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, 2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3715.872, 3719.121, 3719.13, 3719.81, 4729.01, 4729.51, 4731.22, 4731.25, 4743.09, 4755.48, 4761.01, 4761.03, 4761.032, 4761.06, 4761.061, 4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 4761.30, 4761.99, 4765.51, 4769.01, 5123.47, 5164.95, and 5903.12 and to enact sections 4761.033, 4761.20, 4761.21, 4761.31, 4761.311, 4761.32, 4761.33, 4761.34, 4761.35, 4761.36, 4761.37, 4761.38, 4761.39, 4761.391, 4761.40, 4761.41, 4761.42, 4761.44, 4761.45, 4761.46, and 4761.49 of the Revised Code to license advanced practice respiratory therapists.

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

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

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

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

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

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

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

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

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

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

(b) Advanced practice registered nurses, registered nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

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

(e) Physical therapists, physical therapist assistants, occupational therapists, occupational therapy assistants, and athletic trainers licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;

(l) Respiratory care professionals and advanced practice respiratory therapists licensed under Chapter 4761. of the Revised Code;

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code;

(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;

(o) Psychologists licensed under Chapter 4732. of the Revised Code;

(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.

(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.

(7) "Indigent and uninsured person" means a person who meets both of the following requirements:

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

subject to duress or under undue influence;

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

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

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

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

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

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

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

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

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

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

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

(ii) The operation is a procedure that is not typically performed in an office.

(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.

(c) Delivery of a baby or any other purposeful termination of a human pregnancy.

(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.

(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.

(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.

(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

of authority of health care professionals or health care workers.

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.

(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.

(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.

Sec. 2925.01. As used in this chapter:

(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.

(B) "Drug of abuse" and "person with a drug dependency" have the same meanings as in section 3719.011 of the Revised Code.

(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 doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

(f) An amount equal to or exceeding one hundred twenty grams or thirty 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 stimulant that is in a final dosage form manufactured by a person authorized by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the federal drug abuse control laws, as defined in section 3719.01 of the Revised Code, that is or contains any amount of a schedule II depressant substance or a schedule II hallucinogenic substance;

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

(2) An amount equal to or exceeding one hundred twenty grams or thirty 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 III or IV substance other than an anabolic steroid or a schedule III opiate or opium derivative;

(3) 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 III opiate or opium derivative;

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

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

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

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

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

(G) "Drug abuse offense" means any of the following:

(1) A violation of division (A) of section 2913.02 that constitutes theft of drugs, or a violation of section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code;

(2) A violation of an existing or former law of this or any other state or of the United States that is substantially equivalent to any section listed in division (G)(1) of this section;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element;

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense under division (G)(1), (2), or (3) of this section.

(H) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

(I) "Harmful intoxicant" does not include beer or intoxicating liquor but means any of the following:

(1) Any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness,

asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following:

(a) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

(b) Any aerosol propellant;

(c) Any fluorocarbon refrigerant;

(d) Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

(K) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(L) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

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

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

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

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

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

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

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

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

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

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

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

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

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

a criminal offense is committed.

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

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

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

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

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

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

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

(4) A person licensed under Chapter 4707. of the Revised Code;

(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;

(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;

(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;

(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;

(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

Revised Code;

(10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Chapter 4723. of the Revised Code;

(11) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;

(12) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;

(13) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;

(14) A person licensed under Chapter 4729. of the Revised Code as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

(15) A person licensed under Chapter 4729. of the Revised Code as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;

(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;

(17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Chapter 4731. of the Revised Code or has been issued a certificate to practice a limited branch of medicine under that chapter;

(18) A person licensed as a psychologist, independent school psychologist, or school psychologist under Chapter 4732. of the Revised Code;

(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;

(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;

(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;

(22) A person registered as a registered environmental health specialist under Chapter 3776. of the Revised Code;

(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;

(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;

(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;

(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;

(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;

(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

security guard employee under Chapter 4749. of the Revised Code;

(29) A person licensed to practice as a nursing home administrator under Chapter 4751. of the Revised Code;

(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;

(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;

(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;

(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;

(34) A person who has been issued a license or limited permit to practice respiratory therapy or a license to practice as an advanced practice respiratory therapist under Chapter 4761. of the Revised Code;

(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;

(36) A person who has been issued a home inspector license under Chapter 4764. of the Revised Code;

(37) A person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.

(X) "Cocaine" means any of the following:

(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;

(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;

(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.

(Y) "L.S.D." means lysergic acid diethylamide.

(Z) "Hashish" means a resin or a preparation of a resin to which both of the following apply:

(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.

(2) It has a delta-9 tetrahydrocannabinol concentration of more than three-tenths per cent.

"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.

(AA) "Marihuana" has the same meaning as in section 3719.01 of the Revised Code, except that it does not include

hashish.

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

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

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

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

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

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

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

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

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

tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

(II) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.

(JJ) "Deception" has the same meaning as in section 2913.01 of the Revised Code.

(KK) "Fentanyl-related compound" means any of the following:

(1) Fentanyl;

(2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4- piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4- piperidinyl]-N-phenylpropanamide);

(4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl] -N-phenylpropanamide);

(5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2- phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);

(6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N- phenylpropanamide);

(7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4- piperidinyl]-N-phenylpropanamide);

(8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-

phenethyl)-4- piperidinyl]propanamide;

(9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;

(10) Alfentanil;

(11) Carfentanil;

(12) Remifentanil;

(13) Sufentanil;

(14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4- piperidinyl]-N-phenylacetamide); and

(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:

(a) A chemical scaffold consisting of both of the following:

(i) A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;

(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.

