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Sub. H. B. No. 253

Representatives John, Young

**Cosponsors: Representatives Schmidt, Somani, Barhorst, Brennan, Brownlee,
Hall, D., Lawson-Rowe, Mathews, T., Newman, Plummer, Ray, Russo, Sigrist,
Sims, Tims, White, A., Williams, Willis, Workman**

To amend sections 2305.234, 2925.01, 2925.23,	1
2925.55, 2925.56, 3701.048, 3701.74, 3715.872,	2
3719.121, 3719.13, 3719.81, 4729.01, 4729.51,	3
4731.22, 4731.2210, 4731.25, 4743.09, 4755.48,	4
4761.01, 4761.03, 4761.032, 4761.06, 4761.061,	5
4761.07, 4761.09, 4761.13, 4761.14, 4761.17,	6
4761.30, 4761.99, 4765.51, 4769.01, 5123.47,	7
5164.95, and 5903.12 and to enact sections	8
4761.033, 4761.20, 4761.21, 4761.31, 4761.311,	9
4761.32, 4761.33, 4761.34, 4761.35, 4761.36,	10
4761.37, 4761.38, 4761.39, 4761.391, 4761.40,	11
4761.41, 4761.42, 4761.44, 4761.45, 4761.46, and	12
4761.49 of the Revised Code to license advanced	13
practice respiratory therapists.	14

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

Section 1. That sections 2305.234, 2925.01, 2925.23,	15
2925.55, 2925.56, 3701.048, 3701.74, 3715.872, 3719.121,	16
3719.13, 3719.81, 4729.01, 4729.51, 4731.22, 4731.2210, 4731.25,	17
4743.09, 4755.48, 4761.01, 4761.03, 4761.032, 4761.06, 4761.061,	18
4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 4761.30, 4761.99,	19

4765.51, 4769.01, 5123.47, 5164.95, and 5903.12 be amended and 20
sections 4761.033, 4761.20, 4761.21, 4761.31, 4761.311, 4761.32, 21
4761.33, 4761.34, 4761.35, 4761.36, 4761.37, 4761.38, 4761.39, 22
4761.391, 4761.40, 4761.41, 4761.42, 4761.44, 4761.45, 4761.46, 23
and 4761.49 of the Revised Code be enacted to read as follows: 24

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

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

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

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

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

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

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

(b) Advanced practice registered nurses, registered 49
nurses, and licensed practical nurses licensed under Chapter 50
4723. of the Revised Code; 51

(c) Physician assistants authorized to practice under 52
Chapter 4730. of the Revised Code; 53

(d) Dentists and dental hygienists licensed under Chapter 54
4715. of the Revised Code; 55

(e) Physical therapists, physical therapist assistants, 56
occupational therapists, occupational therapy assistants, and 57
athletic trainers licensed under Chapter 4755. of the Revised 58
Code; 59

(f) Chiropractors licensed under Chapter 4734. of the 60
Revised Code; 61

(g) Optometrists licensed under Chapter 4725. of the 62
Revised Code; 63

(h) Podiatrists authorized under Chapter 4731. of the 64
Revised Code to practice ~~podiatry~~podiatric medicine and surgery; 65

(i) Dietitians licensed under Chapter 4759. of the Revised 66
Code; 67

(j) Pharmacists licensed under Chapter 4729. of the 68
Revised Code; 69

(k) Emergency medical technicians-basic, emergency medical 70
technicians-intermediate, and emergency medical technicians- 71
paramedic, certified under Chapter 4765. of the Revised Code; 72

(l) Respiratory care professionals and advanced practice 73
respiratory therapists licensed under Chapter 4761. of the 74
Revised Code; 75

(m) Speech-language pathologists and audiologists licensed	76
under Chapter 4753. of the Revised Code;	77
(n) Licensed professional clinical counselors, licensed	78
professional counselors, independent social workers, social	79
workers, independent marriage and family therapists, and	80
marriage and family therapists, licensed under Chapter 4757. of	81
the Revised Code;	82
(o) Psychologists licensed under Chapter 4732. of the	83
Revised Code;	84
(p) Independent chemical dependency counselors-clinical	85
supervisors, independent chemical dependency counselors,	86
chemical dependency counselors III, and chemical dependency	87
counselors II, licensed under Chapter 4758. of the Revised Code,	88
and chemical dependency counselor assistants, prevention	89
consultants, prevention specialists, prevention specialist	90
assistants, and registered applicants, certified under that	91
chapter;	92
(q) Certified mental health assistants licensed under	93
Chapter 4772. of the Revised Code.	94
(6) "Health care worker" means a person other than a	95
health care professional who provides medical, dental, or other	96
health-related care or treatment under the direction of a health	97
care professional with the authority to direct that individual's	98
activities, including medical technicians, medical assistants,	99
dental assistants, orderlies, aides, and individuals acting in	100
similar capacities.	101
(7) "Indigent and uninsured person" means a person who	102
meets both of the following requirements:	103
(a) Relative to being indigent, the person's income is not	104

greater than two hundred per cent of the federal poverty line, 105
as defined by the United States office of management and budget 106
and revised in accordance with section 673(2) of the "Omnibus 107
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 108
9902, as amended, ~~except in any case in which division (A) (7) (b)~~ 109
~~(iii) of this section includes a person whose income is greater~~ 110
~~than two hundred per cent of the federal poverty line.~~ 111

(b) Relative to being uninsured, one of the following 112
applies: 113

(i) The person is not a policyholder, certificate holder, 114
insured, contract holder, subscriber, enrollee, member, 115
beneficiary, or other covered individual under a health 116
insurance or health care policy, contract, or plan. 117

(ii) The person is a policyholder, certificate holder, 118
insured, contract holder, subscriber, enrollee, member, 119
beneficiary, or other covered individual under a health 120
insurance or health care policy, contract, or plan, but the 121
insurer, policy, contract, or plan denies coverage or is the 122
subject of insolvency or bankruptcy proceedings in any 123
jurisdiction. 124

(iii) ~~Until June 30, 2019, the person is eligible for the~~ 125
~~medicaid program or is a medicaid recipient.~~ 126

~~(iv) Except as provided in division (A) (7) (b) (iii) of this~~ 127
~~section, the~~ The person is not eligible for or a recipient, 128
enrollee, or beneficiary of any governmental health care 129
program. 130

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

care, or treatment by a health care professional or health care worker. 134
135

(9) "Operation" means any procedure that involves cutting 136
or otherwise infiltrating human tissue by mechanical means, 137
including surgery, laser surgery, ionizing radiation, 138
therapeutic ultrasound, or the removal of intraocular foreign 139
bodies. "Operation" does not include the administration of 140
medication by injection, unless the injection is administered in 141
conjunction with a procedure infiltrating human tissue by 142
mechanical means other than the administration of medicine by 143
injection. "Operation" does not include routine dental 144
restorative procedures, the scaling of teeth, or extractions of 145
teeth that are not impacted. 146

(10) "Tort action" means a civil action for damages for 147
injury, death, or loss to person or property other than a civil 148
action for damages for a breach of contract or another agreement 149
between persons or government entities. 150

(11) "Volunteer" means an individual who provides any 151
medical, dental, or other health-care related diagnosis, care, 152
or treatment without the expectation of receiving and without 153
receipt of any compensation or other form of remuneration from 154
an indigent and uninsured person, another person on behalf of an 155
indigent and uninsured person, any health care facility or 156
location, any nonprofit health care referral organization, or 157
any other person or government entity. 158

(12) "Community control sanction" has the same meaning as 159
in section 2929.01 of the Revised Code. 160

(13) "Deep sedation" means a drug-induced depression of 161
consciousness during which a patient cannot be easily aroused 162

but responds purposefully following repeated or painful 163
stimulation, a patient's ability to independently maintain 164
ventilatory function may be impaired, a patient may require 165
assistance in maintaining a patent airway and spontaneous 166
ventilation may be inadequate, and cardiovascular function is 167
usually maintained. 168

(14) "General anesthesia" means a drug-induced loss of 169
consciousness during which a patient is not arousable, even by 170
painful stimulation, the ability to independently maintain 171
ventilatory function is often impaired, a patient often requires 172
assistance in maintaining a patent airway, positive pressure 173
ventilation may be required because of depressed spontaneous 174
ventilation or drug-induced depression of neuromuscular 175
function, and cardiovascular function may be impaired. 176

(B) (1) Subject to divisions (F) and (G) (3) of this 177
section, a health care professional who is a volunteer and 178
complies with division (B) (2) of this section is not liable in 179
damages to any person or government entity in a tort or other 180
civil action, including an action on a medical, dental, 181
chiropractic, optometric, or other health-related claim, for 182
injury, death, or loss to person or property that allegedly 183
arises from an action or omission of the volunteer in the 184
provision to an indigent and uninsured person of medical, 185
dental, or other health-related diagnosis, care, or treatment, 186
including the provision of samples of medicine and other medical 187
products, unless the action or omission constitutes willful or 188
wanton misconduct. 189

(2) To qualify for the immunity described in division (B) 190
(1) of this section, a health care professional shall do all of 191
the following prior to providing diagnosis, care, or treatment: 192

(a) Determine, in good faith, that the indigent and 193
uninsured person is mentally capable of giving informed consent 194
to the provision of the diagnosis, care, or treatment and is not 195
subject to duress or under undue influence; 196

(b) Inform the person of the provisions of this section, 197
including notifying the person that, by giving informed consent 198
to the provision of the diagnosis, care, or treatment, the 199
person cannot hold the health care professional liable for 200
damages in a tort or other civil action, including an action on 201
a medical, dental, chiropractic, optometric, or other health- 202
related claim, unless the action or omission of the health care 203
professional constitutes willful or wanton misconduct; 204

(c) Obtain the informed consent of the person and a 205
written waiver, signed by the person or by another individual on 206
behalf of and in the presence of the person, that states that 207
the person is mentally competent to give informed consent and, 208
without being subject to duress or under undue influence, gives 209
informed consent to the provision of the diagnosis, care, or 210
treatment subject to the provisions of this section. A written 211
waiver under division (B) (2) (c) of this section shall state 212
clearly and in conspicuous type that the person or other 213
individual who signs the waiver is signing it with full 214
knowledge that, by giving informed consent to the provision of 215
the diagnosis, care, or treatment, the person cannot bring a 216
tort or other civil action, including an action on a medical, 217
dental, chiropractic, optometric, or other health-related claim, 218
against the health care professional unless the action or 219
omission of the health care professional constitutes willful or 220
wanton misconduct. 221

(3) A physician or podiatrist who is not covered by 222

medical malpractice insurance, but complies with division (B) (2) 223
of this section, is not required to comply with division (A) of 224
section 4731.143 of the Revised Code. 225

(C) Subject to divisions (F) and (G) (3) of this section, 226
health care workers who are volunteers are not liable in damages 227
to any person or government entity in a tort or other civil 228
action, including an action upon a medical, dental, 229
chiropractic, optometric, or other health-related claim, for 230
injury, death, or loss to person or property that allegedly 231
arises from an action or omission of the health care worker in 232
the provision to an indigent and uninsured person of medical, 233
dental, or other health-related diagnosis, care, or treatment, 234
unless the action or omission constitutes willful or wanton 235
misconduct. 236

(D) Subject to divisions (F) and (G) (3) of this section, a 237
nonprofit health care referral organization is not liable in 238
damages to any person or government entity in a tort or other 239
civil action, including an action on a medical, dental, 240
chiropractic, optometric, or other health-related claim, for 241
injury, death, or loss to person or property that allegedly 242
arises from an action or omission of the nonprofit health care 243
referral organization in referring indigent and uninsured 244
persons to, or arranging for the provision of, medical, dental, 245
or other health-related diagnosis, care, or treatment by a 246
health care professional described in division (B) (1) of this 247
section or a health care worker described in division (C) of 248
this section, unless the action or omission constitutes willful 249
or wanton misconduct. 250

(E) Subject to divisions (F) and (G) (3) of this section 251
and to the extent that the registration requirements of section 252

3701.071 of the Revised Code apply, a health care facility or 253
location associated with a health care professional described in 254
division (B) (1) of this section, a health care worker described 255
in division (C) of this section, or a nonprofit health care 256
referral organization described in division (D) of this section 257
is not liable in damages to any person or government entity in a 258
tort or other civil action, including an action on a medical, 259
dental, chiropractic, optometric, or other health-related claim, 260
for injury, death, or loss to person or property that allegedly 261
arises from an action or omission of the health care 262
professional or worker or nonprofit health care referral 263
organization relative to the medical, dental, or other health- 264
related diagnosis, care, or treatment provided to an indigent 265
and uninsured person on behalf of or at the health care facility 266
or location, unless the action or omission constitutes willful 267
or wanton misconduct. 268

(F) (1) Except as provided in division (F) (2) of this 269
section, the immunities provided by divisions (B), (C), (D), and 270
(E) of this section are not available to a health care 271
professional, health care worker, nonprofit health care referral 272
organization, or health care facility or location if, at the 273
time of an alleged injury, death, or loss to person or property, 274
the health care professionals or health care workers involved 275
are providing one of the following: 276

(a) Any medical, dental, or other health-related 277
diagnosis, care, or treatment pursuant to a community service 278
work order entered by a court under division (B) of section 279
2951.02 of the Revised Code or imposed by a court as a community 280
control sanction; 281

(b) Performance of an operation to which any one of the 282

following applies: 283

(i) The operation requires the administration of deep 284
sedation or general anesthesia. 285

(ii) The operation is a procedure that is not typically 286
performed in an office. 287

(iii) The individual involved is a health care 288
professional, and the operation is beyond the scope of practice 289
or the education, training, and competence, as applicable, of 290
the health care professional. 291

(c) Delivery of a baby or any other purposeful termination 292
of a human pregnancy. 293

(2) Division (F)(1) of this section does not apply when a 294
health care professional or health care worker provides medical, 295
dental, or other health-related diagnosis, care, or treatment 296
that is necessary to preserve the life of a person in a medical 297
emergency. 298

(G)(1) This section does not create a new cause of action 299
or substantive legal right against a health care professional, 300
health care worker, nonprofit health care referral organization, 301
or health care facility or location. 302

(2) This section does not affect any immunities from civil 303
liability or defenses established by another section of the 304
Revised Code or available at common law to which a health care 305
professional, health care worker, nonprofit health care referral 306
organization, or health care facility or location may be 307
entitled in connection with the provision of emergency or other 308
medical, dental, or other health-related diagnosis, care, or 309
treatment. 310

