratory therapist to perform a service that is prohibited under this chapter. A physician who is supervising an advanced practice respiratory therapist within a health care facility may impose limitations on the advanced practice respiratory therapist's practice that are in addition to any limitations applicable under the policies of the facility.</u>	4864 4865 4866 4867 4868 4869 4870 4871 4872 4873 4874
<u>Sec. 4761.391. (A) Acting pursuant to a supervision agreement, an advanced practice respiratory therapist may delegate performance of a task to implement a patient's plan of care or, if the conditions in division (C) of this section are met, may delegate administration of a drug. Subject to division</u>	4875 4876 4877 4878 4879

(D) of section 4761.35 of the Revised Code, delegation may be to 4880
any person. The advanced practice respiratory therapist must be 4881
physically present at the location where the task is performed 4882
or the drug administered. 4883

(B) Prior to delegating a task or administration of a 4884
drug, an advanced practice respiratory therapist shall determine 4885
that the task or drug is appropriate for the patient and the 4886
person to whom the delegation is to be made may safely perform 4887
the task or administer the drug. 4888

(C) An advanced practice respiratory therapist may 4889
delegate administration of a drug only if all of the following 4890
conditions are met: 4891

(1) The advanced practice respiratory therapist has been 4892
granted physician-delegated prescriptive authority and is 4893
authorized to prescribe the drug. 4894

(2) The drug is not a controlled substance. 4895

(3) The drug will not be administered intravenously. 4896

(4) The drug will not be administered in a hospital 4897
inpatient care unit, as defined in section 3727.50 of the 4898
Revised Code; a hospital emergency department; a freestanding 4899
emergency department; or an ambulatory surgical facility 4900
licensed under section 3702.30 of the Revised Code. 4901

(D) A person not otherwise authorized to administer a drug 4902
or perform a specific task may do so in accordance with an 4903
advanced practice respiratory therapist's delegation under this 4904
section. 4905

Sec. 4761.40. (A) The supervising physician of an advanced 4906
practice respiratory therapist exercises supervision, control, 4907

and direction of the advanced practice respiratory therapist. An 4908
advanced practice respiratory therapist may practice in any 4909
health care facility within which the supervising physician has 4910
supervision, control, and direction of the advanced practice 4911
respiratory therapist. 4912

In supervising an advanced practice respiratory therapist, 4913
all of the following apply: 4914

(1) The supervising physician shall provide only on-site 4915
supervision, consisting of being physically present at the 4916
location where the advanced practice respiratory therapist is 4917
practicing and being continuously available for direct 4918
communication with the advanced practice respiratory therapist. 4919

(2) The supervising physician shall personally and 4920
actively review the advanced practice respiratory therapist's 4921
professional activities. 4922

(3) The supervising physician shall ensure that the 4923
quality assurance system established pursuant to division (F) of 4924
this section is implemented and maintained. 4925

(4) The supervising physician shall regularly perform any 4926
other reviews of the advanced practice respiratory therapist 4927
that the supervising physician considers necessary. 4928

(B) A physician may enter into supervision agreements with 4929
any number of advanced practice respiratory therapists, but the 4930
physician may not supervise more than five advanced practice 4931
respiratory therapists at any one time. An advanced practice 4932
respiratory therapist may enter into supervision agreements with 4933
any number of supervising physicians. 4934

(C) A supervising physician may authorize an advanced 4935
practice respiratory therapist to perform a service only if the 4936

physician is satisfied that the advanced practice respiratory 4937
therapist is capable of competently performing the service. A 4938
supervising physician shall not authorize an advanced practice 4939
respiratory therapist to perform any service that is beyond the 4940
physician's or the advanced practice respiratory therapist's 4941
normal course of practice and expertise. 4942

(D) In the case of a health care facility with an 4943
emergency department, the supervising physician may, on 4944
occasion, send the advanced practice respiratory therapist to 4945
the facility's emergency department to assess a patient. In 4946
supervising the advanced practice respiratory therapist's 4947
assessment of the patient, the supervising physician shall 4948
determine the appropriate level of supervision in compliance 4949
with the requirements of divisions (A) to (C) of this section, 4950
except that the supervising physician must be available to go to 4951
the emergency department to personally evaluate the patient and, 4952
at the request of an emergency department physician, the 4953
supervising physician shall go to the emergency department to 4954
personally evaluate the patient. 4955