(b) A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;

(c) An alkyl or aryl substitution off the ring nitrogen of

the chemical scaffold; and

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

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

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

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

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

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

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

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

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

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

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

following at a facility:

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

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

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

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

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

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

(1) Prescription;

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

(3) Official written order;

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

as defined in section 4729.01 of the Revised Code;

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

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

(1) A prescription;

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

(3) An official written order;

(4) A blank official written order;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

section 3719.01 of the Revised Code.

(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.

(4) "Registered volunteer" has the same meaning as in section 5502.281 of the Revised Code.

(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:

(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;

(2) A physician assistant licensed under Chapter 4730. of the Revised Code;

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

(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;

(5) A licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(6) An optometrist licensed under Chapter 4725. of the

Revised Code;

(7) A pharmacist or pharmacy intern licensed under Chapter 4729. of the Revised Code;

(8) A respiratory care professional or advanced practice respiratory therapist licensed under Chapter 4761. of the Revised Code;

(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;

(10) A veterinarian licensed under Chapter 4741. of the Revised Code.

(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.

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) A physician;

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

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

(i) A psychologist licensed under Chapter 4732. of the Revised Code;

(j) A chiropractor;

(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;

(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(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;

(p) A dietitian licensed under Chapter 4759. of the Revised Code;

(q) A respiratory care professional or advanced practice respiratory therapist licensed under Chapter 4761. of the Revised Code;

(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.

(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency

facility, or health care practitioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

prescribe.

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

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

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

Sec. 4729.01. As used in this chapter:

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

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

(1) Interpreting prescriptions;

(2) Dispensing drugs and drug therapy related devices;

(3) Compounding drugs;

(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;

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

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

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

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

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

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

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

(E) "Drug" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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;

(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;

(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;

(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;

(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

name of a school, school district, or camp.

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

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

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

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

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

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

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

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

Revised Code;

(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.

(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.

(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.

(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.

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

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

(1) The proprietary name of the drug product;

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

(3) The strength of the drug product if the product contains a single active ingredient or if the drug product

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

(4) The dosage form;

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

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

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

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

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

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

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

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

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

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

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

(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 use the drugs for scientific and clinical purposes and for purposes of instruction: dangerous drugs that are not controlled substances, as defined in section 3719.01 of the Revised Code; dangerous drugs that are controlled substances, as defined in that section; and controlled substances in schedule I, as defined in that section.

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

(1) Naloxone;

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

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

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

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

(3) A licensed terminal distributor of dangerous drugs that is not a pharmacy may make occasional sales of the following at wholesale:

(a) Overdose reversal drugs;

(b) Dangerous drugs if the drugs being sold are in shortage, as defined in rules adopted under section 4729.26 of the Revised Code;

(c) Dangerous drugs other than those described in divisions (A)(3)(a) and (b) of this section or investigational drugs or products if authorized by rules adopted under section 4729.26 of the Revised Code.

(B) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess for sale, sell, or distribute, at wholesale, dangerous drugs or investigational drugs or products to any person other than the following:

(1) Subject to division (D) of this section, a licensed terminal distributor of dangerous drugs;

(2) Subject to division (C) of this section, any person exempt from licensure as a terminal distributor of dangerous drugs under section 4729.541 of the Revised Code;

(3) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;

(4) A terminal distributor, manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor that is located in another state, is not engaged in the sale of dangerous drugs within this state, and is actively licensed to engage in the sale of dangerous drugs by

the state in which the distributor conducts business.

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

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

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

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

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

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

(3) In the case of a terminal distributor with a limited category II or III license, only the dangerous drugs specified in the license.

(E)(1) Except as provided in division (E)(2) of this section, no person shall do any of the following:

(a) Sell or distribute, at retail, dangerous drugs;

(b) Possess for sale, at retail, dangerous drugs;

(c) Possess dangerous drugs.

(2)(a) Divisions (E)(1)(a), (b), and (c) of this section do not apply to any of the following:

(i) A licensed terminal distributor of dangerous drugs;

(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.<u>, and 4761.</u> of the Revised Code;

(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.

(b) Division (E)(1)(c) of this section does not apply to any of the following:

(i) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;

(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.

(F) No licensed terminal distributor of dangerous drugs or person that is exempt from licensure under section 4729.541 of

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

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

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

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

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

(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, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

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

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

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

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

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

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

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

(14) Commission of an act involving moral turpitude that

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

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

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

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

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

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or 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 that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

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

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

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

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

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or 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 that section upon a physician who makes either type of report in accordance with division (B) of that section. As

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

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

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

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

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

United States department of justice;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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;

(36) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(37) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(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;

(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;

(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;

(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;

(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;

(43) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure

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

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

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

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

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

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

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

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

described in section 4755.621 of the Revised Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

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 of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

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

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

(c) A description of the allegations contained in the

complaint;

(d) The disposition of the case.

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.

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

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

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

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

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

otherwise agreed to by both the board and the individual.

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

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

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

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

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

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

license or certificate to practice.

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

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

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

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

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

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

(1) The surrender of a license or certificate 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 certificate to practice. 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 certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a license or certificate 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 certificate to practice in accordance with this chapter or a certificate to recommend in accordance with rules adopted under section 4731.301 of the Revised Code 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 4731.283 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 certificate

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

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

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

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

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

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

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

reviewers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised Code to practice as a dietitian;

(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;

(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care or to practice as an advanced practice respiratory therapist;

(f) An individual licensed under Chapter 4762. of the Revised Code to practice as an acupuncturist;

(g) An individual licensed under Chapter 4774. of the Revised Code to practice as a radiologist assistant;

(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.