(3) This section does not grant an immunity from tort or 311
other civil liability to a health care professional, health care 312
worker, nonprofit health care referral organization, or health 313
care facility or location for actions that are outside the scope 314
of authority of health care professionals or health care 315
workers. 316

In the case of the diagnosis, care, or treatment of an 317
indigent and uninsured person who is eligible for the medicaid 318
program or is a medicaid recipient, this section grants an 319
immunity from tort or other civil liability only if the person's 320
diagnosis, care, or treatment is provided in a free clinic, as 321
defined in section 3701.071 of the Revised Code. 322

(4) This section does not affect any legal responsibility 323
of a health care professional, health care worker, or nonprofit 324
health care referral organization to comply with any applicable 325
law of this state or rule of an agency of this state. 326

(5) This section does not affect any legal responsibility 327
of a health care facility or location to comply with any 328
applicable law of this state, rule of an agency of this state, 329
or local code, ordinance, or regulation that pertains to or 330
regulates building, housing, air pollution, water pollution, 331
sanitation, health, fire, zoning, or safety. 332

Sec. 2925.01. As used in this chapter: 333

(A) "Administer," "controlled substance," "controlled 334
substance analog," "dispense," "distribute," "hypodermic," 335
"manufacturer," "official written order," "person," 336
"pharmacist," "pharmacy," "sale," "schedule I," "schedule II," 337
"schedule III," "schedule IV," "schedule V," and "wholesaler" 338
have the same meanings as in section 3719.01 of the Revised 339

Code. 340

(B) "Drug of abuse" and "person with a drug dependency" 341
have the same meanings as in section 3719.011 of the Revised 342
Code. 343

(C) "Drug," "dangerous drug," "licensed health 344
professional authorized to prescribe drugs," and "prescription" 345
have the same meanings as in section 4729.01 of the Revised 346
Code. 347

(D) "Bulk amount" of a controlled substance means any of 348
the following: 349

(1) For any compound, mixture, preparation, or substance 350
included in schedule I, schedule II, or schedule III, with the 351
exception of any controlled substance analog, marihuana, 352
cocaine, L.S.D., heroin, any fentanyl-related compound, and 353
hashish and except as provided in division (D) (2), (5), or (6) 354
of this section, whichever of the following is applicable: 355

(a) An amount equal to or exceeding ten grams or twenty- 356
five unit doses of a compound, mixture, preparation, or 357
substance that is or contains any amount of a schedule I opiate 358
or opium derivative; 359

(b) An amount equal to or exceeding ten grams of a 360
compound, mixture, preparation, or substance that is or contains 361
any amount of raw or gum opium; 362

(c) An amount equal to or exceeding thirty grams or ten 363
unit doses of a compound, mixture, preparation, or substance 364
that is or contains any amount of a schedule I hallucinogen 365
other than tetrahydrocannabinol or lysergic acid amide, or a 366
schedule I stimulant or depressant; 367

(d) An amount equal to or exceeding twenty grams or five 368
times the maximum daily dose in the usual dose range specified 369
in a standard pharmaceutical reference manual of a compound, 370
mixture, preparation, or substance that is or contains any 371
amount of a schedule II opiate or opium derivative; 372

(e) An amount equal to or exceeding five grams or ten unit 373
doses of a compound, mixture, preparation, or substance that is 374
or contains any amount of phencyclidine; 375

(f) An amount equal to or exceeding one hundred twenty 376
grams or thirty times the maximum daily dose in the usual dose 377
range specified in a standard pharmaceutical reference manual of 378
a compound, mixture, preparation, or substance that is or 379
contains any amount of a schedule II stimulant that is in a 380
final dosage form manufactured by a person authorized by the 381
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 382
U.S.C.A. 301, as amended, and the federal drug abuse control 383
laws, as defined in section 3719.01 of the Revised Code, that is 384
or contains any amount of a schedule II depressant substance or 385
a schedule II hallucinogenic substance; 386

(g) An amount equal to or exceeding three grams of a 387
compound, mixture, preparation, or substance that is or contains 388
any amount of a schedule II stimulant, or any of its salts or 389
isomers, that is not in a final dosage form manufactured by a 390
person authorized by the Federal Food, Drug, and Cosmetic Act 391
and the federal drug abuse control laws. 392

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

an anabolic steroid or a schedule III opiate or opium 398
derivative; 399

(3) An amount equal to or exceeding twenty grams or five 400
times the maximum daily dose in the usual dose range specified 401
in a standard pharmaceutical reference manual of a compound, 402
mixture, preparation, or substance that is or contains any 403
amount of a schedule III opiate or opium derivative; 404

(4) An amount equal to or exceeding two hundred fifty 405
milliliters or two hundred fifty grams of a compound, mixture, 406
preparation, or substance that is or contains any amount of a 407
schedule V substance; 408

(5) An amount equal to or exceeding two hundred solid 409
dosage units, sixteen grams, or sixteen milliliters of a 410
compound, mixture, preparation, or substance that is or contains 411
any amount of a schedule III anabolic steroid; 412

(6) For any compound, mixture, preparation, or substance 413
that is a combination of a fentanyl-related compound and any 414
other compound, mixture, preparation, or substance included in 415
schedule III, schedule IV, or schedule V, if the defendant is 416
charged with a violation of section 2925.11 of the Revised Code 417
and the sentencing provisions set forth in divisions (C)(10)(b) 418
and (C)(11) of that section will not apply regarding the 419
defendant and the violation, the bulk amount of the controlled 420
substance for purposes of the violation is the amount specified 421
in division (D)(1), (2), (3), (4), or (5) of this section for 422
the other schedule III, IV, or V controlled substance that is 423
combined with the fentanyl-related compound. 424

(E) "Unit dose" means an amount or unit of a compound, 425
mixture, or preparation containing a controlled substance that 426

is separately identifiable and in a form that indicates that it 427
is the amount or unit by which the controlled substance is 428
separately administered to or taken by an individual. 429

(F) "Cultivate" includes planting, watering, fertilizing, 430
or tilling. 431

(G) "Drug abuse offense" means any of the following: 432

(1) A violation of division (A) of section 2913.02 that 433
constitutes theft of drugs, or a violation of section 2925.02, 434
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 435
2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, 436
or 2925.37 of the Revised Code; 437

(2) A violation of an existing or former law of this or 438
any other state or of the United States that is substantially 439
equivalent to any section listed in division (G) (1) of this 440
section; 441

(3) An offense under an existing or former law of this or 442
any other state, or of the United States, of which planting, 443
cultivating, harvesting, processing, making, manufacturing, 444
producing, shipping, transporting, delivering, acquiring, 445
possessing, storing, distributing, dispensing, selling, inducing 446
another to use, administering to another, using, or otherwise 447
dealing with a controlled substance is an element; 448

(4) A conspiracy to commit, attempt to commit, or 449
complicity in committing or attempting to commit any offense 450
under division (G) (1), (2), or (3) of this section. 451

(H) "Felony drug abuse offense" means any drug abuse 452
offense that would constitute a felony under the laws of this 453
state, any other state, or the United States. 454

(I) "Harmful intoxicant" does not include beer or 455
intoxicating liquor but means any of the following: 456

(1) Any compound, mixture, preparation, or substance the 457
gas, fumes, or vapor of which when inhaled can induce 458
intoxication, excitement, giddiness, irrational behavior, 459
depression, stupefaction, paralysis, unconsciousness, 460
asphyxiation, or other harmful physiological effects, and 461
includes, but is not limited to, any of the following: 462

(a) Any volatile organic solvent, plastic cement, model 463
cement, fingernail polish remover, lacquer thinner, cleaning 464
fluid, gasoline, or other preparation containing a volatile 465
organic solvent; 466

(b) Any aerosol propellant; 467

(c) Any fluorocarbon refrigerant; 468

(d) Any anesthetic gas. 469

(2) Gamma Butyrolactone; 470

(3) 1,4 Butanediol. 471

(J) "Manufacture" means to plant, cultivate, harvest, 472
process, make, prepare, or otherwise engage in any part of the 473
production of a drug, by propagation, extraction, chemical 474
synthesis, or compounding, or any combination of the same, and 475
includes packaging, repackaging, labeling, and other activities 476
incident to production. 477

(K) "Possess" or "possession" means having control over a 478
thing or substance, but may not be inferred solely from mere 479
access to the thing or substance through ownership or occupation 480
of the premises upon which the thing or substance is found. 481

(L) "Sample drug" means a drug or pharmaceutical 482
preparation that would be hazardous to health or safety if used 483
without the supervision of a licensed health professional 484
authorized to prescribe drugs, or a drug of abuse, and that, at 485
one time, had been placed in a container plainly marked as a 486
sample by a manufacturer. 487

(M) "Standard pharmaceutical reference manual" means the 488
current edition, with cumulative changes if any, of references 489
that are approved by the state board of pharmacy. 490

(N) "Juvenile" means a person under eighteen years of age. 491

(O) "Counterfeit controlled substance" means any of the 492
following: 493

(1) Any drug that bears, or whose container or label 494
bears, a trademark, trade name, or other identifying mark used 495
without authorization of the owner of rights to that trademark, 496
trade name, or identifying mark; 497

(2) Any unmarked or unlabeled substance that is 498
represented to be a controlled substance manufactured, 499
processed, packed, or distributed by a person other than the 500
person that manufactured, processed, packed, or distributed it; 501

(3) Any substance that is represented to be a controlled 502
substance but is not a controlled substance or is a different 503
controlled substance; 504

(4) Any substance other than a controlled substance that a 505
reasonable person would believe to be a controlled substance 506
because of its similarity in shape, size, and color, or its 507
markings, labeling, packaging, distribution, or the price for 508
which it is sold or offered for sale. 509

(P) An offense is "committed in the vicinity of a school" 510
if the offender commits the offense on school premises, in a 511
school building, or within one thousand feet of the boundaries 512
of any school premises, regardless of whether the offender knows 513
the offense is being committed on school premises, in a school 514
building, or within one thousand feet of the boundaries of any 515
school premises. 516

(Q) "School" means any school operated by a board of 517
education, any community school established under Chapter 3314. 518
of the Revised Code, or any nonpublic school for which the 519
director of education and workforce prescribes minimum standards 520
under section 3301.07 of the Revised Code, whether or not any 521
instruction, extracurricular activities, or training provided by 522
the school is being conducted at the time a criminal offense is 523
committed. 524

(R) "School premises" means either of the following: 525

(1) The parcel of real property on which any school is 526
situated, whether or not any instruction, extracurricular 527
activities, or training provided by the school is being 528
conducted on the premises at the time a criminal offense is 529
committed; 530

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

the school is being conducted on the parcel of real property at 540
the time a criminal offense is committed. 541

(S) "School building" means any building in which any of 542
the instruction, extracurricular activities, or training 543
provided by a school is conducted, whether or not any 544
instruction, extracurricular activities, or training provided by 545
the school is being conducted in the school building at the time 546
a criminal offense is committed. 547

(T) "Disciplinary counsel" means the disciplinary counsel 548
appointed by the board of commissioners on grievances and 549
discipline of the supreme court under the Rules for the 550
Government of the Bar of Ohio. 551

(U) "Certified grievance committee" means a duly 552
constituted and organized committee of the Ohio state bar 553
association or of one or more local bar associations of the 554
state of Ohio that complies with the criteria set forth in Rule 555
V, section 6 of the Rules for the Government of the Bar of Ohio. 556

(V) "Professional license" means any license, permit, 557
certificate, registration, qualification, admission, temporary 558
license, temporary permit, temporary certificate, or temporary 559
registration that is described in divisions (W)(1) to (37) of 560
this section and that qualifies a person as a professionally 561
licensed person. 562

(W) "Professionally licensed person" means any of the 563
following: 564

(1) A person who has received a certificate or temporary 565
certificate as a certified public accountant or who has 566
registered as a public accountant under Chapter 4701. of the 567
Revised Code and who holds an Ohio permit issued under that 568

chapter; 569

(2) A person who holds a certificate of qualification to 570
practice architecture issued or renewed and registered under 571
Chapter 4703. of the Revised Code; 572

(3) A person who is registered as a landscape architect 573
under Chapter 4703. of the Revised Code or who holds a permit as 574
a landscape architect issued under that chapter; 575

(4) A person licensed under Chapter 4707. of the Revised 576
Code; 577

(5) A person who has been issued a barber's license, 578
barber instructor's license, assistant barber instructor's 579
license, or independent contractor's license under Chapter 4709. 580
of the Revised Code; 581

(6) A person licensed and regulated to engage in the 582
business of a debt pooling company by a legislative authority, 583
under authority of Chapter 4710. of the Revised Code; 584

(7) A person who has been issued a cosmetologist's 585
license, hair designer's license, manicurist's license, 586
esthetician's license, natural hair stylist's license, advanced 587
license to practice cosmetology, advanced license to practice 588
hair design, advanced license to practice manicuring, advanced 589
license to practice esthetics, advanced license to practice 590
natural hair styling, cosmetology instructor's license, hair 591
design instructor's license, manicurist instructor's license, 592
esthetics instructor's license, natural hair style instructor's 593
license, independent contractor's license, or tanning facility 594
permit under Chapter 4713. of the Revised Code; 595

(8) A person who has been issued a license to practice 596
dentistry, a general anesthesia permit, a conscious sedation 597

permit, a limited resident's license, a limited teaching 598
license, a dental hygienist's license, or a dental hygienist's 599
teacher's certificate under Chapter 4715. of the Revised Code; 600

(9) A person who has been issued an embalmer's license, a 601
funeral director's license, a funeral home license, or a 602
crematory license, or who has been registered for an embalmer's 603
or funeral director's apprenticeship under Chapter 4717. of the 604
Revised Code; 605

(10) A person who has been licensed as a registered nurse 606
or practical nurse, or who has been issued a certificate for the 607
practice of nurse-midwifery under Chapter 4723. of the Revised 608
Code; 609

(11) A person who has been licensed to practice optometry 610
or to engage in optical dispensing under Chapter 4725. of the 611
Revised Code; 612

(12) A person licensed to act as a pawnbroker under 613
Chapter 4727. of the Revised Code; 614

(13) A person licensed to act as a precious metals dealer 615
under Chapter 4728. of the Revised Code; 616

(14) A person licensed under Chapter 4729. of the Revised 617
Code as a pharmacist or pharmacy intern or registered under that 618
chapter as a registered pharmacy technician, certified pharmacy 619
technician, or pharmacy technician trainee; 620