(E) Each time an advanced practice respiratory therapist 4956
writes a medical order, including prescriptions written in the 4957
exercise of physician-delegated prescriptive authority, the 4958
advanced practice respiratory therapist shall sign the form on 4959
which the order is written and record on the form the time and 4960
date that the order is written. 4961

(F) (1) The supervising physician of an advanced practice 4962
respiratory therapist shall establish a quality assurance system 4963
to be used in supervising the advanced practice respiratory 4964
therapist. All or part of the system may be applied to other 4965
advanced practice respiratory therapists who are supervised by 4966

the supervising physician. The system shall be developed in 4967
consultation with each advanced practice respiratory therapist 4968
to be supervised by the physician. 4969

(2) In establishing the quality assurance system, the 4970
supervising physician shall describe a process to be used for 4971
all of the following: 4972

(a) Routine review by the physician of selected patient 4973
record entries made by the advanced practice respiratory 4974
therapist and selected medical orders issued by the advanced 4975
practice respiratory therapist; 4976

(b) Discussion of complex cases; 4977

(c) Discussion of new medical developments relevant to the 4978
practice of the physician and advanced practice respiratory 4979
therapist; 4980

(d) Performance of any quality assurance activities 4981
required in rules adopted by the state medical board pursuant to 4982
any recommendations made by the respiratory care advisory 4983
council under section 4761.032 of the Revised Code; 4984

(e) Performance of any other quality assurance activities 4985
that the supervising physician considers to be appropriate. 4986

(3) The supervising physician and advanced practice 4987
respiratory therapist shall keep records of their quality 4988
assurance activities. On request, the records shall be made 4989
available to the board. 4990

Sec. 4761.41. (A) When performing authorized services, an 4991
advanced practice respiratory therapist acts as the agent of the 4992
advanced practice respiratory therapist's supervising physician. 4993
The supervising physician is legally responsible and assumes 4994

legal liability for the services provided by the advanced 4995
practice respiratory therapist. 4996

The physician is not responsible or liable for any 4997
services provided by the advanced practice respiratory therapist 4998
after their supervision agreement expires or is terminated. 4999

(B) When a health care facility permits advanced practice 5000
respiratory therapists to practice within that facility or any 5001
other health care facility under its control, the health care 5002
facility shall make reasonable efforts to explain to each 5003
individual who may work with a particular advanced practice 5004
respiratory therapist the scope of that advanced practice 5005
respiratory therapist's practice within the facility. The 5006
appropriate credentialing body within the health care facility 5007
shall provide, on request of an individual practicing in the 5008
facility with an advanced practice respiratory therapist, a copy 5009
of the facility's policies on the practice of advanced practice 5010
respiratory therapists within the facility and a copy of each 5011
supervision agreement applicable to the advanced practice 5012
respiratory therapist. 5013

An individual who follows the orders of an advanced 5014
practice respiratory therapist practicing in a health care 5015
facility is not subject to disciplinary action by any 5016
administrative agency that governs that individual's conduct and 5017
is not liable in damages in a civil action for injury, death, or 5018
loss to person or property resulting from the individual's acts 5019
or omissions in the performance of any procedure, treatment, or 5020
other health care service if the individual reasonably believed 5021
that the advanced practice respiratory therapist was acting 5022
within the proper scope of practice or was relaying medical 5023
orders from a supervising physician, unless the act or omission 5024

constitutes willful or wanton misconduct. 5025

Sec. 4761.42. A license issued by the state medical board 5026
under section 4761.32 of the Revised Code authorizes the license 5027
holder to be granted physician-delegated prescriptive authority 5028
and to exercise that authority as provided in division (A) (4) of 5029
section 4761.39 and section 4761.45 of the Revised Code. The 5030
board shall issue a prescriber number to each advanced practice 5031
respiratory therapist licensed under this chapter. 5032

Sec. 4761.44. The state medical board shall adopt rules 5033
governing physician-delegated prescriptive authority for 5034
advanced practice respiratory therapists. The rules shall be 5035
adopted in accordance with Chapter 119. of the Revised Code and 5036
shall establish, at a minimum, requirements regarding the 5037
pharmacology courses that an advanced practice respiratory 5038
therapist is required to complete. 5039

Sec. 4761.45. An advanced practice respiratory therapist 5040
is authorized to prescribe drugs and therapeutic devices in the 5041
exercise of physician-delegated prescriptive authority, subject 5042
to all of the following: 5043