(B) The state medical board shall establish a confidential, nondisciplinary program for the evaluation and treatment of practitioners and applicants who are, or may be, impaired and also meet the eligibility conditions described in section 4731.252 or 4731.253 of the Revised Code. The program shall be known as the confidential monitoring program.

The board shall contract with a monitoring organization to conduct the program and perform monitoring services. To be qualified to contract with the board, an organization shall meet all of the following requirements:

(1) Be a professionals health program sponsored by one or more professional associations or societies of practitioners;

(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code;

(3) Contract with or employ a medical director who is authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and specializes or has training and expertise in addiction medicine;

(4) Contract with or employ licensed health care professionals necessary for the organization's operation.

(C) The monitoring organization shall do all of the following pursuant to the contract:

(1) Receive from the board a referral regarding an applicant or receive any report of suspected practitioner impairment from any source, including from the board;

(2) Notify a practitioner who is the subject of a report received under division (C)(1) of this section that the report has been made and that the practitioner may be eligible to participate in the program conducted under this section;

(3) Provide a practitioner who is the subject of a report received under division (C)(1) of this section with the list of approved evaluators and treatment providers prepared and updated as described in section 4731.251 of the Revised Code;

(4) Determine whether a practitioner reported or applicant referred to the monitoring organization is eligible to participate in the program, which in the case of an applicant may include evaluating records as described in division (E)(1)(d) of this section, and notify the practitioner or applicant of the determination;

(5) In the case of a practitioner reported by a treatment provider, notify the treatment provider of the eligibility determination;

(6) Report to the board any practitioner or applicant who is determined ineligible to participate in the program;

(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;

(8) Monitor the evaluation of an eligible practitioner;

(9) Refer an eligible practitioner who chooses to participate in the program to a treatment provider approved by the monitoring organization;

(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;

(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;

(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.

(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:

(1) The practitioner or applicant is determined to be

ineligible to participate in the program.

(2) The practitioner or applicant requests the disclosure.

(3) The practitioner or applicant is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring.

(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.

(5) The practitioner's impairment has not been substantially alleviated by participation in the program.

(E)(1) The monitoring organization shall develop procedures governing each of the following:

(a) Receiving reports of practitioner impairment;

(b) Notifying practitioners of reports and eligibility determinations;

(c) Receiving applicant referrals as described in section 4731.253 of the Revised Code;

(d) Evaluating records of referred applicants, in particular records from other jurisdictions regarding prior treatment for impairment or current or continued monitoring;

(e) Notifying applicants of eligibility determinations;

(f) Referring eligible practitioners for evaluation or treatment;

(g) Establishing individualized treatment plans for eligible practitioners, as recommended by treatment providers;

(h) Establishing individualized terms and conditions with

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

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

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

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

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

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

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

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

(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.

(3) "Health care professional" means:

(a) An advanced practice registered nurse, as defined in section 4723.01 of the Revised Code;

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

(c) A pharmacist licensed under Chapter 4729. of the Revised Code;

(d) A physician assistant licensed under Chapter 4730. of the Revised Code;

(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;

(f) A psychologist, independent school psychologist, or school psychologist licensed under Chapter 4732. of the Revised Code;

(g) A chiropractor licensed under Chapter 4734. of the Revised Code;

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;

(i) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;

(j) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised

Code;

(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;

(l) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;

(m) A dietitian licensed under Chapter 4759. of the Revised Code;

(n) A respiratory care professional or advanced practice respiratory therapist licensed under Chapter 4761. of the Revised Code;

(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;

(p) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code.

(4) "Health care professional licensing board" means any of the following:

(a) The board of nursing;

(b) The state vision professionals board;

(c) The state board of pharmacy;

(d) The state medical board;

(e) The state board of psychology;

(f) The state chiropractic board;

(g) The state speech and hearing professionals board;

(h) The Ohio occupational therapy, physical therapy, and athletic trainers board;

(i) The counselor, social worker, and marriage and family therapist board;

(j) The chemical dependency professionals board.

(5) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.

(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:

(a) The patient receiving the services;

(b) Another health care professional with whom the provider of the services is consulting regarding the patient.

(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.

(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

care for telehealth services that is equal to the standard of care for in-person services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) A member of the athletic team;

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

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

(d) The athletic team's mascot.

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

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

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

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

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

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

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

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

(b) Practice as a physician assistant;

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

(d) Practice as an advanced practice respiratory therapist.

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

(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 monitoring blood and gas samples in the determination of cardiopulmonary parameters and related physiologic data, including flows, pressures, and volumes, and the use of equipment employed for this purpose;

(2) Administering, monitoring, recording the results of, and instructing in the use of medical gases, aerosols, and bronchopulmonary hygiene techniques, including drainage, aspiration, and sampling, and applying, maintaining, and instructing in the use of artificial airways, ventilators, and other life support equipment employed in the treatment of cardiopulmonary impairment and provided in collaboration with other licensed health care professionals responsible for providing care;

(3) Performing cardiopulmonary resuscitation and respiratory rehabilitation techniques;

(4) Administering medications for the testing or treatment of cardiopulmonary impairment.

(B) "Respiratory care professional" means a person who is licensed under this chapter to practice the full range of services described in division (A) of this section.

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

(D) "Registered nurse" means an individual licensed under Chapter 4723. of the Revised Code to engage in the practice of nursing as a registered nurse.

(E) "Hospital" has the same meaning as in section 3722.01 of the Revised Code.

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

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

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

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

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

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

(1) A hospital;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Before issuance of a subpoena for patient record

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

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

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

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

(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:

(a) The facility's policies for the practice of advanced practice respiratory therapists within the facility;

(b) The services that the facility has authorized a particular advanced practice respiratory therapist to provide for the facility.