(15) A person licensed under Chapter 4729. of the Revised 621
Code as a manufacturer of dangerous drugs, outsourcing facility, 622
third-party logistics provider, repackager of dangerous drugs, 623
wholesale distributor of dangerous drugs, or terminal 624
distributor of dangerous drugs; 625

- (16) A person who is authorized to practice as a physician 626
assistant under Chapter 4730. of the Revised Code; 627
- (17) A person who has been issued a license to practice 628
medicine and surgery, osteopathic medicine and surgery, or 629
podiatric medicine and surgery under Chapter 4731. of the 630
Revised Code or has been issued a certificate to practice a 631
limited branch of medicine under that chapter; 632
- (18) A person licensed as a psychologist, independent 633
school psychologist, or school psychologist under Chapter 4732. 634
of the Revised Code; 635
- (19) A person registered to practice the profession of 636
engineering or surveying under Chapter 4733. of the Revised 637
Code; 638
- (20) A person who has been issued a license to practice 639
chiropractic under Chapter 4734. of the Revised Code; 640
- (21) A person licensed to act as a real estate broker or 641
real estate salesperson under Chapter 4735. of the Revised Code; 642
- (22) A person registered as a registered environmental 643
health specialist under Chapter 3776. of the Revised Code; 644
- (23) A person licensed to operate or maintain a junkyard 645
under Chapter 4737. of the Revised Code; 646
- (24) A person who has been issued a motor vehicle salvage 647
dealer's license under Chapter 4738. of the Revised Code; 648
- (25) A person who has been licensed to act as a steam 649
engineer under Chapter 4739. of the Revised Code; 650
- (26) A person who has been issued a license or temporary 651
permit to practice veterinary medicine or any of its branches, 652

or who is registered as a graduate animal technician under 653
Chapter 4741. of the Revised Code; 654

(27) A person who has been issued a hearing aid dealer's 655
or fitter's license or trainee permit under Chapter 4747. of the 656
Revised Code; 657

(28) A person who has been issued a class A, class B, or 658
class C license or who has been registered as an investigator or 659
security guard employee under Chapter 4749. of the Revised Code; 660

(29) A person licensed to practice as a nursing home 661
administrator under Chapter 4751. of the Revised Code; 662

(30) A person licensed to practice as a speech-language 663
pathologist or audiologist under Chapter 4753. of the Revised 664
Code; 665

(31) A person issued a license as an occupational 666
therapist or physical therapist under Chapter 4755. of the 667
Revised Code; 668

(32) A person who is licensed as a licensed professional 669
clinical counselor, licensed professional counselor, social 670
worker, independent social worker, independent marriage and 671
family therapist, or marriage and family therapist, or 672
registered as a social work assistant under Chapter 4757. of the 673
Revised Code; 674

(33) A person issued a license to practice dietetics under 675
Chapter 4759. of the Revised Code; 676

(34) A person who has been issued a license or limited 677
permit to practice respiratory therapy or a license to practice 678
as an advanced practice respiratory therapist under Chapter 679
4761. of the Revised Code; 680

(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;

(38) A person who has been issued a license to practice as
a certified mental health assistant under Chapter 4772. of the
Revised Code.

(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 708
liquid concentrate, liquid extract, or liquid distillate form. 709

(2) It has a delta-9 tetrahydrocannabinol concentration of 710
more than three-tenths per cent. 711

"Hashish" does not include a hemp byproduct in the 712
possession of a licensed hemp processor under Chapter 928. of 713
the Revised Code, provided that the hemp byproduct is being 714
produced, stored, and disposed of in accordance with rules 715
adopted under section 928.03 of the Revised Code. 716

(AA) "Marihuana" has the same meaning as in section 717
3719.01 of the Revised Code, except that it does not include 718
hashish. 719

(BB) An offense is "committed in the vicinity of a 720
juvenile" if the offender commits the offense within one hundred 721
feet of a juvenile or within the view of a juvenile, regardless 722
of whether the offender knows the age of the juvenile, whether 723
the offender knows the offense is being committed within one 724
hundred feet of or within view of the juvenile, or whether the 725
juvenile actually views the commission of the offense. 726

(CC) "Presumption for a prison term" or "presumption that 727
a prison term shall be imposed" means a presumption, as 728
described in division (D) of section 2929.13 of the Revised 729
Code, that a prison term is a necessary sanction for a felony in 730
order to comply with the purposes and principles of sentencing 731
under section 2929.11 of the Revised Code. 732

(DD) "Major drug offender" has the same meaning as in 733
section 2929.01 of the Revised Code. 734

(EE) "Minor drug possession offense" means either of the 735
following: 736

(1) A violation of section 2925.11 of the Revised Code as 737
it existed prior to July 1, 1996; 738

(2) A violation of section 2925.11 of the Revised Code as 739
it exists on and after July 1, 1996, that is a misdemeanor or a 740
felony of the fifth degree. 741

(FF) "Mandatory prison term" has the same meaning as in 742
section 2929.01 of the Revised Code. 743

(GG) "Adulterate" means to cause a drug to be adulterated 744
as described in section 3715.63 of the Revised Code. 745

(HH) "Public premises" means any hotel, restaurant, 746
tavern, store, arena, hall, or other place of public 747
accommodation, business, amusement, or resort. 748

(II) "Methamphetamine" means methamphetamine, any salt, 749
isomer, or salt of an isomer of methamphetamine, or any 750
compound, mixture, preparation, or substance containing 751
methamphetamine or any salt, isomer, or salt of an isomer of 752
methamphetamine. 753

(JJ) "Deception" has the same meaning as in section 754
2913.01 of the Revised Code. 755

(KK) "Fentanyl-related compound" means any of the 756
following: 757

(1) Fentanyl; 758

(2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta- 759
phenyl)ethyl-4- piperidyl]propionanilide; 1-(1-methyl-2- 760
phenylethyl)-4-(N-propanilido) piperidine); 761

(3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2- 762
thienyl)ethyl-4- piperidinyl]-N-phenylpropanamide); 763

- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl] -N-phenylpropanamide); 764
765
- (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2- phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide); 766
767
768
- (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N- phenylpropanamide); 769
770
- (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4- piperidinyl]-N-phenylpropanamide); 771
772
- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl]propanamide; 773
774
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide; 775
776
- (10) Alfentanil; 777
- (11) Carfentanil; 778
- (12) Remifentanil; 779
- (13) Sufentanil; 780
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4- piperidinyl]-N-phenylacetamide); and 781
782
- (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as 783
784
identified by a report from an established forensic laboratory, 785
including acetylfentanyl, furanylfentanyl, valerylfentanyl, 786
butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, 787
para-fluorobutyrylfentanyl, acrylfentanyl, and ortho- 788
fluorofentanyl: 789
- (a) A chemical scaffold consisting of both of the 790

following: 791

(i) A five, six, or seven member ring structure containing 792
a nitrogen, whether or not further substituted; 793

(ii) An attached nitrogen to the ring, whether or not that 794
nitrogen is enclosed in a ring structure, including an attached 795
aromatic ring or other lipophilic group to that nitrogen. 796

(b) A polar functional group attached to the chemical 797
scaffold, including but not limited to a hydroxyl, ketone, 798
amide, or ester; 799

(c) An alkyl or aryl substitution off the ring nitrogen of 800
the chemical scaffold; and 801

(d) The compound has not been approved for medical use by 802
the United States food and drug administration. 803

(LL) "First degree felony mandatory prison term" means one 804
of the definite prison terms prescribed in division (A) (1) (b) of 805
section 2929.14 of the Revised Code for a felony of the first 806
degree, except that if the violation for which sentence is being 807
imposed is committed on or after March 22, 2019, it means one of 808
the minimum prison terms prescribed in division (A) (1) (a) of 809
that section for a felony of the first degree. 810

(MM) "Second degree felony mandatory prison term" means 811
one of the definite prison terms prescribed in division (A) (2) 812
(b) of section 2929.14 of the Revised Code for a felony of the 813
second degree, except that if the violation for which sentence 814
is being imposed is committed on or after March 22, 2019, it 815
means one of the minimum prison terms prescribed in division (A) 816
(2) (a) of that section for a felony of the second degree. 817

(NN) "Maximum first degree felony mandatory prison term" 818

means the maximum definite prison term prescribed in division 819
(A) (1) (b) of section 2929.14 of the Revised Code for a felony of 820
the first degree, except that if the violation for which 821
sentence is being imposed is committed on or after March 22, 822
2019, it means the longest minimum prison term prescribed in 823
division (A) (1) (a) of that section for a felony of the first 824
degree. 825

(OO) "Maximum second degree felony mandatory prison term" 826
means the maximum definite prison term prescribed in division 827
(A) (2) (b) of section 2929.14 of the Revised Code for a felony of 828
the second degree, except that if the violation for which 829
sentence is being imposed is committed on or after March 22, 830
2019, it means the longest minimum prison term prescribed in 831
division (A) (2) (a) of that section for a felony of the second 832
degree. 833

(PP) "Delta-9 tetrahydrocannabinol" has the same meaning 834
as in section 928.01 of the Revised Code. 835

(QQ) An offense is "committed in the vicinity of a 836
substance addiction services provider or a recovering addict" if 837
either of the following apply: 838

(1) The offender commits the offense on the premises of a 839
substance addiction services provider's facility, including a 840
facility licensed prior to June 29, 2019, under section 5119.391 841
of the Revised Code to provide methadone treatment or an opioid 842
treatment program licensed on or after that date under section 843
5119.37 of the Revised Code, or within five hundred feet of the 844
premises of a substance addiction services provider's facility 845
and the offender knows or should know that the offense is being 846
committed within the vicinity of the substance addiction 847
services provider's facility. 848

(2) The offender sells, offers to sell, delivers, or 849
distributes the controlled substance or controlled substance 850
analog to a person who is receiving treatment at the time of the 851
commission of the offense, or received treatment within thirty 852
days prior to the commission of the offense, from a substance 853
addiction services provider and the offender knows that the 854
person is receiving or received that treatment. 855

(RR) "Substance addiction services provider" means an 856
agency, association, corporation or other legal entity, 857
individual, or program that provides one or more of the 858
following at a facility: 859

(1) Either alcohol addiction services, or drug addiction 860
services, or both such services that are certified by the 861
director of mental health and addiction services under section 862
5119.36 of the Revised Code; 863

(2) Recovery supports that are related to either alcohol 864
addiction services, or drug addiction services, or both such 865
services and paid for with federal, state, or local funds 866
administered by the department of ~~mental health and addiction~~ 867
~~services~~ behavioral health or a board of alcohol, drug 868
addiction, and mental health services. 869

(SS) "Premises of a substance addiction services 870
provider's facility" means the parcel of real property on which 871
any substance addiction service provider's facility is situated. 872

(TT) "Alcohol and drug addiction services" has the same 873
meaning as in section 5119.01 of the Revised Code. 874

Sec. 2925.23. (A) No person shall knowingly make a false 875
statement in any prescription, order, report, or record required 876
by Chapter 3719. or 4729. of the Revised Code. 877

(B) No person shall intentionally make, utter, or sell, or 878
knowingly possess any of the following that is a false or 879
forged: 880

(1) Prescription; 881

(2) Uncompleted preprinted prescription blank used for 882
writing a prescription; 883

(3) Official written order; 884

(4) License for a terminal distributor of dangerous drugs, 885
as defined in section 4729.01 of the Revised Code; 886

(5) License for a manufacturer of dangerous drugs, 887
outsourcing facility, third-party logistics provider, repackager 888
of dangerous drugs, or wholesale distributor of dangerous drugs, 889
as defined in section 4729.01 of the Revised Code. 890

(C) No person, by theft as defined in section 2913.02 of 891
the Revised Code, shall acquire any of the following: 892

(1) A prescription; 893

(2) An uncompleted preprinted prescription blank used for 894
writing a prescription; 895

(3) An official written order; 896

(4) A blank official written order; 897

(5) A license or blank license for a terminal distributor 898
of dangerous drugs, as defined in section 4729.01 of the Revised 899
Code; 900

(6) A license or blank license for a manufacturer of 901
dangerous drugs, outsourcing facility, third-party logistics 902
provider, repackager of dangerous drugs, or wholesale 903
distributor of dangerous drugs, as defined in section 4729.01 of 904

the Revised Code. 905

(D) No person shall knowingly make or affix any false or 906
forged label to a package or receptacle containing any dangerous 907
drugs. 908

(E) Divisions (A) and (D) of this section do not apply to 909
licensed health professionals authorized to prescribe drugs, 910
pharmacists, owners of pharmacies, and other persons whose 911
conduct is in accordance with Chapters 3719., 4715., 4723., 912
4725., 4729., 4730., 4731., 4741., 4761., and 4772. of the 913
Revised Code. 914

(F) Whoever violates this section is guilty of illegal 915
processing of drug documents. If the offender violates division 916
(B) (2), (4), or (5) or division (C) (2), (4), (5), or (6) of this 917
section, illegal processing of drug documents is a felony of the 918
fifth degree. If the offender violates division (A), division 919
(B) (1) or (3), division (C) (1) or (3), or division (D) of this 920
section, the penalty for illegal processing of drug documents 921
shall be determined as follows: 922

(1) If the drug involved is a compound, mixture, 923
preparation, or substance included in schedule I or II, with the 924
exception of marihuana, illegal processing of drug documents is 925
a felony of the fourth degree, and division (C) of section 926
2929.13 of the Revised Code applies in determining whether to 927
impose a prison term on the offender. 928

(2) If the drug involved is a dangerous drug or a 929
compound, mixture, preparation, or substance included in 930
schedule III, IV, or V or is marihuana, illegal processing of 931
drug documents is a felony of the fifth degree, and division (C) 932
of section 2929.13 of the Revised Code applies in determining 933

whether to impose a prison term on the offender. 934

(G) (1) If the offender is a professionally licensed 935
person, in addition to any other sanction imposed for a 936
violation of this section, the court immediately shall comply 937
with section 2925.38 of the Revised Code. 938

If the offender has a driver's or commercial driver's 939
license or permit, section 2929.33 of the Revised Code applies. 940