(A) An advanced practice respiratory therapist shall 5044
exercise physician-delegated prescriptive authority only to the 5045
extent that the physician supervising the advanced practice 5046
respiratory therapist has granted that authority. 5047

(B) An advanced practice respiratory therapist shall 5048
comply with all conditions placed on the physician-delegated 5049
prescriptive authority, as specified by the supervising 5050
physician who is supervising the advanced practice respiratory 5051
therapist in the exercise of physician-delegated prescriptive 5052
authority. 5053

(C) An advanced practice respiratory therapist's 5054
physician-delegated prescriptive authority shall not include the 5055
authority to do either of the following: 5056

(1) Prescribe a controlled substance; 5057

(2) Personally furnish any drug. 5058

(D) An advanced practice respiratory therapist shall not 5059
prescribe any drug in violation of state or federal law. 5060

Sec. 4761.46. (A) In granting physician-delegated 5061
prescriptive authority to a particular advanced practice 5062
respiratory therapist, the supervising physician shall supervise 5063
the advanced practice respiratory therapist in accordance with 5064
both of the following: 5065

(1) The supervision requirements specified in section 5066
4761.40 of the Revised Code; 5067

(2) The supervision agreement entered into with the 5068
advanced practice respiratory therapist under section 4761.38 of 5069
the Revised Code, including the policies of the health care 5070
facility in which the physician and advanced practice 5071
respiratory therapist are practicing. 5072

(B) (1) The supervising physician of an advanced practice 5073
respiratory therapist may place conditions on the physician- 5074
delegated prescriptive authority granted to the advanced 5075
practice respiratory therapist. If conditions are placed on that 5076
authority, the supervising physician shall maintain a written 5077
record of the conditions and make the record available to the 5078
state medical board on request. 5079

(2) The conditions that a supervising physician may place 5080
on the physician-delegated prescriptive authority granted to an 5081

advanced practice respiratory therapist include the following: 5082

(a) Identification by class and specific generic 5083
nomenclature of drugs and therapeutic devices that the physician 5084
chooses not to permit the advanced practice respiratory 5085
therapist to prescribe; 5086

(b) Limitations on the dosage units or refills that the 5087
advanced practice respiratory therapist is authorized to 5088
prescribe; 5089

(c) Specification of circumstances under which the 5090
advanced practice respiratory therapist is required to refer 5091
patients to the supervising physician or another physician when 5092
exercising physician-delegated prescriptive authority; 5093

(d) Responsibilities to be fulfilled by the physician in 5094
supervising the advanced practice respiratory therapist that are 5095
not otherwise specified in the supervision agreement or 5096
otherwise required by this chapter. 5097

Sec. 4761.49. (A) To be eligible for renewal of a license 5098
to practice as an advanced practice respiratory therapist, an 5099
applicant who has been granted physician-delegated prescriptive 5100
authority shall complete every two years at least twelve hours 5101
of continuing education in pharmacology obtained through a 5102
program or course approved by the state medical board or a 5103
person the board has authorized to approve continuing 5104
pharmacology education programs and courses. Except as provided 5105
in section 5903.12 of the Revised Code, the continuing education 5106
shall be completed not later than the date on which the 5107
applicant's license expires. 5108

(B) The state medical board shall provide for pro rata 5109
reductions by month of the number of hours of continuing 5110

education in pharmacology that is required to be completed for 5111
advanced practice respiratory therapists who have been disabled 5112
due to illness or accident or have been absent from the country. 5113
The board shall adopt rules, in accordance with Chapter 119. of 5114
the Revised Code, as necessary to implement this division. 5115

(C) The continuing education required by this section is 5116
in addition to the requirement of section 4761.33 of the Revised 5117
Code to maintain an active qualification to practice advanced 5118
practice respiratory care from an organization that is 5119
recognized by the state medical board. 5120

(D) If the state medical board chooses to authorize 5121
persons to approve continuing pharmacology education programs 5122
and courses, the board shall establish standards for granting 5123
that authority and grant the authority in accordance with the 5124
standards. 5125

Sec. 4761.99. Whoever violates division (A) of section 5126
4761.10 of the Revised Code is guilty of a minor misdemeanor on 5127
a first offense. On a second offense, the person is guilty of a 5128
misdemeanor of the fourth degree. On each subsequent offense, 5129
the person is guilty of a misdemeanor of the first degree. 5130