(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.

~~(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.

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.

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

of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

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

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

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

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

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;

(f) The disposition of the case.

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.

~~(7)~~ (8) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

(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.

(G) The board shall maintain and publish on its internet web site all of the following:

(1) The requirements for the issuance of licenses and limited permits under this chapter and rules adopted by the board;

(2) A list of the names and locations of the institutions that each year granted degrees or certificates of completion in respiratory care.

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

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

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

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

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

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

(3) One advanced practice respiratory therapist;

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

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 members described in divisions (A)(1) and (2) of this section.

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

~~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 license or permit;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of the Revised Code and does either of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) An applicant seeking restoration of a license issued

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

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

(a) An active practitioner;

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

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

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

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

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

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

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

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

(2) ~~A~~ 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;

(5) 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;

(6) 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;

(7) A duplicate license or limited permit fee of thirty-five dollars;

~~(6)~~ (8) In the case of a person holding a license issued under this chapter, a license verification fee of fifty dollars.

(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.

(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.

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:

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

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

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

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

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

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

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

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

to secure any license or permit issued by the board under this chapter.

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.

(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;

(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;

(11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care or advanced practice respiratory care;

(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(13) Violation of the conditions of limitation placed by the board upon a license or permit;

(14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that

adversely affects cognitive, motor, or perceptive skills;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(30) Willfully betraying a professional confidence;

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

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

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

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

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 shall promptly notify the state medical board of any of the following:

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

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

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

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

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

(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 sexual misconduct the information upon which the belief is based shall be reported to the board within thirty days.

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

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

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

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

(1) A physician;

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

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

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

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

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

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

(1) A physician;

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

(3) A physician assistant who is authorized to prescribe or order respiratory care services as provided in division (A)(4) of this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

recognized by the board.

(2) The applicant must comply with the renewal eligibility requirements established under section 4761.49 of the Revised Code that pertain to the applicant.

(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.

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.

(D) The board may require a random sample of advanced practice respiratory therapists to submit materials documenting both of the following:

(1) Maintenance of an active qualification to practice advanced practice respiratory care from an organization that is recognized by the board.

(2) Completion of the continuing education in pharmacology required by section 4761.49 of the Revised Code.

Division (D) of this section does not limit the board's authority to conduct investigations pursuant to section 4761.09 of the Revised Code.

(E)(1) A license to practice that is not renewed on or before its expiration date is automatically suspended on its expiration date. Continued practice after suspension of the license shall be considered as practicing in violation of section 4761.34 of the Revised Code.

(2) If an advanced practice respiratory therapist's license to practice as a respiratory care professional is classified as inactive for any cause, the advanced practice respiratory therapist's license to practice as an advanced practice respiratory therapist is automatically classified as inactive while the license to practice as a respiratory care professional remains inactive. If either license held by an advanced practice respiratory therapist is revoked under this chapter, the other license is automatically revoked. If either license is suspended under this chapter, including for failure to renew under this section or section 4761.06 of the Revised Code, the other license is automatically suspended while the suspension remains in effect.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) No person practicing as an advanced practice

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

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

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

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

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

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

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

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

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

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

Sec. 4761.35. Nothing in this chapter shall:

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

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

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

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

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

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

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

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

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

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

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

(1) An individual who holds a license to practice as an advanced practice respiratory therapist issued under this chapter;

(2) An individual licensed or authorized to practice as an advanced practice respiratory therapist in another state;

(3) An individual employed as an advanced practice respiratory therapist by an agency, office, or other instrumentality of the federal government.

(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:

(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.

(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.

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:

(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.

(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

respiratory therapist is practicing.

(B) The state medical board may adopt rules designating hospital-based facilities to be included as health care facilities that are in addition to hospitals as specified in division (K)(1) of section 4761.01 of the Revised Code. Any rules adopted shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4761.38. (A) Before initiating supervision of an advanced practice respiratory therapist, a physician shall enter into a supervision agreement with the advanced practice respiratory therapist who will be supervised. A supervision agreement may not apply to more than one advanced practice respiratory therapist. Only a physician who specializes in one or more of the following areas is authorized to enter into a supervision agreement with an advanced practice respiratory therapist under this section: pulmonology, anesthesiology, critical care, or sleep medicine.

The supervision agreement shall specify that the physician agrees to supervise the advanced practice respiratory therapist and the advanced practice respiratory therapist agrees to practice under that physician's supervision. The supervision agreement shall clearly state that the supervising physician is legally responsible and assumes legal liability for the services provided by the advanced practice respiratory therapist. The agreement shall be signed by the physician and the advanced practice respiratory therapist.

(B) A supervision agreement shall include all of the following:

(1) Terms that require the advanced practice respiratory

therapist to practice in accordance with the policies of the health care facility in which the advanced practice respiratory therapist is practicing;

(2) Any limitations on the responsibilities to be fulfilled by the advanced practice respiratory therapist;

(3) The circumstances under which the advanced practice respiratory therapist is required to refer a patient to the supervising physician;

(4) If the supervising physician chooses to designate physicians to act as alternate supervising physicians, the names, business addresses, and business telephone numbers of the physicians who have agreed to act in that capacity.

(C) The supervising physician who entered into a supervision agreement shall retain a copy of the agreement in the records maintained by the supervising physician. Each advanced practice respiratory therapist who entered into the supervision agreement shall retain a copy of the agreement in the records maintained by the advanced practice respiratory therapist.