(2) Any offender who received a mandatory suspension of 941
the offender's driver's or commercial driver's license or permit 942
under this section prior to September 13, 2016, may file a 943
motion with the sentencing court requesting the termination of 944
the suspension. However, an offender who pleaded guilty to or 945
was convicted of a violation of section 4511.19 of the Revised 946
Code or a substantially similar municipal ordinance or law of 947
another state or the United States that arose out of the same 948
set of circumstances as the violation for which the offender's 949
license or permit was suspended under this section shall not 950
file such a motion. 951

Upon the filing of a motion under division (G) (2) of this 952
section, the sentencing court, in its discretion, may terminate 953
the suspension. 954

(H) Notwithstanding any contrary provision of section 955
3719.21 of the Revised Code, the clerk of court shall pay a fine 956
imposed for a violation of this section pursuant to division (A) 957
of section 2929.18 of the Revised Code in accordance with and 958
subject to the requirements of division (F) of section 2925.03 959
of the Revised Code. The agency that receives the fine shall use 960
the fine as specified in division (F) of section 2925.03 of the 961
Revised Code. 962

Sec. 2925.55. (A) As used in sections 2925.55 to 2925.58 963
of the Revised Code: 964

(1) "Consumer product" means any food or drink that is 965
consumed or used by humans and any drug, including a drug that 966
may be provided legally only pursuant to a prescription, that is 967
intended to be consumed or used by humans. 968

(2) "Terminal distributor of dangerous drugs" has the same 969
meaning as in section 4729.01 of the Revised Code. 970

(3) "Pseudoephedrine" means any material, compound, 971
mixture, or preparation that contains any quantity of 972
pseudoephedrine, any of its salts, optical isomers, or salts of 973
optical isomers. 974

(4) "Pseudoephedrine product" means a consumer product 975
that contains pseudoephedrine. 976

(5) "Retailer" means a place of business that offers 977
consumer products for sale to the general public. 978

(6) "Single-ingredient preparation" means a compound, 979
mixture, preparation, or substance that contains a single active 980
ingredient. 981

(7) "Ephedrine" means any material, compound, mixture, or 982
preparation that contains any quantity of ephedrine, any of its 983
salts, optical isomers, or salts of optical isomers. 984

(8) "Ephedrine product" means a consumer product that 985
contains ephedrine. 986

(B) (1) No individual shall knowingly purchase, receive, or 987
otherwise acquire an amount of pseudoephedrine product or 988
ephedrine product that is greater than either of the following 989
unless the pseudoephedrine product or ephedrine product is 990

dispensed by a pharmacist pursuant to a valid prescription 991
issued by a licensed health professional authorized to prescribe 992
drugs and the conduct of the pharmacist and the licensed health 993
professional authorized to prescribe drugs is in accordance with 994
Chapter 3719., 4715., 4723., 4729., 4730., 4731., 4741., 4761., 995
or 4772. of the Revised Code: 996

(a) Three and six tenths grams within a period of a single 997
day; 998

(b) Nine grams within a period of thirty consecutive days. 999

The limits specified in divisions (B)(1)(a) and (b) of 1000
this section apply to the total amount of base pseudoephedrine 1001
or base ephedrine in the pseudoephedrine product or ephedrine 1002
product, respectively. The limits do not apply to the product's 1003
overall weight. 1004

(2) It is not a violation of division (B)(1) of this 1005
section for an individual to receive or accept more than an 1006
amount of pseudoephedrine product or ephedrine product specified 1007
in division (B)(1)(a) or (b) of this section if the individual 1008
is an employee of a retailer or terminal distributor of 1009
dangerous drugs, and the employee receives or accepts from the 1010
retailer or terminal distributor of dangerous drugs the 1011
pseudoephedrine product or ephedrine product in a sealed 1012
container in connection with manufacturing, warehousing, 1013
placement, stocking, bagging, loading, or unloading of the 1014
product. 1015

(C)(1) No individual under eighteen years of age shall 1016
knowingly purchase, receive, or otherwise acquire a 1017
pseudoephedrine product or ephedrine product unless the 1018
pseudoephedrine product or ephedrine product is dispensed by a 1019

pharmacist pursuant to a valid prescription issued by a licensed 1020
health professional authorized to prescribe drugs and the 1021
conduct of the pharmacist and the licensed health professional 1022
authorized to prescribe drugs is in accordance with Chapter 1023
3719., 4715., 4723., 4729., 4730., 4731., 4741., 4761., or 4772. 1024
of the Revised Code. 1025

(2) Division (C)(1) of this section does not apply to an 1026
individual under eighteen years of age who purchases, receives, 1027
or otherwise acquires a pseudoephedrine product or ephedrine 1028
product from any of the following: 1029

(a) A licensed health professional authorized to prescribe 1030
drugs or pharmacist who dispenses, sells, or otherwise provides 1031
the pseudoephedrine product or ephedrine product to that 1032
individual and whose conduct is in accordance with Chapter 1033
3719., 4715., 4723., 4729., 4730., 4731., 4741., 4761., or 4772. 1034
of the Revised Code; 1035

(b) A parent or guardian of that individual who provides 1036
the pseudoephedrine product or ephedrine product to the 1037
individual; 1038

(c) A person, as authorized by that individual's parent or 1039
guardian, who dispenses, sells, or otherwise provides the 1040
pseudoephedrine product or ephedrine product to the individual; 1041

(d) A retailer or terminal distributor of dangerous drugs 1042
who provides the pseudoephedrine product or ephedrine product to 1043
that individual if the individual is an employee of the retailer 1044
or terminal distributor of dangerous drugs and the individual 1045
receives or accepts from the retailer or terminal distributor of 1046
dangerous drugs the pseudoephedrine product or ephedrine product 1047
in a sealed container in connection with manufacturing, 1048

warehousing, placement, stocking, bagging, loading, or unloading 1049
of the product. 1050

(D) No individual under eighteen years of age shall 1051
knowingly show or give false information concerning the 1052
individual's name, age, or other identification for the purpose 1053
of purchasing, receiving, or otherwise acquiring a 1054
pseudoephedrine product or ephedrine product. 1055

(E) No individual shall knowingly fail to comply with the 1056
requirements of division (B) of section 3715.051 of the Revised 1057
Code. 1058

(F) Whoever violates division (B) (1) of this section is 1059
guilty of unlawful purchase of a pseudoephedrine product or 1060
ephedrine product, a misdemeanor of the first degree. 1061

(G) Whoever violates division (C) (1) of this section is 1062
guilty of underage purchase of a pseudoephedrine product or 1063
ephedrine product, a delinquent act that would be a misdemeanor 1064
of the fourth degree if it could be committed by an adult. 1065

(H) Whoever violates division (D) of this section is 1066
guilty of using false information to purchase a pseudoephedrine 1067
product or ephedrine product, a delinquent act that would be a 1068
misdemeanor of the first degree if it could be committed by an 1069
adult. 1070

(I) Whoever violates division (E) of this section is 1071
guilty of improper purchase of a pseudoephedrine product or 1072
ephedrine product, a misdemeanor of the fourth degree. 1073

Sec. 2925.56. (A) (1) Except as provided in division (A) (2) 1074
of this section, no retailer or terminal distributor of 1075
dangerous drugs or an employee of a retailer or terminal 1076
distributor of dangerous drugs shall knowingly sell, offer to 1077

sell, hold for sale, deliver, or otherwise provide to any 1078
individual an amount of pseudoephedrine product or ephedrine 1079
product that is greater than either of the following: 1080

(a) Three and six-tenths grams within a period of a single 1081
day; 1082

(b) Nine grams within a period of thirty consecutive days. 1083

The maximum amounts specified in divisions (A) (1) (a) and 1084
(b) of this section apply to the total amount of base 1085
pseudoephedrine or base ephedrine in the pseudoephedrine product 1086
or ephedrine product, respectively. The maximum amounts do not 1087
apply to the product's overall weight. 1088

(2) (a) Division (A) (1) of this section does not apply to 1089
any quantity of pseudoephedrine product or ephedrine product 1090
dispensed by a pharmacist pursuant to a valid prescription 1091
issued by a licensed health professional authorized to prescribe 1092
drugs if the conduct of the pharmacist and the licensed health 1093
professional authorized to prescribe drugs is in accordance with 1094
Chapter 3719., 4715., 4723., 4729., 4730., 4731., 4741., 4761., 1095
or 4772. of the Revised Code. 1096

(b) It is not a violation of division (A) (1) of this 1097
section for a retailer, terminal distributor of dangerous drugs, 1098
or employee of either to provide to an individual more than an 1099
amount of pseudoephedrine product or ephedrine product specified 1100
in division (A) (1) (a) or (b) of this section under either of the 1101
following circumstances: 1102

(i) The individual is an employee of the retailer or 1103
terminal distributor of dangerous drugs, and the employee 1104
receives or accepts from the retailer, terminal distributor of 1105
dangerous drugs, or employee the pseudoephedrine product or 1106

ephedrine product in a sealed container in connection with 1107
manufacturing, warehousing, placement, stocking, bagging, 1108
loading, or unloading of the product; 1109

(ii) A stop-sale alert is generated after the submission 1110
of information to the national precursor log exchange under the 1111
conditions described in division (A) (2) of section 3715.052 of 1112
the Revised Code. 1113

(B) (1) Except as provided in division (B) (2) of this 1114
section, no retailer or terminal distributor of dangerous drugs 1115
or an employee of a retailer or terminal distributor of 1116
dangerous drugs shall sell, offer to sell, hold for sale, 1117
deliver, or otherwise provide a pseudoephedrine product or 1118
ephedrine product to an individual who is under eighteen years 1119
of age. 1120

(2) Division (B) (1) of this section does not apply to any 1121
of the following: 1122

(a) A licensed health professional authorized to prescribe 1123
drugs or pharmacist who dispenses, sells, or otherwise provides 1124
a pseudoephedrine product or ephedrine product to an individual 1125
under eighteen years of age and whose conduct is in accordance 1126
with Chapter 3719., 4715., 4723., 4729., 4730., 4731., 4741., 1127
4761., or 4772. of the Revised Code; 1128

(b) A parent or guardian of an individual under eighteen 1129
years of age who provides a pseudoephedrine product or ephedrine 1130
product to the individual; 1131

(c) A person who, as authorized by the individual's parent 1132
or guardian, dispenses, sells, or otherwise provides a 1133
pseudoephedrine product or ephedrine product to an individual 1134
under eighteen years of age; 1135

(d) The provision by a retailer, terminal distributor of 1136
dangerous drugs, or employee of either of a pseudoephedrine 1137
product or ephedrine product in a sealed container to an 1138
employee of the retailer or terminal distributor of dangerous 1139
drugs who is under eighteen years of age in connection with 1140
manufacturing, warehousing, placement, stocking, bagging, 1141
loading, or unloading of the product. 1142

(C) No retailer or terminal distributor of dangerous drugs 1143
shall fail to comply with the requirements of division (A) of 1144
section 3715.051 or division (A) (2) of section 3715.052 of the 1145
Revised Code. 1146

(D) No retailer or terminal distributor of dangerous drugs 1147
shall fail to comply with the requirements of division (A) (1) of 1148
section 3715.052 of the Revised Code. 1149

(E) Whoever violates division (A) (1) of this section is 1150
guilty of unlawfully selling a pseudoephedrine product or 1151
ephedrine product, a misdemeanor of the first degree. 1152

(F) Whoever violates division (B) (1) of this section is 1153
guilty of unlawfully selling a pseudoephedrine product or 1154
ephedrine product to a minor, a misdemeanor of the fourth 1155
degree. 1156

(G) Whoever violates division (C) of this section is 1157
guilty of improper sale of a pseudoephedrine product or 1158
ephedrine product, a misdemeanor of the second degree. 1159

(H) Whoever violates division (D) of this section is 1160
guilty of failing to submit information to the national 1161
precursor log exchange, a misdemeanor for which the offender 1162
shall be fined not more than one thousand dollars per violation. 1163

Sec. 3701.048. (A) As used in this section: 1164

(1) "Board of health" means the board of health of a city 1165
or general health district or the authority having the duties of 1166
a board of health under section 3709.05 of the Revised Code. 1167

(2) "Controlled substance" has the same meaning as in 1168
section 3719.01 of the Revised Code. 1169

(3) "Drug," "dangerous drug," and "licensed health 1170
professional authorized to prescribe drugs" have the same 1171
meanings as in section 4729.01 of the Revised Code. 1172

(4) "Registered volunteer" has the same meaning as in 1173
section 5502.281 of the Revised Code. 1174

(B) In consultation with the appropriate professional 1175
regulatory boards of this state, the director of health shall 1176
develop one or more protocols that authorize the following 1177
individuals to administer, deliver, or distribute drugs, other 1178
than schedule II and III controlled substances, during a period 1179
of time described in division (E) of this section, 1180
notwithstanding any statute or rule that otherwise prohibits or 1181
restricts the administration, delivery, or distribution of drugs 1182
by those individuals: 1183

(1) A physician authorized under Chapter 4731. of the 1184
Revised Code to practice medicine and surgery, osteopathic 1185
medicine and surgery, or podiatric medicine and surgery; 1186

(2) A physician assistant licensed under Chapter 4730. of 1187
the Revised Code; 1188

(3) A dentist or dental hygienist licensed under Chapter 1189
4715. of the Revised Code; 1190

(4) A registered nurse licensed under Chapter 4723. of the 1191
Revised Code, including an advanced practice registered nurse, 1192

as defined in section 4723.01 of the Revised Code; 1193

(5) A licensed practical nurse licensed under Chapter 1194
4723. of the Revised Code; 1195

(6) An optometrist licensed under Chapter 4725. of the 1196
Revised Code; 1197

(7) A pharmacist or pharmacy intern licensed under Chapter 1198
4729. of the Revised Code; 1199

(8) A respiratory care professional or advanced practice 1200
respiratory therapist licensed under Chapter 4761. of the 1201
Revised Code; 1202

(9) An emergency medical technician-basic, emergency 1203
medical technician-intermediate, or emergency medical 1204
technician-paramedic who holds a certificate to practice issued 1205
under Chapter 4765. of the Revised Code; 1206

(10) A veterinarian licensed under Chapter 4741. of the 1207
Revised Code; 1208

(11) A certified mental health assistant licensed under 1209
Chapter 4772. of the Revised Code. 1210

(C) In consultation with the executive director of the 1211
emergency management agency, the director of health shall 1212
develop one or more protocols that authorize employees of boards 1213
of health and registered volunteers to deliver or distribute 1214
drugs, other than schedule II and III controlled substances, 1215
during a period of time described in division (E) of this 1216
section, notwithstanding any statute or rule that otherwise 1217
prohibits or restricts the delivery or distribution of drugs by 1218
those individuals. 1219