Whoever violates division (B) (2) or (C) of section 4761.14 5131
of the Revised Code is guilty of failure to report criminal 5132
conduct or sexual misconduct, a misdemeanor of the fourth 5133
degree. If the offender has previously been convicted of a 5134
violation of this division, the failure to report is a 5135
misdemeanor of the first degree. 5136

Whoever violates division ~~(E) (5)~~ (E) (6) of section 4761.03 5137
of the Revised Code is guilty of disclosing confidential 5138
investigatory information, a misdemeanor of the first degree. 5139

Whoever violates section 4761.34 of the Revised Code is 5140
guilty of a misdemeanor of the first degree on a first offense. 5141
On each subsequent offense, the person is guilty of a felony of 5142
the fourth degree. 5143

Sec. 4765.51. Nothing in this chapter prevents or 5144
restricts the practice, services, or activities of any 5145
registered nurse practicing within the scope of the registered 5146
nurse's practice. 5147

Nothing in this chapter prevents or restricts the 5148
practice, services, or activities of any physician assistant 5149
practicing in accordance with a supervision agreement entered 5150
into under section 4730.19 of the Revised Code, including, if 5151
applicable, the policies of the health care facility in which 5152
the physician assistant is practicing. 5153

Nothing in this chapter prevents or restricts the 5154
practice, services, or activities of any advanced practice 5155
respiratory therapist practicing in accordance with a 5156
supervision agreement entered into under section 4761.38 of the 5157
Revised Code, including the policies of the health care facility 5158
in which the advanced practice respiratory therapist is 5159
practicing. 5160

Sec. 4769.01. As used in this chapter: 5161

(A) "Medicare" means the program established by Title 5162
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 5163
U.S.C.A. 301, as amended. 5164

(B) "Balance billing" means charging or collecting from a 5165
medicare beneficiary an amount in excess of the medicare 5166
reimbursement rate for medicare-covered services or supplies 5167
provided to a medicare beneficiary, except when medicare is the 5168

secondary insurer. When medicare is the secondary insurer, the 5169
health care practitioner may pursue full reimbursement under the 5170
terms and conditions of the primary coverage and, if applicable, 5171
the charge allowed under the terms and conditions of the 5172
appropriate provider contract, from the primary insurer, but the 5173
medicare beneficiary cannot be balance billed above the medicare 5174
reimbursement rate for a medicare-covered service or supply. 5175
"Balance billing" does not include charging or collecting 5176
deductibles or coinsurance required by the program. 5177

(C) "Health care practitioner" means all of the following: 5178

(1) A dentist or dental hygienist licensed under Chapter 5179
4715. of the Revised Code; 5180

(2) A registered or licensed practical nurse licensed 5181
under Chapter 4723. of the Revised Code; 5182

(3) An optometrist licensed under Chapter 4725. of the 5183
Revised Code; 5184

(4) A dispensing optician, spectacle dispensing optician, 5185
or spectacle-contact lens dispensing optician licensed under 5186
Chapter 4725. of the Revised Code; 5187

(5) A pharmacist licensed under Chapter 4729. of the 5188
Revised Code; 5189

(6) A physician authorized under Chapter 4731. of the 5190
Revised Code to practice medicine and surgery, osteopathic 5191
medicine and surgery, or podiatry; 5192

(7) A physician assistant authorized under Chapter 4730. 5193
of the Revised Code to practice as a physician assistant; 5194

(8) A practitioner of a limited branch of medicine issued 5195
a certificate under Chapter 4731. of the Revised Code; 5196

(9) A psychologist licensed under Chapter 4732. of the Revised Code;	5197 5198
(10) A chiropractor licensed under Chapter 4734. of the Revised Code;	5199 5200
(11) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	5201 5202
(12) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	5203 5204
(13) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	5205 5206
(14) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	5207 5208
(15) A licensed professional clinical counselor, licensed professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	5209 5210 5211 5212
(16) A dietitian licensed under Chapter 4759. of the Revised Code;	5213 5214
(17) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	5215 5216 5217
(18) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	5218 5219 5220 5221
Sec. 5123.47. (A) As used in this section:	5222
(1) "In-home care" means the supportive services provided	5223

within the home of an individual with a developmental disability 5224
who receives funding for the services through a county board of 5225
developmental disabilities, including any recipient of 5226
residential services funded as home and community-based 5227
services, family support services provided under section 5126.11 5228
of the Revised Code, or supported living provided in accordance 5229
with sections 5126.41 to 5126.47 of the Revised Code. "In-home 5230
care" includes care that is provided outside an individual's 5231
home in places incidental to the home, and while traveling to 5232
places incidental to the home, except that "in-home care" does 5233
not include care provided in the facilities of a county board of 5234
developmental disabilities or care provided in schools. 5235