(D)(1) If the board finds, through a review conducted under this section or through any other means, any of the following, the board may take disciplinary action against the individual under section 4731.22 or 4761.09 of the Revised Code, impose a civil penalty, or both:

(a) That an advanced practice respiratory therapist has practiced in a manner that departs from, or fails to conform to, the terms of a supervision agreement entered into under this section;

(b) That a physician has supervised an advanced practice

respiratory therapist in a manner that departs from, or fails to conform to, the terms of a supervision agreement entered into under this section;

(c) That a physician or an advanced practice respiratory therapist failed to comply with division (A) or (B) of this section.

(2) If the board finds, through a review conducted under this section or through any other means, that a physician or advanced practice respiratory therapist failed to comply with division (C) of this section, the board may do either of the following:

(a) Take disciplinary action against the individual under section 4731.22 or 4761.09 of the Revised Code, impose a civil penalty, or both;

(b) Permit the individual to agree in writing to update the records to comply with division (C) of this section and pay a civil penalty.

(3) The board's finding in any disciplinary action taken under division (D) of this section shall be made pursuant to an adjudication conducted under Chapter 119. of the Revised Code.

(4) A civil penalty imposed under division (D)(1) or (2)(a) of this section or paid under division (D)(2)(b) of this section shall be in an amount specified by the board of not more than five thousand dollars and shall be deposited in accordance with section 4731.24 of the Revised Code.

Sec. 4761.39. (A) An advanced practice respiratory therapist licensed under this chapter may perform any of the following services authorized by the supervising physician that are part of the supervising physician's normal course of

practice and expertise:

(1) Ordering diagnostic, therapeutic, and other medical services;

(2) Prescribing physical therapy or referring a patient to a physical therapist for physical therapy;

(3) Ordering occupational therapy or referring a patient to an occupational therapist for occupational therapy;

(4) If the advanced practice respiratory therapist has been granted physician-delegated prescriptive authority, ordering, prescribing, and administering drugs and medical devices;

(5) Any other services that are part of the supervising physician's normal course of practice and expertise.

(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.

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

(D) of section 4761.35 of the Revised Code, delegation may be to any person. The advanced practice respiratory therapist must be physically present at the location where the task is performed or the drug administered.

(B) Prior to delegating a task or administration of a drug, an advanced practice respiratory therapist shall determine that the task or drug is appropriate for the patient and the person to whom the delegation is to be made may safely perform the task or administer the drug.

(C) An advanced practice respiratory therapist may delegate administration of a drug only if all of the following conditions are met:

(1) The advanced practice respiratory therapist has been granted physician-delegated prescriptive authority and is authorized to prescribe the drug.

(2) The drug is not a controlled substance.

(3) The drug will not be administered intravenously.

(4) The drug will not be administered in a hospital inpatient care unit, as defined in section 3727.50 of the Revised Code; a hospital emergency department; a freestanding emergency department; or an ambulatory surgical facility licensed under section 3702.30 of the Revised Code.

(D) A person not otherwise authorized to administer a drug or perform a specific task may do so in accordance with an advanced practice respiratory therapist's delegation under this section.

Sec. 4761.40. (A) The supervising physician of an advanced practice respiratory therapist exercises supervision, control,

and direction of the advanced practice respiratory therapist. An advanced practice respiratory therapist may practice in any health care facility within which the supervising physician has supervision, control, and direction of the advanced practice respiratory therapist.

In supervising an advanced practice respiratory therapist, all of the following apply:

(1) The supervising physician shall provide only on-site supervision, consisting of being physically present at the location where the advanced practice respiratory therapist is practicing and being continuously available for direct communication with the advanced practice respiratory therapist.

(2) The supervising physician shall personally and actively review the advanced practice respiratory therapist's professional activities.

(3) The supervising physician shall ensure that the quality assurance system established pursuant to division (F) of this section is implemented and maintained.

(4) The supervising physician shall regularly perform any other reviews of the advanced practice respiratory therapist that the supervising physician considers necessary.

(B) A physician may enter into supervision agreements with any number of advanced practice respiratory therapists, but the physician may not supervise more than five advanced practice respiratory therapists at any one time. An advanced practice respiratory therapist may enter into supervision agreements with any number of supervising physicians.

(C) A supervising physician may authorize an advanced practice respiratory therapist to perform a service only if the

physician is satisfied that the advanced practice respiratory therapist is capable of competently performing the service. A supervising physician shall not authorize an advanced practice respiratory therapist to perform any service that is beyond the physician's or the advanced practice respiratory therapist's normal course of practice and expertise.

(D) In the case of a health care facility with an emergency department, the supervising physician may, on occasion, send the advanced practice respiratory therapist to the facility's emergency department to assess a patient. In supervising the advanced practice respiratory therapist's assessment of the patient, the supervising physician shall determine the appropriate level of supervision in compliance with the requirements of divisions (A) to (C) of this section, except that the supervising physician must be available to go to the emergency department to personally evaluate the patient and, at the request of an emergency department physician, the supervising physician shall go to the emergency department to personally evaluate the patient.

(E) Each time an advanced practice respiratory therapist writes a medical order, including prescriptions written in the exercise of physician-delegated prescriptive authority, the advanced practice respiratory therapist shall sign the form on which the order is written and record on the form the time and date that the order is written.

(F)(1) The supervising physician of an advanced practice respiratory therapist shall establish a quality assurance system to be used in supervising the advanced practice respiratory therapist. All or part of the system may be applied to other advanced practice respiratory therapists who are supervised by

the supervising physician. The system shall be developed in consultation with each advanced practice respiratory therapist to be supervised by the physician.