(D) In consultation with the state board of pharmacy, the 1220

director of health shall develop one or more protocols that 1221
authorize pharmacists and pharmacy interns to dispense, during a 1222
period of time described in division (E) of this section, 1223
limited quantities of dangerous drugs, other than schedule II 1224
and III controlled substances, without a written, oral, or 1225
electronic prescription from a licensed health professional 1226
authorized to prescribe drugs or without a record of a 1227
prescription, notwithstanding any statute or rule that otherwise 1228
prohibits or restricts the dispensing of drugs without a 1229
prescription or record of a prescription. 1230

(E) On the governor's declaration of an emergency that 1231
affects the public health, the director of health may issue an 1232
order to implement one or more of the protocols developed 1233
pursuant to division (B), (C), or (D) of this section. At a 1234
minimum, the director's order shall identify the one or more 1235
protocols to be implemented and the period of time during which 1236
the one or more protocols are to be effective. 1237

(F) (1) An individual who administers, delivers, 1238
distributes, or dispenses a drug or dangerous drug in accordance 1239
with one or more of the protocols implemented under division (E) 1240
of this section is not liable for damages in any civil action 1241
unless the individual's acts or omissions in performing those 1242
activities constitute willful or wanton misconduct. 1243

(2) An individual who administers, delivers, distributes, 1244
or dispenses a drug or dangerous drug in accordance with one or 1245
more of the protocols implemented under division (E) of this 1246
section is not subject to criminal prosecution or professional 1247
disciplinary action under any chapter in Title XLVII of the 1248
Revised Code. 1249

Sec. 3701.74. (A) As used in this section and section 1250

3701.741 of the Revised Code: 1251

(1) "Ambulatory care facility" means a facility that 1252
provides medical, diagnostic, or surgical treatment to patients 1253
who do not require hospitalization, including a dialysis center, 1254
ambulatory surgical facility, cardiac catheterization facility, 1255
diagnostic imaging center, extracorporeal shock wave lithotripsy 1256
center, home health agency, inpatient hospice, birthing center, 1257
radiation therapy center, emergency facility, and an urgent care 1258
center. "Ambulatory care facility" does not include the private 1259
office of a physician, advanced practice registered nurse, or 1260
dentist, whether the office is for an individual or group 1261
practice. 1262

(2) "Chiropractor" means an individual licensed under 1263
Chapter 4734. of the Revised Code to practice chiropractic. 1264

(3) "Emergency facility" means a hospital emergency 1265
department or any other facility that provides emergency medical 1266
services. 1267

(4) "Health care practitioner" means all of the following: 1268

(a) A dentist or dental hygienist licensed under Chapter 1269
4715. of the Revised Code; 1270

(b) A registered nurse licensed under Chapter 4723. of the 1271
Revised Code, including an advanced practice registered nurse, 1272
or a licensed practical nurse licensed under that chapter; 1273

(c) An optometrist licensed under Chapter 4725. of the 1274
Revised Code; 1275

(d) A dispensing optician, whether a spectacle dispensing 1276
optician, or spectacle-contact lens dispensing optician, 1277
licensed under Chapter 4725. of the Revised Code; 1278

(e) A pharmacist licensed under Chapter 4729. of the	1279
Revised Code;	1280
(f) A physician;	1281
(g) A physician assistant authorized under Chapter 4730.	1282
of the Revised Code to practice as a physician assistant;	1283
(h) A practitioner of a limited branch of medicine issued	1284
a license or certificate under Chapter 4731. of the Revised	1285
Code;	1286
(i) A psychologist licensed under Chapter 4732. of the	1287
Revised Code;	1288
(j) A chiropractor;	1289
(k) A hearing aid dealer or fitter licensed under Chapter	1290
4747. of the Revised Code;	1291
(l) A speech-language pathologist or audiologist licensed	1292
under Chapter 4753. of the Revised Code;	1293
(m) An occupational therapist or occupational therapy	1294
assistant licensed under Chapter 4755. of the Revised Code;	1295
(n) A physical therapist or physical therapy assistant	1296
licensed under Chapter 4755. of the Revised Code;	1297
(o) A licensed professional clinical counselor, licensed	1298
professional counselor, social worker, independent social	1299
worker, independent marriage and family therapist, or marriage	1300
and family therapist licensed, or a social work assistant	1301
registered, under Chapter 4757. of the Revised Code;	1302
(p) A dietitian licensed under Chapter 4759. of the	1303
Revised Code;	1304
(q) A respiratory care professional <u>or advanced practice</u>	1305

respiratory therapist licensed under Chapter 4761. of the 1306
Revised Code; 1307

(r) An emergency medical technician-basic, emergency 1308
medical technician-intermediate, or emergency medical 1309
technician-paramedic certified under Chapter 4765. of the 1310
Revised Code; 1311

(s) A certified mental health assistant licensed under 1312
Chapter 4772. of the Revised Code. 1313

(5) "Health care provider" means a hospital, ambulatory 1314
care facility, long-term care facility, pharmacy, emergency 1315
facility, or health care practitioner. 1316

(6) "Hospital" has the same meaning as in section 3727.01 1317
of the Revised Code. 1318

(7) "Long-term care facility" means a nursing home, 1319
residential care facility, or home for the aging, as those terms 1320
are defined in section 3721.01 of the Revised Code; a 1321
residential facility licensed under section 5119.34 of the 1322
Revised Code that provides accommodations, supervision, and 1323
personal care services for three to sixteen unrelated adults; a 1324
nursing facility, as defined in section 5165.01 of the Revised 1325
Code; a skilled nursing facility, as defined in section 5165.01 1326
of the Revised Code; and an intermediate care facility for 1327
individuals with intellectual disabilities, as defined in 1328
section 5124.01 of the Revised Code. 1329

(8) "Medical record" means data in any form that pertains 1330
to a patient's medical history, diagnosis, prognosis, or medical 1331
condition and that is generated and maintained by a health care 1332
provider in the process of the patient's health care treatment. 1333

(9) "Medical records company" means a person who stores, 1334

locates, or copies medical records for a health care provider, 1335
or is compensated for doing so by a health care provider, and 1336
charges a fee for providing medical records to a patient or 1337
patient's representative. 1338

(10) "Patient" means either of the following: 1339

(a) An individual who received health care treatment from 1340
a health care provider; 1341

(b) A guardian, as defined in section 1337.11 of the 1342
Revised Code, of an individual described in division (A) (10) (a) 1343
of this section. 1344

(11) "Patient's personal representative" means a minor 1345
patient's parent or other person acting in loco parentis, a 1346
court-appointed guardian, or a person with durable power of 1347
attorney for health care for a patient, the executor or 1348
administrator of the patient's estate, or the person responsible 1349
for the patient's estate if it is not to be probated. "Patient's 1350
personal representative" does not include an insurer authorized 1351
under Title XXXIX of the Revised Code to do the business of 1352
sickness and accident insurance in this state, a health insuring 1353
corporation holding a certificate of authority under Chapter 1354
1751. of the Revised Code, or any other person not named in this 1355
division. 1356

(12) "Pharmacy" has the same meaning as in section 4729.01 1357
of the Revised Code. 1358

(13) "Physician" means a person authorized under Chapter 1359
4731. of the Revised Code to practice medicine and surgery, 1360
osteopathic medicine and surgery, or podiatric medicine and 1361
surgery. 1362

(14) "Authorized person" means a person to whom a patient 1363

has given written authorization to act on the patient's behalf 1364
regarding the patient's medical record. 1365

(15) "Advanced practice registered nurse" has the same 1366
meaning as in section 4723.01 of the Revised Code. 1367

(B) A patient, a patient's personal representative, or an 1368
authorized person who wishes to examine or obtain a copy of part 1369
or all of a medical record shall submit to the health care 1370
provider a written request signed by the patient, personal 1371
representative, or authorized person dated not more than one 1372
year before the date on which it is submitted. The request shall 1373
indicate whether the copy is to be sent to the requestor, sent 1374
to a physician, advanced practice registered nurse, or 1375
chiropractor, or held for the requestor at the office of the 1376
health care provider. Within a reasonable time after receiving a 1377
request that meets the requirements of this division and 1378
includes sufficient information to identify the record 1379
requested, a health care provider that has the patient's medical 1380
records shall permit the patient to examine the record during 1381
regular business hours without charge or, on request, shall 1382
provide a copy of the record in accordance with section 3701.741 1383
of the Revised Code, except that if a physician, advanced 1384
practice registered nurse, psychologist, licensed professional 1385
clinical counselor, licensed professional counselor, independent 1386
social worker, social worker, independent marriage and family 1387
therapist, marriage and family therapist, or chiropractor who 1388
has treated the patient determines for clearly stated treatment 1389
reasons that disclosure of the requested record is likely to 1390
have an adverse effect on the patient, the health care provider 1391
shall provide the record to a physician, advanced practice 1392
registered nurse, psychologist, licensed professional clinical 1393
counselor, licensed professional counselor, independent social 1394

worker, social worker, independent marriage and family 1395
therapist, marriage and family therapist, or chiropractor 1396
designated by the patient. The health care provider shall take 1397
reasonable steps to establish the identity of the person making 1398
the request to examine or obtain a copy of the patient's record. 1399

(C) If a health care provider fails to furnish a medical 1400
record as required by division (B) of this section, the patient, 1401
personal representative, or authorized person who requested the 1402
record may bring a civil action to enforce the patient's right 1403
of access to the record. 1404

(D) (1) This section does not apply to medical records 1405
whose release is covered by section 173.20 or 3721.13 of the 1406
Revised Code, by Chapter 1347., 5119., or 5122. of the Revised 1407
Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug 1408
Abuse Patient Records," or by 42 C.F.R. 483.10. 1409

(2) Nothing in this section is intended to supersede the 1410
confidentiality provisions of sections 2305.24, 2305.25, 1411
2305.251, and 2305.252 of the Revised Code. 1412

Sec. 3715.872. (A) As used in this section, "health care 1413
professional" means any of the following who provide medical, 1414
dental, or other health-related diagnosis, care, or treatment: 1415

(1) Individuals authorized under Chapter 4731. of the 1416
Revised Code to practice medicine and surgery, osteopathic 1417
medicine and surgery, or podiatric medicine and surgery; 1418

(2) Registered nurses licensed under Chapter 4723. of the 1419
Revised Code, including advanced practice registered nurses, and 1420
licensed practical nurses licensed under that chapter; 1421

(3) Physician assistants licensed under Chapter 4730. of 1422
the Revised Code; 1423

(4) Dentists and dental hygienists licensed under Chapter	1424
4715. of the Revised Code;	1425
(5) Optometrists licensed under Chapter 4725. of the	1426
Revised Code;	1427
(6) Pharmacists licensed under Chapter 4729. of the	1428
Revised Code;	1429
(7) Certified mental health assistants licensed under	1430
Chapter 4772. of the Revised Code;	1431
<u>(8) Advanced practice respiratory therapists licensed</u>	1432
<u>under Chapter 4761. of the Revised Code.</u>	1433
(B) For matters related to activities conducted under the	1434
drug repository program, all of the following apply:	1435
(1) A pharmacy, drug manufacturer, health care facility,	1436
or other person or government entity that donates or gives drugs	1437
to the program, and any person or government entity that	1438
facilitates the donation or gift, shall not be subject to	1439
liability in tort or other civil action for injury, death, or	1440
loss to person or property.	1441
(2) A pharmacy, hospital, or nonprofit clinic that accepts	1442
or distributes drugs under the program shall not be subject to	1443
liability in tort or other civil action for injury, death, or	1444
loss to person or property, unless an action or omission of the	1445
pharmacy, hospital, or nonprofit clinic constitutes willful and	1446
wanton misconduct.	1447
(3) A health care professional who accepts, dispenses, or	1448
personally furnishes drugs under the program on behalf of a	1449
pharmacy, hospital, or nonprofit clinic participating in the	1450
program, and the pharmacy, hospital, or nonprofit clinic that	1451

employs or otherwise uses the services of the health care 1452
professional, shall not be subject to liability in tort or other 1453
civil action for injury, death, or loss to person or property, 1454
unless an action or omission of the health care professional, 1455
pharmacy, hospital, or nonprofit clinic constitutes willful and 1456
wanton misconduct. 1457

(4) The state board of pharmacy shall not be subject to 1458
liability in tort or other civil action for injury, death, or 1459
loss to person or property, unless an action or omission of the 1460
board constitutes willful and wanton misconduct. 1461

(5) In addition to the civil immunity granted under 1462
division (B)(1) of this section, a pharmacy, drug manufacturer, 1463
health care facility, or other person or government entity that 1464
donates or gives drugs to the program, and any person or 1465
government entity that facilitates the donation or gift, shall 1466
not be subject to criminal prosecution for matters related to 1467
activities that it conducts or another party conducts under the 1468
program, unless an action or omission of the party that donates, 1469
gives, or facilitates the donation or gift of the drugs does not 1470
comply with the provisions of this chapter or the rules adopted 1471
under it. 1472

(6) In the case of a drug manufacturer, the immunities 1473
from civil liability and criminal prosecution granted to another 1474
party under divisions (B)(1) and (5) of this section extend to 1475
the manufacturer when any drug it manufactures is the subject of 1476
an activity conducted under the program. This extension of 1477
immunities includes, but is not limited to, immunity from 1478
liability or prosecution for failure to transfer or communicate 1479
product or consumer information or the expiration date of a drug 1480
that is donated or given. 1481

Sec. 3719.121. (A) Except as otherwise provided in section 1482
4723.28, 4723.35, 4730.25, 4731.22, 4734.39, 4734.41, 4761.09, 1483
or 4772.20 of the Revised Code, the license, certificate, or 1484
registration of any dentist, chiropractor, physician, 1485
podiatrist, registered nurse, advanced practice registered 1486
nurse, licensed practical nurse, physician assistant, advanced 1487
practice respiratory therapist, pharmacist, pharmacy intern, 1488
pharmacy technician trainee, registered pharmacy technician, 1489
certified pharmacy technician, optometrist, veterinarian, or 1490
certified mental health assistant who is or becomes addicted to 1491
the use of controlled substances shall be suspended by the board 1492
that authorized the person's license, certificate, or 1493
registration until the person offers satisfactory proof to the 1494
board that the person no longer is addicted to the use of 1495
controlled substances. 1496