(2) "Parent" means either parent of a child, including an 5236
adoptive parent but not a foster parent. 5237

(3) "Unlicensed in-home care worker" means an individual 5238
who provides in-home care but is not a health care professional. 5239

(4) "Family member" means a parent, sibling, spouse, son, 5240
daughter, grandparent, aunt, uncle, cousin, or guardian of the 5241
individual with a developmental disability if the individual 5242
with a developmental disability lives with the person and is 5243
dependent on the person to the extent that, if the supports were 5244
withdrawn, another living arrangement would have to be found. 5245

(5) "Health care professional" means any of the following: 5246

(a) A dentist who holds a valid license issued under 5247
Chapter 4715. of the Revised Code; 5248

(b) A registered or licensed practical nurse who holds a 5249
valid license issued under Chapter 4723. of the Revised Code; 5250

(c) An optometrist who holds a valid license issued under 5251
Chapter 4725. of the Revised Code; 5252

(d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code;	5253 5254
(e) A person who holds a valid license or certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited brand of medicine;	5255 5256 5257 5258
(f) A physician assistant who holds a valid license issued under Chapter 4730. of the Revised Code;	5259 5260
(g) An occupational therapist or occupational therapy assistant or a physical therapist or physical therapist assistant who holds a valid license issued under Chapter 4755. of the Revised Code;	5261 5262 5263 5264
(h) A respiratory care professional <u>or advanced practice respiratory therapist</u> who holds a valid license issued under Chapter 4761. of the Revised Code.	5265 5266 5267
(6) "Health care task" means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of the professional's practice. "Health care task" includes the administration of oral and topical prescribed medications; administration of nutrition and medications through gastrostomy and jejunostomy tubes that are stable and labeled; administration of oxygen and metered dose inhaled medications; administration of insulin through subcutaneous injections, inhalation, and insulin pumps; and administration of prescribed medications for the treatment of metabolic glycemc disorders through subcutaneous injections.	5268 5269 5270 5271 5272 5273 5274 5275 5276 5277 5278
(B) Except as provided in division (E) of this section, a family member of an individual with a developmental disability may authorize an unlicensed in-home care worker to perform	5279 5280 5281

health care tasks as part of the in-home care the worker	5282
provides to the individual, if all of the following apply:	5283
(1) The family member is the primary supervisor of the	5284
care.	5285
(2) The unlicensed in-home care worker has been selected	5286
by the family member or the individual receiving care and is	5287
under the direct supervision of the family member.	5288
(3) The unlicensed in-home care worker is providing the	5289
care through an employment or other arrangement entered into	5290
directly with the family member and is not otherwise employed by	5291
or under contract with a person or government entity to provide	5292
services to individuals with developmental disabilities.	5293
(4) The health care task is completed in accordance with	5294
standard, written instructions.	5295
(5) Performance of the health care task requires no	5296
judgment based on specialized health care knowledge or	5297
expertise.	5298
(6) The outcome of the health care task is reasonably	5299
predictable.	5300
(7) Performance of the health care task requires no	5301
complex observation of the individual receiving the care.	5302
(8) Improper performance of the health care task will	5303
result in only minimal complications that are not life-	5304
threatening.	5305
(C) A family member shall obtain a prescription, if	5306
applicable, and written instructions from a health care	5307
professional for the care to be provided to the individual. The	5308
family member shall authorize the unlicensed in-home care worker	5309

to provide the care by preparing a written document granting the 5310
authority. The family member shall provide the unlicensed in- 5311
home care worker with appropriate training and written 5312
instructions in accordance with the instructions obtained from 5313
the health care professional. The family member or a health care 5314
professional shall be available to communicate with the 5315
unlicensed in-home care worker either in person or by 5316
telecommunication while the in-home care worker performs a 5317
health care task. 5318