(2) In establishing the quality assurance system, the supervising physician shall describe a process to be used for all of the following:

(a) Routine review by the physician of selected patient record entries made by the advanced practice respiratory therapist and selected medical orders issued by the advanced practice respiratory therapist;

(b) Discussion of complex cases;

(c) Discussion of new medical developments relevant to the practice of the physician and advanced practice respiratory therapist;

(d) Performance of any quality assurance activities required in rules adopted by the state medical board pursuant to any recommendations made by the respiratory care advisory council under section 4761.032 of the Revised Code;

(e) Performance of any other quality assurance activities that the supervising physician considers to be appropriate.

(3) The supervising physician and advanced practice respiratory therapist shall keep records of their quality assurance activities. On request, the records shall be made available to the board.

Sec. 4761.41. (A) When performing authorized services, an advanced practice respiratory therapist acts as the agent of the advanced practice respiratory therapist's supervising physician. The supervising physician is legally responsible and assumes

legal liability for the services provided by the advanced practice respiratory therapist.

The physician is not responsible or liable for any services provided by the advanced practice respiratory therapist after their supervision agreement expires or is terminated.

(B) When a health care facility permits advanced practice respiratory therapists to practice within that facility or any other health care facility under its control, the health care facility shall make reasonable efforts to explain to each individual who may work with a particular advanced practice respiratory therapist the scope of that advanced practice respiratory therapist's practice within the facility. The appropriate credentialing body within the health care facility shall provide, on request of an individual practicing in the facility with an advanced practice respiratory therapist, a copy of the facility's policies on the practice of advanced practice respiratory therapists within the facility and a copy of each supervision agreement applicable to the advanced practice respiratory therapist.

An individual who follows the orders of an advanced practice respiratory therapist practicing in a health care facility is not subject to disciplinary action by any administrative agency that governs that individual's conduct and is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's acts or omissions in the performance of any procedure, treatment, or other health care service if the individual reasonably believed that the advanced practice respiratory therapist was acting within the proper scope of practice or was relaying medical orders from a supervising physician, unless the act or omission

constitutes willful or wanton misconduct.

Sec. 4761.42. A license issued by the state medical board under section 4761.32 of the Revised Code authorizes the license holder to be granted physician-delegated prescriptive authority and to exercise that authority as provided in division (A)(4) of section 4761.39 and section 4761.45 of the Revised Code. The board shall issue a prescriber number to each advanced practice respiratory therapist licensed under this chapter.

Sec. 4761.44. The state medical board shall adopt rules governing physician-delegated prescriptive authority for advanced practice respiratory therapists. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall establish, at a minimum, requirements regarding the pharmacology courses that an advanced practice respiratory therapist is required to complete.

Sec. 4761.45. An advanced practice respiratory therapist is authorized to prescribe drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority, subject to all of the following:

(A) An advanced practice respiratory therapist shall exercise physician-delegated prescriptive authority only to the extent that the physician supervising the advanced practice respiratory therapist has granted that authority.

(B) An advanced practice respiratory therapist shall comply with all conditions placed on the physician-delegated prescriptive authority, as specified by the supervising physician who is supervising the advanced practice respiratory therapist in the exercise of physician-delegated prescriptive authority.

(C) An advanced practice respiratory therapist's physician-delegated prescriptive authority shall not include the authority to do either of the following:

(1) Prescribe a controlled substance;

(2) Personally furnish any drug.

(D) An advanced practice respiratory therapist shall not prescribe any drug in violation of state or federal law.

Sec. 4761.46. (A) In granting physician-delegated prescriptive authority to a particular advanced practice respiratory therapist, the supervising physician shall supervise the advanced practice respiratory therapist in accordance with both of the following:

(1) The supervision requirements specified in section 4761.40 of the Revised Code;

(2) The supervision agreement entered into with the advanced practice respiratory therapist under section 4761.38 of the Revised Code, including the policies of the health care facility in which the physician and advanced practice respiratory therapist are practicing.

(B)(1) The supervising physician of an advanced practice respiratory therapist may place conditions on the physician-delegated prescriptive authority granted to the advanced practice respiratory therapist. If conditions are placed on that authority, the supervising physician shall maintain a written record of the conditions and make the record available to the state medical board on request.

(2) The conditions that a supervising physician may place on the physician-delegated prescriptive authority granted to an

advanced practice respiratory therapist include the following:

(a) Identification by class and specific generic nomenclature of drugs and therapeutic devices that the physician chooses not to permit the advanced practice respiratory therapist to prescribe;

(b) Limitations on the dosage units or refills that the advanced practice respiratory therapist is authorized to prescribe;

(c) Specification of circumstances under which the advanced practice respiratory therapist is required to refer patients to the supervising physician or another physician when exercising physician-delegated prescriptive authority;

(d) Responsibilities to be fulfilled by the physician in supervising the advanced practice respiratory therapist that are not otherwise specified in the supervision agreement or otherwise required by this chapter.

Sec. 4761.49. (A) To be eligible for renewal of a license to practice as an advanced practice respiratory therapist, an applicant who has been granted physician-delegated prescriptive authority shall complete every two years at least twelve hours of continuing education in pharmacology obtained through a program or course approved by the state medical board or a person the board has authorized to approve continuing pharmacology education programs and courses. Except as provided in section 5903.12 of the Revised Code, the continuing education shall be completed not later than the date on which the applicant's license expires.

(B) The state medical board shall provide for pro rata reductions by month of the number of hours of continuing

education in pharmacology that is required to be completed for advanced practice respiratory therapists who have been disabled due to illness or accident or have been absent from the country. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, as necessary to implement this division.

(C) The continuing education required by this section is in addition to the requirement of section 4761.33 of the Revised Code to maintain an active qualification to practice advanced practice respiratory care from an organization that is recognized by the state medical board.