(B) If the board under which a person has been issued a 1497
license, certificate, or evidence of registration determines 1498
that there is clear and convincing evidence that continuation of 1499
the person's professional practice or method of administering, 1500
prescribing, preparing, distributing, dispensing, or personally 1501
furnishing controlled substances or other dangerous drugs 1502
presents a danger of immediate and serious harm to others, the 1503
board may suspend the person's license, certificate, or 1504
registration without a hearing. Except as otherwise provided in 1505
sections 4715.30, 4723.281, 4729.16, 4730.25, 4731.22, 4734.36, 1506
4761.09, and 4772.20 of the Revised Code, the board shall follow 1507
the procedure for suspension without a prior hearing in section 1508
119.07 of the Revised Code. The suspension shall remain in 1509
effect, unless removed by the board, until the board's final 1510
adjudication order becomes effective, except that if the board 1511
does not issue its final adjudication order within ninety days 1512

after the hearing, the suspension shall be void on the ninety- 1513
first day after the hearing. 1514

(C) On receiving notification pursuant to section 2929.42 1515
or 3719.12 of the Revised Code, the board under which a person 1516
has been issued a license, certificate, or evidence of 1517
registration immediately shall suspend the license, certificate, 1518
or registration of that person on a plea of guilty to, a finding 1519
by a jury or court of the person's guilt of, or conviction of a 1520
felony drug abuse offense; a finding by a court of the person's 1521
eligibility for intervention in lieu of conviction; a plea of 1522
guilty to, or a finding by a jury or court of the person's guilt 1523
of, or the person's conviction of an offense in another 1524
jurisdiction that is essentially the same as a felony drug abuse 1525
offense; or a finding by a court of the person's eligibility for 1526
treatment or intervention in lieu of conviction in another 1527
jurisdiction. The board shall notify the holder of the license, 1528
certificate, or registration of the suspension, which shall 1529
remain in effect until the board holds an adjudicatory hearing 1530
under Chapter 119. of the Revised Code. 1531

Sec. 3719.13. Prescriptions, orders, and records, required 1532
by Chapter 3719. of the Revised Code, and stocks of dangerous 1533
drugs and controlled substances, shall be open for inspection 1534
only to federal, state, county, and municipal officers, and 1535
employees of the state board of pharmacy whose duty it is to 1536
enforce the laws of this state or of the United States relating 1537
to controlled substances. Such prescriptions, orders, records, 1538
and stocks shall be open for inspection by employees of the 1539
state medical board for purposes of enforcing Chapters 4730., 1540
4731., 4761., and 4772. of the Revised Code, employees of the 1541
board of nursing for purposes of enforcing Chapter 4723. of the 1542
Revised Code, and employees of the department of ~~mental health~~ 1543

~~and addiction services~~ behavioral health for purposes of section 1544
5119.37 of the Revised Code. No person having knowledge of any 1545
such prescription, order, or record shall divulge such 1546
knowledge, except in connection with a prosecution or proceeding 1547
in court or before a licensing or registration board or officer, 1548
to which prosecution or proceeding the person to whom such 1549
prescriptions, orders, or records relate is a party. 1550

Sec. 3719.81. (A) As used in this section, "sample drug" 1551
has the same meaning as in section 2925.01 of the Revised Code. 1552

(B) A person may furnish another a sample drug, if all of 1553
the following apply: 1554

(1) The sample drug is furnished free of charge by a 1555
manufacturer, manufacturer's representative, or wholesale dealer 1556
in pharmaceuticals to a licensed health professional authorized 1557
to prescribe drugs, other than an advanced practice respiratory 1558
therapist, or is furnished free of charge by ~~such a professional~~ 1559
the prescriber who received the sample drug to a patient for use 1560
as medication; 1561

(2) The sample drug is in the original container in which 1562
it was placed by the manufacturer, and the container is plainly 1563
marked as a sample; 1564

(3) Prior to its being furnished, the sample drug has been 1565
stored under the proper conditions to prevent its deterioration 1566
or contamination; 1567

(4) If the sample drug is of a type which deteriorates 1568
with time, the sample container is plainly marked with the date 1569
beyond which the sample drug is unsafe to use, and the date has 1570
not expired on the sample furnished. Compliance with the 1571
labeling requirements of the "Federal Food, Drug, and Cosmetic 1572

Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, shall 1573
be deemed compliance with this section. 1574

(5) The sample drug is distributed, stored, or discarded 1575
in such a way that the sample drug may not be acquired or used 1576
by any unauthorized person, or by any person, including a child, 1577
for whom it may present a health or safety hazard. 1578

(C) Division (B) of this section does not do any of the 1579
following: 1580

(1) Apply to or restrict the furnishing of any sample of a 1581
nonnarcotic substance if the substance may, under the "Federal 1582
Food, Drug, and Cosmetic Act" and under the laws of this state, 1583
otherwise be lawfully sold over the counter without a 1584
prescription; 1585

(2) Authorize a ~~licensed health professional authorized to~~ 1586
~~prescribe drugs~~ prescriber who is a clinical nurse specialist, 1587
certified nurse-midwife, certified nurse practitioner, 1588
optometrist, physician assistant, or certified mental health 1589
assistant to furnish a sample drug that is not a drug the 1590
~~professional~~ prescriber is authorized to prescribe. 1591

(3) Prohibit a ~~licensed health professional authorized to~~ 1592
~~prescribe drugs~~ prescriber, manufacturer of dangerous drugs, 1593
wholesale distributor of dangerous drugs, or representative of a 1594
manufacturer of dangerous drugs from furnishing a sample drug to 1595
a charitable pharmacy in accordance with section 3719.811 of the 1596
Revised Code. 1597

(4) Prohibit a pharmacist working, whether or not for 1598
compensation, in a charitable pharmacy from dispensing a sample 1599
drug to a person in accordance with section 3719.811 of the 1600
Revised Code. 1601

(D) The state board of pharmacy shall, in accordance with 1602
Chapter 119. of the Revised Code, adopt rules as necessary to 1603
give effect to this section. 1604

Sec. 4729.01. As used in this chapter: 1605

(A) "Pharmacy," except when used in a context that refers 1606
to the practice of pharmacy, means any area, room, rooms, place 1607
of business, department, or portion of any of the foregoing 1608
where the practice of pharmacy is conducted. 1609

(B) "Practice of pharmacy" means providing pharmacist care 1610
requiring specialized knowledge, judgment, and skill derived 1611
from the principles of biological, chemical, behavioral, social, 1612
pharmaceutical, and clinical sciences. As used in this division, 1613
"pharmacist care" includes the following: 1614

(1) Interpreting prescriptions; 1615

(2) Dispensing drugs and drug therapy related devices; 1616

(3) Compounding drugs; 1617

(4) Counseling individuals with regard to their drug 1618
therapy, recommending drug therapy related devices, and 1619
assisting in the selection of drugs and appliances for treatment 1620
of common diseases and injuries and providing instruction in the 1621
proper use of the drugs and appliances; 1622

(5) Performing drug regimen reviews with individuals by 1623
discussing all of the drugs that the individual is taking and 1624
explaining the interactions of the drugs; 1625

(6) Performing drug utilization reviews with licensed 1626
health professionals authorized to prescribe drugs when the 1627
pharmacist determines that an individual with a prescription has 1628
a drug regimen that warrants additional discussion with the 1629

prescriber; 1630

(7) Advising an individual and the health care 1631
professionals treating an individual with regard to the 1632
individual's drug therapy; 1633

(8) Acting pursuant to a consult agreement, if an 1634
agreement has been established; 1635

(9) Engaging in the administration of immunizations to the 1636
extent authorized by section 4729.41 of the Revised Code; 1637

(10) Engaging in the administration of drugs to the extent 1638
authorized by section 4729.45 of the Revised Code. 1639

(C) "Compounding" means the preparation, mixing, 1640
assembling, packaging, and labeling of one or more drugs in any 1641
of the following circumstances: 1642

(1) Pursuant to a prescription issued by a licensed health 1643
professional authorized to prescribe drugs; 1644

(2) Pursuant to the modification of a prescription made in 1645
accordance with a consult agreement; 1646

(3) As an incident to research, teaching activities, or 1647
chemical analysis; 1648

(4) In anticipation of orders for drugs pursuant to 1649
prescriptions, based on routine, regularly observed dispensing 1650
patterns; 1651

(5) Pursuant to a request made by a licensed health 1652
professional authorized to prescribe drugs for a drug that is to 1653
be used by the professional for the purpose of direct 1654
administration to patients in the course of the professional's 1655
practice, if all of the following apply: 1656

(a) At the time the request is made, the drug is not 1657
commercially available regardless of the reason that the drug is 1658
not available, including the absence of a manufacturer for the 1659
drug or the lack of a readily available supply of the drug from 1660
a manufacturer. 1661

(b) A limited quantity of the drug is compounded and 1662
provided to the professional. 1663

(c) The drug is compounded and provided to the 1664
professional as an occasional exception to the normal practice 1665
of dispensing drugs pursuant to patient-specific prescriptions. 1666

(D) "Consult agreement" means an agreement that has been 1667
entered into under section 4729.39 of the Revised Code. 1668

(E) "Drug" means: 1669

(1) Any article recognized in the United States 1670
pharmacopoeia and national formulary, or any supplement to them, 1671
intended for use in the diagnosis, cure, mitigation, treatment, 1672
or prevention of disease in humans or animals; 1673

(2) Any other article intended for use in the diagnosis, 1674
cure, mitigation, treatment, or prevention of disease in humans 1675
or animals; 1676

(3) Any article, other than food, intended to affect the 1677
structure or any function of the body of humans or animals; 1678

(4) Any article intended for use as a component of any 1679
article specified in division (E) (1), (2), or (3) of this 1680
section; but does not include devices or their components, 1681
parts, or accessories. 1682

"Drug" does not include "hemp" or a "hemp product" as 1683
those terms are defined in section 928.01 of the Revised Code. 1684

- (F) "Dangerous drug" means any of the following: 1685
- (1) Any drug to which either of the following applies: 1686
- (a) Under the "Federal Food, Drug, and Cosmetic Act," 52 1687
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is 1688
required to bear a label containing the legend "Caution: Federal 1689
law prohibits dispensing without prescription" or "Caution: 1690
Federal law restricts this drug to use by or on the order of a 1691
licensed veterinarian" or any similar restrictive statement, or 1692
the drug may be dispensed only upon a prescription; 1693
- (b) Under Chapter 3715. or 3719. of the Revised Code, the 1694
drug may be dispensed only upon a prescription. 1695
- (2) Any drug that contains a schedule V controlled 1696
substance and that is exempt from Chapter 3719. of the Revised 1697
Code or to which that chapter does not apply; 1698
- (3) Any drug intended for administration by injection into 1699
the human body other than through a natural orifice of the human 1700
body; 1701
- (4) Any drug that is a biological product, as defined in 1702
section 3715.01 of the Revised Code. 1703
- (G) "Federal drug abuse control laws" has the same meaning 1704
as in section 3719.01 of the Revised Code. 1705
- (H) "Prescription" means all of the following: 1706
- (1) A written, electronic, or oral order for drugs or 1707
combinations or mixtures of drugs to be used by a particular 1708
individual or for treating a particular animal, issued by a 1709
licensed health professional authorized to prescribe drugs; 1710
- (2) For purposes of sections 4723.4810, 4729.282, 1711

4730.432, and 4731.93 of the Revised Code, a written, 1712
electronic, or oral order for a drug to treat chlamydia, 1713
gonorrhea, or trichomoniasis issued to and in the name of a 1714
patient who is not the intended user of the drug but is the 1715
sexual partner of the intended user; 1716

(3) For purposes of sections 3313.7110, 3313.7111, 1717
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 1718
4731.96, and 5180.26 of the Revised Code, a written, electronic, 1719
or oral order for an epinephrine autoinjector issued to and in 1720
the name of a school, school district, or camp; 1721

(4) For purposes of Chapter 3728. and sections 4723.483, 1722
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 1723
electronic, or oral order for an epinephrine autoinjector issued 1724
to and in the name of a qualified entity, as defined in section 1725
3728.01 of the Revised Code; 1726

(5) For purposes of sections 3313.7115, 3313.7116, 1727
3314.147, 3326.60, 3328.38, 4723.4811, 4730.437, 4731.92, and 1728
5180.262 of the Revised Code, a written, electronic, or oral 1729
order for injectable or nasally administered glucagon in the 1730
name of a school, school district, or camp. 1731

(I) "Licensed health professional authorized to prescribe 1732
drugs" or "prescriber" means an individual who is authorized by 1733
law to prescribe drugs or dangerous drugs or drug therapy 1734
related devices in the course of the individual's professional 1735
practice, including only the following: 1736

(1) A dentist licensed under Chapter 4715. of the Revised 1737
Code; 1738

(2) A clinical nurse specialist, certified nurse-midwife, 1739
or certified nurse practitioner who holds a current, valid 1740

license issued under Chapter 4723. of the Revised Code to 1741
practice nursing as an advanced practice registered nurse; 1742

(3) A certified registered nurse anesthetist who holds a 1743
current, valid license issued under Chapter 4723. of the Revised 1744
Code to practice nursing as an advanced practice registered 1745
nurse, but only to the extent of the nurse's authority under 1746
sections 4723.43 and 4723.434 of the Revised Code; 1747

(4) An optometrist licensed under Chapter 4725. of the 1748
Revised Code to practice optometry; 1749

(5) A physician authorized under Chapter 4731. of the 1750
Revised Code to practice medicine and surgery, osteopathic 1751
medicine and surgery, or podiatric medicine and surgery; 1752

(6) A physician assistant who holds a license to practice 1753
as a physician assistant issued under Chapter 4730. of the 1754
Revised Code, holds a valid prescriber number issued by the 1755
state medical board, and has been granted physician-delegated 1756
prescriptive authority; 1757

(7) A veterinarian licensed under Chapter 4741. of the 1758
Revised Code; 1759

(8) An advanced practice respiratory therapist who holds a 1760
license to practice as an advanced practice registered nurse 1761
issued under Chapter 4761. of the Revised Code and has been 1762
granted physician-delegated prescriptive authority; 1763

(9) A certified mental health assistant licensed under 1764
Chapter 4772. of the Revised Code who has been granted 1765
physician-delegated prescriptive authority by the physician 1766
supervising the certified mental health assistant. 1767