(D) A family member who authorizes an unlicensed in-home 5319
care worker to administer oral and topical prescribed 5320
medications or perform other health care tasks retains full 5321
responsibility for the health and safety of the individual 5322
receiving the care and for ensuring that the worker provides the 5323
care appropriately and safely. No entity that funds or monitors 5324
the provision of in-home care may be held liable for the results 5325
of the care provided under this section by an unlicensed in-home 5326
care worker, including such entities as the county board of 5327
developmental disabilities and the department of developmental 5328
disabilities. 5329

An unlicensed in-home care worker who is authorized under 5330
this section by a family member to provide care to an individual 5331
may not be held liable for any injury caused in providing the 5332
care, unless the worker provides the care in a manner that is 5333
not in accordance with the training and instructions received or 5334
the worker acts in a manner that constitutes willful or wanton 5335
misconduct. 5336

(E) A county board of developmental disabilities may 5337
evaluate the authority granted by a family member under this 5338
section to an unlicensed in-home care worker at any time it 5339

considers necessary and shall evaluate the authority on receipt 5340
of a complaint. If the board determines that a family member has 5341
acted in a manner that is inappropriate for the health and 5342
safety of the individual receiving the care, the authorization 5343
granted by the family member to an unlicensed in-home care 5344
worker is void, and the family member may not authorize other 5345
unlicensed in-home care workers to provide the care. In making 5346
such a determination, the board shall use appropriately licensed 5347
health care professionals and shall provide the family member an 5348
opportunity to file a complaint under section 5126.06 of the 5349
Revised Code. 5350

Sec. 5164.95. (A) As used in this section, "telehealth 5351
service" means a health care service delivered to a patient 5352
through the use of interactive audio, video, or other 5353
telecommunications or electronic technology from a site other 5354
than the site where the patient is located. 5355

(B) The department of medicaid shall establish standards 5356
for medicaid payments for health care services the department 5357
determines are appropriate to be covered by the medicaid program 5358
when provided as telehealth services. The standards shall be 5359
established in rules adopted under section 5164.02 of the 5360
Revised Code. 5361

In accordance with section 5162.021 of the Revised Code, 5362
the medicaid director shall adopt rules authorizing the 5363
directors of other state agencies to adopt rules regarding the 5364
medicaid coverage of telehealth services under programs 5365
administered by the other state agencies. Any such rules adopted 5366
by the medicaid director or the directors of other state 5367
agencies are not subject to the requirements of division (F) of 5368
section 121.95 of the Revised Code. 5369

(C) (1) To the extent permitted under rules adopted under 5370
section 5164.02 of the Revised Code and applicable federal law, 5371
the following practitioners are eligible to provide telehealth 5372
services covered pursuant to this section: 5373

(a) A physician licensed under Chapter 4731. of the 5374
Revised Code to practice medicine and surgery, osteopathic 5375
medicine and surgery, or podiatric medicine and surgery; 5376

(b) A psychologist, independent school psychologist, or 5377
school psychologist licensed under Chapter 4732. of the Revised 5378
Code; 5379

(c) A physician assistant licensed under Chapter 4730. of 5380
the Revised Code; 5381

(d) A clinical nurse specialist, certified nurse-midwife, 5382
or certified nurse practitioner licensed under Chapter 4723. of 5383
the Revised Code; 5384

(e) An independent social worker, independent marriage and 5385
family therapist, or professional clinical counselor licensed 5386
under Chapter 4757. of the Revised Code; 5387

(f) An independent chemical dependency counselor licensed 5388
under Chapter 4758. of the Revised Code; 5389

(g) A supervised practitioner or supervised trainee; 5390

(h) An audiologist or speech-language pathologist licensed 5391
under Chapter 4753. of the Revised Code; 5392

(i) An audiology aide or speech-language pathology aide, 5393
as defined in section 4753.072 of the Revised Code, or an 5394
individual holding a conditional license under section 4753.071 5395
of the Revised Code; 5396

(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;	5397 5398
(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.	5399 5400 5401
(l) A dietitian licensed under Chapter 4759. of the Revised Code;	5402 5403
(m) A chiropractor licensed under Chapter 4734. of the Revised Code;	5404 5405
(n) A pharmacist licensed under Chapter 4729. of the Revised Code;	5406 5407
(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;	5408 5409
(p) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry;	5410 5411
(q) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	5412 5413 5414
(r) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;	5415 5416
(s) A practitioner who provides services through a medicaid school program;	5417 5418
(t) Subject to section 5119.368 of the Revised Code, a practitioner authorized to provide services and supports certified under section 5119.36 of the Revised Code through a community mental health services provider or community addiction services provider;	5419 5420 5421 5422 5423