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

Sec. 4761.99. Whoever violates division (A) of section 4761.10 of the Revised Code is guilty of a minor misdemeanor on a first offense. On a second offense, the person is guilty of a misdemeanor of the fourth degree. On each subsequent offense, the person is guilty of a misdemeanor of the first degree.

Whoever violates division (B)(2) or (C) of section 4761.14 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

Whoever violates division ~~(E)(5)~~ (E)(6) of section 4761.03 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

Whoever violates section 4761.34 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense, the person is guilty of a felony of the fourth degree.

Sec. 4765.51. Nothing in this chapter prevents or restricts the practice, services, or activities of any registered nurse practicing within the scope of the registered nurse's practice.

Nothing in this chapter prevents or restricts the practice, services, or activities of any physician assistant practicing in accordance with a supervision agreement entered into under section 4730.19 of the Revised Code, including, if applicable, the policies of the health care facility in which the physician assistant is practicing.

Nothing in this chapter prevents or restricts the practice, services, or activities of any advanced practice respiratory therapist practicing in accordance with a supervision agreement entered into under section 4761.38 of the Revised Code, including the policies of the health care facility in which the advanced practice respiratory therapist is practicing.

Sec. 4769.01. As used in this chapter:

(A) "Medicare" means the program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) "Balance billing" means charging or collecting from a medicare beneficiary an amount in excess of the medicare reimbursement rate for medicare-covered services or supplies provided to a medicare beneficiary, except when medicare is the

secondary insurer. When medicare is the secondary insurer, the health care practitioner may pursue full reimbursement under the terms and conditions of the primary coverage and, if applicable, the charge allowed under the terms and conditions of the appropriate provider contract, from the primary insurer, but the medicare beneficiary cannot be balance billed above the medicare reimbursement rate for a medicare-covered service or supply. "Balance billing" does not include charging or collecting deductibles or coinsurance required by the program.

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

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

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

(3) An optometrist licensed under Chapter 4725. of the Revised Code;

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

(5) A pharmacist licensed under Chapter 4729. of the Revised Code;

(6) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;

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

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

(9) A psychologist licensed under Chapter 4732. of the Revised Code;

(10) A chiropractor licensed under Chapter 4734. of the Revised Code;

(11) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;

(12) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(13) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(14) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(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;

(16) A dietitian licensed under Chapter 4759. of the Revised Code;

(17) A respiratory care professional or advanced practice respiratory therapist licensed under Chapter 4761. of the Revised Code;

(18) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.

Sec. 5123.47. (A) As used in this section:

(1) "In-home care" means the supportive services provided

within the home of an individual with a developmental disability who receives funding for the services through a county board of developmental disabilities, including any recipient of residential services funded as home and community-based services, family support services provided under section 5126.11 of the Revised Code, or supported living provided in accordance with sections 5126.41 to 5126.47 of the Revised Code. "In-home care" includes care that is provided outside an individual's home in places incidental to the home, and while traveling to places incidental to the home, except that "in-home care" does not include care provided in the facilities of a county board of developmental disabilities or care provided in schools.

(2) "Parent" means either parent of a child, including an adoptive parent but not a foster parent.

(3) "Unlicensed in-home care worker" means an individual who provides in-home care but is not a health care professional.

(4) "Family member" means a parent, sibling, spouse, son, daughter, grandparent, aunt, uncle, cousin, or guardian of the individual with a developmental disability if the individual with a developmental disability lives with the person and is dependent on the person to the extent that, if the supports were withdrawn, another living arrangement would have to be found.

(5) "Health care professional" means any of the following:

(a) A dentist who holds a valid license issued under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code;

(c) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code;

(d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code;

(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;

(f) A physician assistant who holds a valid license issued under Chapter 4730. of the Revised Code;

(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;

(h) A respiratory care professional or advanced practice respiratory therapist who holds a valid license issued under Chapter 4761. of the Revised Code.

(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 glycemic disorders through subcutaneous injections.

(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

health care tasks as part of the in-home care the worker provides to the individual, if all of the following apply:

(1) The family member is the primary supervisor of the care.

(2) The unlicensed in-home care worker has been selected by the family member or the individual receiving care and is under the direct supervision of the family member.

(3) The unlicensed in-home care worker is providing the care through an employment or other arrangement entered into directly with the family member and is not otherwise employed by or under contract with a person or government entity to provide services to individuals with developmental disabilities.

(4) The health care task is completed in accordance with standard, written instructions.

(5) Performance of the health care task requires no judgment based on specialized health care knowledge or expertise.

(6) The outcome of the health care task is reasonably predictable.

(7) Performance of the health care task requires no complex observation of the individual receiving the care.

(8) Improper performance of the health care task will result in only minimal complications that are not life-threatening.

(C) A family member shall obtain a prescription, if applicable, and written instructions from a health care professional for the care to be provided to the individual. The family member shall authorize the unlicensed in-home care worker

to provide the care by preparing a written document granting the authority. The family member shall provide the unlicensed in-home care worker with appropriate training and written instructions in accordance with the instructions obtained from the health care professional. The family member or a health care professional shall be available to communicate with the unlicensed in-home care worker either in person or by telecommunication while the in-home care worker performs a health care task.

(D) A family member who authorizes an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks retains full responsibility for the health and safety of the individual receiving the care and for ensuring that the worker provides the care appropriately and safely. No entity that funds or monitors the provision of in-home care may be held liable for the results of the care provided under this section by an unlicensed in-home care worker, including such entities as the county board of developmental disabilities and the department of developmental disabilities.