(J) "Sale" or "sell" includes any transaction made by any 1768

person, whether as principal proprietor, agent, or employee, to 1769
do or offer to do any of the following: deliver, distribute, 1770
broker, exchange, gift or otherwise give away, or transfer, 1771
whether the transfer is by passage of title, physical movement, 1772
or both. 1773

(K) "Wholesale sale" and "sale at wholesale" mean any sale 1774
in which the purpose of the purchaser is to resell the article 1775
purchased or received by the purchaser. 1776

(L) "Retail sale" and "sale at retail" mean any sale other 1777
than a wholesale sale or sale at wholesale. 1778

(M) "Retail seller" means any person that sells any 1779
dangerous drug to consumers without assuming control over and 1780
responsibility for its administration. Mere advice or 1781
instructions regarding administration do not constitute control 1782
or establish responsibility. 1783

(N) "Price information" means the price charged for a 1784
prescription for a particular drug product and, in an easily 1785
understandable manner, all of the following: 1786

(1) The proprietary name of the drug product; 1787

(2) The established (generic) name of the drug product; 1788

(3) The strength of the drug product if the product 1789
contains a single active ingredient or if the drug product 1790
contains more than one active ingredient and a relevant strength 1791
can be associated with the product without indicating each 1792
active ingredient. The established name and quantity of each 1793
active ingredient are required if such a relevant strength 1794
cannot be so associated with a drug product containing more than 1795
one ingredient. 1796

(4) The dosage form; 1797

(5) The price charged for a specific quantity of the drug 1798
product. The stated price shall include all charges to the 1799
consumer, including, but not limited to, the cost of the drug 1800
product, professional fees, handling fees, if any, and a 1801
statement identifying professional services routinely furnished 1802
by the pharmacy. Any mailing fees and delivery fees may be 1803
stated separately without repetition. The information shall not 1804
be false or misleading. 1805

(O) "Wholesale distributor of dangerous drugs" or 1806
"wholesale distributor" means a person engaged in the sale of 1807
dangerous drugs at wholesale and includes any agent or employee 1808
of such a person authorized by the person to engage in the sale 1809
of dangerous drugs at wholesale. 1810

(P) "Manufacturer of dangerous drugs" or "manufacturer" 1811
means a person, other than a pharmacist or prescriber, who 1812
manufactures dangerous drugs and who is engaged in the sale of 1813
those dangerous drugs. 1814

(Q) "Terminal distributor of dangerous drugs" or "terminal 1815
distributor" means a person who is engaged in the sale of 1816
dangerous drugs at retail, or any person, other than a 1817
manufacturer, repackager, outsourcing facility, third-party 1818
logistics provider, wholesale distributor, or pharmacist, who 1819
has possession, custody, or control of dangerous drugs for any 1820
purpose other than for that person's own use and consumption. 1821
"Terminal distributor" includes pharmacies, hospitals, nursing 1822
homes, and laboratories and all other persons who procure 1823
dangerous drugs for sale or other distribution by or under the 1824
supervision of a pharmacist, licensed health professional 1825
authorized to prescribe drugs, or other person authorized by the 1826

state board of pharmacy. 1827

(R) "Promote to the public" means disseminating a 1828
representation to the public in any manner or by any means, 1829
other than by labeling, for the purpose of inducing, or that is 1830
likely to induce, directly or indirectly, the purchase of a 1831
dangerous drug at retail. 1832

(S) "Person" includes any individual, partnership, 1833
association, limited liability company, or corporation, the 1834
state, any political subdivision of the state, and any district, 1835
department, or agency of the state or its political 1836
subdivisions. 1837

(T) (1) "Animal shelter" means a facility operated by a 1838
humane society or any society organized under Chapter 1717. of 1839
the Revised Code or a dog pound operated pursuant to Chapter 1840
955. of the Revised Code. 1841

(2) "County dog warden" means a dog warden or deputy dog 1842
warden appointed or employed under section 955.12 of the Revised 1843
Code. 1844

(U) "Food" has the same meaning as in section 3715.01 of 1845
the Revised Code. 1846

(V) "Pain management clinic" has the same meaning as in 1847
section 4731.054 of the Revised Code. 1848

(W) "Investigational drug or product" means a drug or 1849
product that has successfully completed phase one of the United 1850
States food and drug administration clinical trials and remains 1851
under clinical trial, but has not been approved for general use 1852
by the United States food and drug administration. 1853
"Investigational drug or product" does not include controlled 1854
substances in schedule I, as defined in section 3719.01 of the 1855

Revised Code. 1856

(X) "Product," when used in reference to an 1857
investigational drug or product, means a biological product, 1858
other than a drug, that is made from a natural human, animal, or 1859
microorganism source and is intended to treat a disease or 1860
medical condition. 1861

(Y) "Third-party logistics provider" means a person that 1862
provides or coordinates warehousing or other logistics services 1863
pertaining to dangerous drugs including distribution, on behalf 1864
of a manufacturer, wholesale distributor, or terminal 1865
distributor of dangerous drugs, but does not take ownership of 1866
the drugs or have responsibility to direct the sale or 1867
disposition of the drugs. 1868

(Z) "Repackager of dangerous drugs" or "repackager" means 1869
a person that repacks and relabels dangerous drugs for sale or 1870
distribution. 1871

(AA) "Outsourcing facility" means a facility that is 1872
engaged in the compounding and sale of sterile drugs and is 1873
registered as an outsourcing facility with the United States 1874
food and drug administration. 1875

(BB) "Laboratory" means a laboratory licensed under this 1876
chapter as a terminal distributor of dangerous drugs and 1877
entrusted to have custody of any of the following drugs and to 1878
use the drugs for scientific and clinical purposes and for 1879
purposes of instruction: dangerous drugs that are not controlled 1880
substances, as defined in section 3719.01 of the Revised Code; 1881
dangerous drugs that are controlled substances, as defined in 1882
that section; and controlled substances in schedule I, as 1883
defined in that section. 1884

(CC) "Overdose reversal drug" means both of the following: 1885

(1) Naloxone; 1886

(2) Any other drug that the state board of pharmacy, 1887
through rules adopted in accordance with Chapter 119. of the 1888
Revised Code, designates as a drug that is approved by the 1889
federal food and drug administration for the reversal of a known 1890
or suspected opioid-related overdose. 1891

Sec. 4729.51. (A) No person other than a licensed 1892
manufacturer of dangerous drugs, outsourcing facility, third- 1893
party logistics provider, repackager of dangerous drugs, or 1894
wholesale distributor of dangerous drugs shall possess for sale, 1895
sell, distribute, or deliver, at wholesale, dangerous drugs or 1896
investigational drugs or products, except as follows: 1897

(1) A licensed terminal distributor of dangerous drugs 1898
that is a pharmacy may make occasional sales of dangerous drugs 1899
or investigational drugs or products at wholesale. 1900

(2) A licensed terminal distributor of dangerous drugs 1901
having more than one licensed location may transfer or deliver 1902
dangerous drugs from one licensed location to another licensed 1903
location owned by the terminal distributor if the license issued 1904
for each location is in effect at the time of the transfer or 1905
delivery. 1906

(3) A licensed terminal distributor of dangerous drugs 1907
that is not a pharmacy may make occasional sales of the 1908
following at wholesale: 1909

(a) Overdose reversal drugs; 1910

(b) Dangerous drugs if the drugs being sold are in 1911
shortage, as defined in rules adopted under section 4729.26 of 1912

the Revised Code; 1913

(c) Dangerous drugs other than those described in 1914
divisions (A) (3) (a) and (b) of this section or investigational 1915
drugs or products if authorized by rules adopted under section 1916
4729.26 of the Revised Code. 1917

(B) No licensed manufacturer, outsourcing facility, third- 1918
party logistics provider, repackager, or wholesale distributor 1919
shall possess for sale, sell, or distribute, at wholesale, 1920
dangerous drugs or investigational drugs or products to any 1921
person other than the following: 1922

(1) Subject to division (D) of this section, a licensed 1923
terminal distributor of dangerous drugs; 1924

(2) Subject to division (C) of this section, any person 1925
exempt from licensure as a terminal distributor of dangerous 1926
drugs under section 4729.541 of the Revised Code; 1927

(3) A licensed manufacturer, outsourcing facility, third- 1928
party logistics provider, repackager, or wholesale distributor; 1929

(4) A terminal distributor, manufacturer, outsourcing 1930
facility, third-party logistics provider, repackager, or 1931
wholesale distributor that is located in another state, is not 1932
engaged in the sale of dangerous drugs within this state, and is 1933
actively licensed to engage in the sale of dangerous drugs by 1934
the state in which the distributor conducts business. 1935

(C) No licensed manufacturer, outsourcing facility, third- 1936
party logistics provider, repackager, or wholesale distributor 1937
shall possess for sale, sell, or distribute, at wholesale, 1938
dangerous drugs or investigational drugs or products to either 1939
of the following: 1940

(1) A prescriber who is employed by a pain management 1941
clinic that is not licensed as a terminal distributor of 1942
dangerous drugs with a pain management clinic classification 1943
issued under section 4729.552 of the Revised Code; 1944

(2) A business entity described in division (A) (2) or (3) 1945
of section 4729.541 of the Revised Code that is, or is 1946
operating, a pain management clinic without a license as a 1947
terminal distributor of dangerous drugs with a pain management 1948
clinic classification issued under section 4729.552 of the 1949
Revised Code. 1950

(D) No licensed manufacturer, outsourcing facility, third- 1951
party logistics provider, repackager, or wholesale distributor 1952
shall possess dangerous drugs or investigational drugs or 1953
products for sale at wholesale, or sell or distribute such drugs 1954
at wholesale, to a licensed terminal distributor of dangerous 1955
drugs, except as follows: 1956

(1) In the case of a terminal distributor with a category 1957
II license, only dangerous drugs in category II, as defined in 1958
division (A) (1) of section 4729.54 of the Revised Code; 1959

(2) In the case of a terminal distributor with a category 1960
III license, dangerous drugs in category II and category III, as 1961
defined in divisions (A) (1) and (2) of section 4729.54 of the 1962
Revised Code; 1963

(3) In the case of a terminal distributor with a limited 1964
category II or III license, only the dangerous drugs specified 1965
in the license. 1966

(E) (1) Except as provided in division (E) (2) of this 1967
section, no person shall do any of the following: 1968

(a) Sell or distribute, at retail, dangerous drugs; 1969

(b) Possess for sale, at retail, dangerous drugs;	1970
(c) Possess dangerous drugs.	1971
(2) (a) Divisions (E) (1) (a), (b), and (c) of this section	1972
do not apply to any of the following:	1973
(i) A licensed terminal distributor of dangerous drugs;	1974
(ii) A person who possesses, or possesses for sale or	1975
sells, at retail, a dangerous drug in accordance with Chapters	1976
3719., 4715., 4723., 4725., 4729., 4730., 4731., 4741., <u>4761.,</u>	1977
and 4772. of the Revised Code;	1978
(iii) Any of the persons identified in divisions (A) (1) to	1979
(5) and (18) (17) of section 4729.541 of the Revised Code, but	1980
only to the extent specified in that section.	1981
(b) Division (E) (1) (c) of this section does not apply to	1982
any of the following:	1983
(i) A licensed manufacturer, outsourcing facility, third-	1984
party logistics provider, repackager, or wholesale distributor;	1985
(ii) Any of the persons identified in divisions (A) (6) to	1986
(16) of section 4729.541 of the Revised Code, but only to the	1987
extent specified in that section.	1988
(F) No licensed terminal distributor of dangerous drugs or	1989
person that is exempt from licensure under section 4729.541 of	1990
the Revised Code shall purchase dangerous drugs or	1991
investigational drugs or products from any person other than a	1992
licensed manufacturer, outsourcing facility, third-party	1993
logistics provider, repackager, or wholesale distributor, except	1994
as follows:	1995
(1) A licensed terminal distributor of dangerous drugs or	1996

person that is exempt from licensure under section 4729.541 of 1997
the Revised Code may make occasional purchases of dangerous 1998
drugs or investigational drugs or products that are sold in 1999
accordance with division (A) (1) or (3) of this section. 2000

(2) A licensed terminal distributor of dangerous drugs 2001
having more than one licensed location may transfer or deliver 2002
dangerous drugs or investigational drugs or products from one 2003
licensed location to another licensed location if the license 2004
issued for each location is in effect at the time of the 2005
transfer or delivery. 2006

(G) No licensed terminal distributor of dangerous drugs 2007
shall engage in the retail sale or other distribution of 2008
dangerous drugs or investigational drugs or products or maintain 2009
possession, custody, or control of dangerous drugs or 2010
investigational drugs or products for any purpose other than the 2011
distributor's personal use or consumption, at any establishment 2012
or place other than that or those described in the license 2013
issued by the state board of pharmacy to such terminal 2014
distributor. 2015

(H) Nothing in this section shall be construed to 2016
interfere with the performance of official duties by any law 2017
enforcement official authorized by municipal, county, state, or 2018
federal law to collect samples of any drug, regardless of its 2019
nature or in whose possession it may be. 2020

(I) Notwithstanding anything to the contrary in this 2021
section, the board of education of a city, local, exempted 2022
village, or joint vocational school district may distribute 2023
epinephrine autoinjectors for use in accordance with section 2024
3313.7110 of the Revised Code, may distribute inhalers for use 2025
in accordance with section 3313.7113 of the Revised Code, and 2026

may distribute injectable or nasally administered glucagon for 2027
use in accordance with section 3313.7115 of the Revised Code. 2028

Sec. 4731.22. (A) The state medical board, by an 2029
affirmative vote of not fewer than six of its members, may 2030
limit, revoke, or suspend a license or certificate to practice 2031
or certificate to recommend, refuse to grant a license or 2032
certificate, refuse to renew a license or certificate, refuse to 2033
reinstate a license or certificate, or reprimand or place on 2034
probation the holder of a license or certificate if the 2035
individual applying for or holding the license or certificate is 2036
found by the board to have committed fraud during the 2037
administration of the examination for a license or certificate 2038
to practice or to have committed fraud, misrepresentation, or 2039
deception in applying for, renewing, or securing any license or 2040
certificate to practice or certificate to recommend issued by 2041
the board. 2042

(B) Except as provided in division (P) of this section, 2043
the board, by an affirmative vote of not fewer than six members, 2044
shall, to the extent permitted by law, limit, revoke, or suspend 2045
a license or certificate to practice or certificate to 2046
recommend, refuse to issue a license or certificate, refuse to 2047
renew a license or certificate, refuse to reinstate a license or 2048
certificate, or reprimand or place on probation the holder of a 2049
license or certificate for one or more of the following reasons: 2050