(u) Any other practitioner the medicaid director considers 5424
eligible to provide telehealth services. 5425

(2) In accordance with division (B) of this section and to 5426
the extent permitted under rules adopted under section 5164.02 5427
of the Revised Code and applicable federal law, the following 5428
provider types are eligible to submit claims for medicaid 5429
payments for providing telehealth services: 5430

(a) Any practitioner described in division (C) (1) of this 5431
section, except for those described in divisions (C) (1) (g), (i), 5432
and (k) of this section; 5433

(b) A professional medical group; 5434

(c) A federally qualified health center or federally 5435
qualified health center look-alike, as defined in section 5436
3701.047 of the Revised Code; 5437

(d) A rural health clinic; 5438

(e) An ambulatory health care clinic; 5439

(f) An outpatient hospital; 5440

(g) A medicaid school program; 5441

(h) Subject to section 5119.368 of the Revised Code, a 5442
community mental health services provider or community addiction 5443
services provider that offers services and supports certified 5444
under section 5119.36 of the Revised Code; 5445

(i) Any other provider type the medicaid director 5446
considers eligible to submit the claims for payment. 5447

(D) (1) When providing telehealth services under this 5448
section, a practitioner shall comply with all requirements under 5449
state and federal law regarding the protection of patient 5450

information. A practitioner shall ensure that any username or 5451
password information and any electronic communications between 5452
the practitioner and a patient are securely transmitted and 5453
stored. 5454

(2) When providing telehealth services under this section, 5455
every practitioner site shall have access to the medical records 5456
of the patient at the time telehealth services are provided. 5457

Sec. 5903.12. (A) As used in this section: 5458

"Continuing education" means continuing education required 5459
of a licensee by law and includes, but is not limited to, the 5460
continuing education required of licensees under sections 5461
3737.881, 3776.07, 3781.10, 4701.11, 4715.141, 4715.25, 4717.09, 5462
4723.24, 4725.16, 4725.51, 4730.14, 4730.49, 4731.155, 4731.282, 5463
4734.25, 4735.141, 4741.16, 4741.19, 4751.24, 4751.25, 4755.63, 5464
4757.33, 4759.06, 4761.06, 4761.49, and 4763.07 of the Revised 5465
Code. 5466

"Reporting period" means the period of time during which a 5467
licensee must complete the number of hours of continuing 5468
education required of the licensee by law. 5469

(B) A licensee may submit an application to a licensing 5470
agency, stating that the licensee requires an extension of the 5471
current reporting period because the licensee has served on 5472
active duty during the current or a prior reporting period. The 5473
licensee shall submit proper documentation certifying the active 5474
duty service and the length of that active duty service. Upon 5475
receiving the application and proper documentation, the 5476
licensing agency shall extend the current reporting period by an 5477
amount of time equal to the total number of months that the 5478
licensee spent on active duty during the current reporting 5479

period. For purposes of this division, any portion of a month 5480
served on active duty shall be considered one full month. 5481

Section 2. That existing sections 2305.234, 2925.01, 5482
2925.23, 2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3715.872, 5483
3719.121, 3719.13, 3719.81, 4729.01, 4729.51, 4731.22, 4731.25, 5484
4743.09, 4755.48, 4761.01, 4761.03, 4761.032, 4761.06, 4761.061, 5485
4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 4761.30, 4761.99, 5486
4765.51, 4769.01, 5123.47, 5164.95, and 5903.12 of the Revised 5487
Code are hereby repealed. 5488

Section 3. The General Assembly, applying the principle 5489
stated in division (B) of section 1.52 of the Revised Code that 5490
amendments are to be harmonized if reasonably capable of 5491
simultaneous operation, finds that the following sections, 5492
presented in this act as composites of the sections as amended 5493
by the acts indicated, are the resulting versions of the 5494
sections in effect prior to the effective date of the sections 5495
as presented in this act: 5496

Section 3719.121 of the Revised Code as amended by both 5497
H.B. 216 and S.B. 319 of the 131st General Assembly. 5498

Section 4729.01 of the Revised Code as amended by H.B. 509 5499
and H.B. 558, both of the 134th General Assembly. 5500