An unlicensed in-home care worker who is authorized under this section by a family member to provide care to an individual may not be held liable for any injury caused in providing the care, unless the worker provides the care in a manner that is not in accordance with the training and instructions received or the worker acts in a manner that constitutes willful or wanton misconduct.

(E) A county board of developmental disabilities may evaluate the authority granted by a family member under this section to an unlicensed in-home care worker at any time it

considers necessary and shall evaluate the authority on receipt of a complaint. If the board determines that a family member has acted in a manner that is inappropriate for the health and safety of the individual receiving the care, the authorization granted by the family member to an unlicensed in-home care worker is void, and the family member may not authorize other unlicensed in-home care workers to provide the care. In making such a determination, the board shall use appropriately licensed health care professionals and shall provide the family member an opportunity to file a complaint under section 5126.06 of the Revised Code.

Sec. 5164.95. (A) As used in this section, "telehealth service" means a health care service delivered to a patient through the use of interactive audio, video, or other telecommunications or electronic technology from a site other than the site where the patient is located.

(B) The department of medicaid shall establish standards for medicaid payments for health care services the department determines are appropriate to be covered by the medicaid program when provided as telehealth services. The standards shall be established in rules adopted under section 5164.02 of the Revised Code.

In accordance with section 5162.021 of the Revised Code, the medicaid director shall adopt rules authorizing the directors of other state agencies to adopt rules regarding the medicaid coverage of telehealth services under programs administered by the other state agencies. Any such rules adopted by the medicaid director or the directors of other state agencies are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

(C)(1) To the extent permitted under rules adopted under section 5164.02 of the Revised Code and applicable federal law, the following practitioners are eligible to provide telehealth services covered pursuant to this section:

(a) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(b) A psychologist, independent school psychologist, or school psychologist licensed under Chapter 4732. of the Revised Code;

(c) A physician assistant licensed under Chapter 4730. of the Revised Code;

(d) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner licensed under Chapter 4723. of the Revised Code;

(e) An independent social worker, independent marriage and family therapist, or professional clinical counselor licensed under Chapter 4757. of the Revised Code;

(f) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;

(g) A supervised practitioner or supervised trainee;

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;

(i) An audiology aide or speech-language pathology aide, as defined in section 4753.072 of the Revised Code, or an individual holding a conditional license under section 4753.071 of the Revised Code;

(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;

(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.

(l) A dietitian licensed under Chapter 4759. of the Revised Code;

(m) A chiropractor licensed under Chapter 4734. of the Revised Code;

(n) A pharmacist licensed under Chapter 4729. of the Revised Code;

(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;

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

(q) A respiratory care professional or advanced practice respiratory therapist licensed under Chapter 4761. of the Revised Code;

(r) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;

(s) A practitioner who provides services through a medicaid school program;

(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;

(u) Any other practitioner the medicaid director considers eligible to provide telehealth services.

(2) In accordance with division (B) of this section and to the extent permitted under rules adopted under section 5164.02 of the Revised Code and applicable federal law, the following provider types are eligible to submit claims for medicaid payments for providing telehealth services:

(a) Any practitioner described in division (C)(1) of this section, except for those described in divisions (C)(1)(g), (i), and (k) of this section;

(b) A professional medical group;

(c) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(d) A rural health clinic;

(e) An ambulatory health care clinic;

(f) An outpatient hospital;

(g) A medicaid school program;

(h) Subject to section 5119.368 of the Revised Code, a community mental health services provider or community addiction services provider that offers services and supports certified under section 5119.36 of the Revised Code;

(i) Any other provider type the medicaid director considers eligible to submit the claims for payment.

(D)(1) When providing telehealth services under this section, a practitioner shall comply with all requirements under state and federal law regarding the protection of patient

information. A practitioner shall ensure that any username or password information and any electronic communications between the practitioner and a patient are securely transmitted and stored.

(2) When providing telehealth services under this section, every practitioner site shall have access to the medical records of the patient at the time telehealth services are provided.

Sec. 5903.12. (A) As used in this section:

"Continuing education" means continuing education required of a licensee by law and includes, but is not limited to, the continuing education required of licensees under sections 3737.881, 3776.07, 3781.10, 4701.11, 4715.141, 4715.25, 4717.09, 4723.24, 4725.16, 4725.51, 4730.14, 4730.49, 4731.155, 4731.282, 4734.25, 4735.141, 4741.16, 4741.19, 4751.24, 4751.25, 4755.63, 4757.33, 4759.06, 4761.06, 4761.49, and 4763.07 of the Revised Code.

"Reporting period" means the period of time during which a licensee must complete the number of hours of continuing education required of the licensee by law.

(B) A licensee may submit an application to a licensing agency, stating that the licensee requires an extension of the current reporting period because the licensee has served on active duty during the current or a prior reporting period. The licensee shall submit proper documentation certifying the active duty service and the length of that active duty service. Upon receiving the application and proper documentation, the licensing agency shall extend the current reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current reporting

period. For purposes of this division, any portion of a month served on active duty shall be considered one full month.

Section 2. That existing sections 2305.234, 2925.01, 2925.23, 2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3715.872, 3719.121, 3719.13, 3719.81, 4729.01, 4729.51, 4731.22, 4731.25, 4743.09, 4755.48, 4761.01, 4761.03, 4761.032, 4761.06, 4761.061, 4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 4761.30, 4761.99, 4765.51, 4769.01, 5123.47, 5164.95, and 5903.12 of the Revised Code are hereby repealed.

Section 3. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 3719.121 of the Revised Code as amended by both H.B. 216 and S.B. 319 of the 131st General Assembly.

Section 4729.01 of the Revised Code as amended by H.B. 509 and H.B. 558, both of the 134th General Assembly.