(1) Permitting one's name or one's license or certificate 2051
to practice to be used by a person, group, or corporation when 2052
the individual concerned is not actually directing the treatment 2053
given; 2054

(2) Failure to maintain minimal standards applicable to 2055
the selection or administration of drugs, or failure to employ 2056

acceptable scientific methods in the selection of drugs or other 2057
modalities for treatment of disease; 2058

(3) Except as provided in section 4731.97 of the Revised 2059
Code, selling, giving away, personally furnishing, prescribing, 2060
or administering drugs for other than legal and legitimate 2061
therapeutic purposes or a plea of guilty to, a judicial finding 2062
of guilt of, or a judicial finding of eligibility for 2063
intervention in lieu of conviction of, a violation of any 2064
federal or state law regulating the possession, distribution, or 2065
use of any drug; 2066

(4) Willfully betraying a professional confidence. 2067

For purposes of this division, "willfully betraying a 2068
professional confidence" does not include providing any 2069
information, documents, or reports under sections 307.621 to 2070
307.629 of the Revised Code to a child fatality review board; 2071
does not include providing any information, documents, or 2072
reports under sections 307.631 to 307.6410 of the Revised Code 2073
to a drug overdose fatality review committee, a suicide fatality 2074
review committee, or hybrid drug overdose fatality and suicide 2075
fatality review committee; does not include providing any 2076
information, documents, or reports under sections 307.651 to 2077
307.659 of the Revised Code to a domestic violence fatality 2078
review board; does not include providing any information, 2079
documents, or reports to the director of health pursuant to 2080
guidelines established under section 3701.70 of the Revised 2081
Code; does not include written notice to a mental health 2082
professional under section 4731.62 of the Revised Code; does not 2083
include making a report as described in division (F) of section 2084
2921.22 and section 4731.224 of the Revised Code; and does not 2085
include the making of a report of an employee's use of a drug of 2086

abuse, or a report of a condition of an employee other than one 2087
involving the use of a drug of abuse, to the employer of the 2088
employee as described in division (B) of section 2305.33 of the 2089
Revised Code. Nothing in this division affects the immunity from 2090
civil liability conferred by section 2305.33 or 4731.62 of the 2091
Revised Code upon a physician who makes a report in accordance 2092
with section 2305.33 or notifies a mental health professional in 2093
accordance with section 4731.62 of the Revised Code. As used in 2094
this division, "employee," "employer," and "physician" have the 2095
same meanings as in section 2305.33 of the Revised Code. 2096

(5) Making a false, fraudulent, deceptive, or misleading 2097
statement in the solicitation of or advertising for patients; in 2098
relation to the practice of medicine and surgery, osteopathic 2099
medicine and surgery, podiatric medicine and surgery, or a 2100
limited branch of medicine; or in securing or attempting to 2101
secure any license or certificate to practice issued by the 2102
board. 2103

As used in this division, "false, fraudulent, deceptive, 2104
or misleading statement" means a statement that includes a 2105
misrepresentation of fact, is likely to mislead or deceive 2106
because of a failure to disclose material facts, is intended or 2107
is likely to create false or unjustified expectations of 2108
favorable results, or includes representations or implications 2109
that in reasonable probability will cause an ordinarily prudent 2110
person to misunderstand or be deceived. 2111

(6) A departure from, or the failure to conform to, 2112
minimal standards of care of similar practitioners under the 2113
same or similar circumstances, whether or not actual injury to a 2114
patient is established; 2115

(7) Representing, with the purpose of obtaining 2116

compensation or other advantage as personal gain or for any 2117
other person, that an incurable disease or injury, or other 2118
incurable condition, can be permanently cured; 2119

(8) The obtaining of, or attempting to obtain, money or 2120
anything of value by fraudulent misrepresentations in the course 2121
of practice; 2122

(9) A plea of guilty to, a judicial finding of guilt of, 2123
or a judicial finding of eligibility for intervention in lieu of 2124
conviction for, a felony; 2125

(10) Commission of an act that constitutes a felony in 2126
this state, regardless of the jurisdiction in which the act was 2127
committed; 2128

(11) A plea of guilty to, a judicial finding of guilt of, 2129
or a judicial finding of eligibility for intervention in lieu of 2130
conviction for, a misdemeanor committed in the course of 2131
practice; 2132

(12) Commission of an act in the course of practice that 2133
constitutes a misdemeanor in this state, regardless of the 2134
jurisdiction in which the act was committed; 2135

(13) A plea of guilty to, a judicial finding of guilt of, 2136
or a judicial finding of eligibility for intervention in lieu of 2137
conviction for, a misdemeanor involving moral turpitude; 2138

(14) Commission of an act involving moral turpitude that 2139
constitutes a misdemeanor in this state, regardless of the 2140
jurisdiction in which the act was committed; 2141

(15) Violation of the conditions of limitation placed by 2142
the board upon a license or certificate to practice; 2143

(16) Failure to pay license renewal fees specified in this 2144

chapter; 2145

(17) Except as authorized in section 4731.31 of the 2146
Revised Code, engaging in the division of fees for referral of 2147
patients, or the receiving of a thing of value in return for a 2148
specific referral of a patient to utilize a particular service 2149
or business; 2150

(18) Subject to section 4731.226 of the Revised Code, 2151
violation of any provision of a code of ethics of the American 2152
medical association, the American osteopathic association, the 2153
American podiatric medical association, or any other national 2154
professional organizations that the board specifies by rule. The 2155
state medical board shall obtain and keep on file current copies 2156
of the codes of ethics of the various national professional 2157
organizations. The individual whose license or certificate is 2158
being suspended or revoked shall not be found to have violated 2159
any provision of a code of ethics of an organization not 2160
appropriate to the individual's profession. 2161

For purposes of this division, a "provision of a code of 2162
ethics of a national professional organization" does not include 2163
any provision that would preclude the making of a report by a 2164
physician of an employee's use of a drug of abuse, or of a 2165
condition of an employee other than one involving the use of a 2166
drug of abuse, to the employer of the employee as described in 2167
division (B) of section 2305.33 of the Revised Code. Nothing in 2168
this division affects the immunity from civil liability 2169
conferred by that section upon a physician who makes either type 2170
of report in accordance with division (B) of that section. As 2171
used in this division, "employee," "employer," and "physician" 2172
have the same meanings as in section 2305.33 of the Revised 2173
Code. 2174

(19) Inability to practice according to acceptable and 2175
prevailing standards of care by reason of mental illness or 2176
physical illness, including, but not limited to, physical 2177
deterioration that adversely affects cognitive, motor, or 2178
perceptive skills. 2179

In enforcing this division, the board, upon a showing of a 2180
possible violation, shall refer any individual who is authorized 2181
to practice by this chapter or who has submitted an application 2182
pursuant to this chapter to the monitoring organization that 2183
conducts the confidential monitoring program established under 2184
section 4731.25 of the Revised Code. The board also may compel 2185
the individual to submit to a mental examination, physical 2186
examination, including an HIV test, or both a mental and a 2187
physical examination. The expense of the examination is the 2188
responsibility of the individual compelled to be examined. 2189
Failure to submit to a mental or physical examination or consent 2190
to an HIV test ordered by the board constitutes an admission of 2191
the allegations against the individual unless the failure is due 2192
to circumstances beyond the individual's control, and a default 2193
and final order may be entered without the taking of testimony 2194
or presentation of evidence. If the board finds an individual 2195
unable to practice because of the reasons set forth in this 2196
division, the board shall require the individual to submit to 2197
care, counseling, or treatment by physicians approved or 2198
designated by the board, as a condition for initial, continued, 2199
reinstated, or renewed authority to practice. An individual 2200
affected under this division shall be afforded an opportunity to 2201
demonstrate to the board the ability to resume practice in 2202
compliance with acceptable and prevailing standards under the 2203
provisions of the individual's license or certificate. For the 2204
purpose of this division, any individual who applies for or 2205

receives a license or certificate to practice under this chapter 2206
accepts the privilege of practicing in this state and, by so 2207
doing, shall be deemed to have given consent to submit to a 2208
mental or physical examination when directed to do so in writing 2209
by the board, and to have waived all objections to the 2210
admissibility of testimony or examination reports that 2211
constitute a privileged communication. 2212

(20) Except as provided in division (F) (1) (b) of section 2213
4731.282 of the Revised Code or when civil penalties are imposed 2214
under section 4731.225 of the Revised Code, and subject to 2215
section 4731.226 of the Revised Code, violating or attempting to 2216
violate, directly or indirectly, or assisting in or abetting the 2217
violation of, or conspiring to violate, any provisions of this 2218
chapter or any rule promulgated by the board. 2219

This division does not apply to a violation or attempted 2220
violation of, assisting in or abetting the violation of, or a 2221
conspiracy to violate, any provision of this chapter or any rule 2222
adopted by the board that would preclude the making of a report 2223
by a physician of an employee's use of a drug of abuse, or of a 2224
condition of an employee other than one involving the use of a 2225
drug of abuse, to the employer of the employee as described in 2226
division (B) of section 2305.33 of the Revised Code. Nothing in 2227
this division affects the immunity from civil liability 2228
conferred by that section upon a physician who makes either type 2229
of report in accordance with division (B) of that section. As 2230
used in this division, "employee," "employer," and "physician" 2231
have the same meanings as in section 2305.33 of the Revised 2232
Code. 2233

(21) The violation of section 3701.79 of the Revised Code 2234
or of any abortion rule adopted by the director of health 2235

pursuant to section 3701.341 of the Revised Code; 2236

(22) Any of the following actions taken by an agency 2237
responsible for authorizing, certifying, or regulating an 2238
individual to practice a health care occupation or provide 2239
health care services in this state or another jurisdiction, for 2240
any reason other than the nonpayment of fees: the limitation, 2241
revocation, or suspension of an individual's license to 2242
practice; acceptance of an individual's license surrender; 2243
denial of a license; refusal to renew or reinstate a license; 2244
imposition of probation; or issuance of an order of censure or 2245
other reprimand; 2246

(23) The violation of section 2919.12 of the Revised Code 2247
or the performance or inducement of an abortion upon a pregnant 2248
woman with actual knowledge that the conditions specified in 2249
division (B) of section 2317.56 of the Revised Code have not 2250
been satisfied or with a heedless indifference as to whether 2251
those conditions have been satisfied, unless an affirmative 2252
defense as specified in division (H)(2) of that section would 2253
apply in a civil action authorized by division (H)(1) of that 2254
section; 2255

(24) The revocation, suspension, restriction, reduction, 2256
or termination of clinical privileges by the United States 2257
department of defense or department of veterans affairs or the 2258
termination or suspension of a certificate of registration to 2259
prescribe drugs by the drug enforcement administration of the 2260
United States department of justice; 2261

(25) Termination or suspension from participation in the 2262
medicare or medicaid programs by the department of health and 2263
human services or other responsible agency; 2264

(26) Impairment of ability to practice according to 2265
acceptable and prevailing standards of care because of substance 2266
use disorder or excessive use or abuse of drugs, alcohol, or 2267
other substances that may impair ability to practice. 2268

For the purposes of this division, any individual 2269
authorized to practice by this chapter accepts the privilege of 2270
practicing in this state subject to supervision by the board. By 2271
filing an application for or holding a license or certificate to 2272
practice under this chapter, an individual shall be deemed to 2273
have given consent to submit to a mental or physical examination 2274
when ordered to do so by the board in writing, and to have 2275
waived all objections to the admissibility of testimony or 2276
examination reports that constitute privileged communications. 2277

If it has reason to believe that any individual authorized 2278
to practice by this chapter or any applicant for licensure or 2279
certification to practice suffers such impairment, the board 2280
shall refer the individual to the monitoring organization that 2281
conducts the confidential monitoring program established under 2282
section 4731.25 of the Revised Code. The board also may compel 2283
the individual to submit to a mental or physical examination, or 2284
both. The expense of the examination is the responsibility of 2285
the individual compelled to be examined. Any mental or physical 2286
examination required under this division shall be undertaken by 2287
a treatment provider or physician who is qualified to conduct 2288
the examination and who is approved under section 4731.251 of 2289
the Revised Code. 2290

Failure to submit to a mental or physical examination 2291
ordered by the board constitutes an admission of the allegations 2292
against the individual unless the failure is due to 2293
circumstances beyond the individual's control, and a default and 2294

final order may be entered without the taking of testimony or 2295
presentation of evidence. If the board determines that the 2296
individual's ability to practice is impaired, the board shall 2297
suspend the individual's license or certificate or deny the 2298
individual's application and shall require the individual, as a 2299
condition for initial, continued, reinstated, or renewed 2300
licensure or certification to practice, to submit to treatment. 2301

Before being eligible to apply for reinstatement of a 2302
license or certificate suspended under this division, the 2303
impaired practitioner shall demonstrate to the board the ability 2304
to resume practice in compliance with acceptable and prevailing 2305
standards of care under the provisions of the practitioner's 2306
license or certificate. The demonstration shall include, but 2307
shall not be limited to, the following: 2308

(a) Certification from a treatment provider approved under 2309
section 4731.251 of the Revised Code that the individual has 2310
successfully completed any required inpatient treatment; 2311

(b) Evidence of continuing full compliance with an 2312
aftercare contract or consent agreement; 2313

(c) Two written reports indicating that the individual's 2314
ability to practice has been assessed and that the individual 2315
has been found capable of practicing according to acceptable and 2316
prevailing standards of care. The reports shall be made by 2317
individuals or providers approved by the board for making the 2318
assessments and shall describe the basis for their 2319
determination. 2320

The board may reinstate a license or certificate suspended 2321
under this division after that demonstration and after the 2322
individual has entered into a written consent agreement. 2323

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 2353
notice in the patient's medical record; 2354

(31) Failure of a physician supervising a physician 2355
assistant to maintain supervision in accordance with the 2356
requirements of Chapter 4730. of the Revised Code and the rules 2357
adopted under that chapter; 2358

(32) Failure of a physician or podiatrist to enter into a 2359
standard care arrangement with a clinical nurse specialist, 2360
certified nurse-midwife, or certified nurse practitioner with 2361
whom the physician or podiatrist is in collaboration pursuant to 2362
section 4731.27 of the Revised Code or failure to fulfill the 2363
responsibilities of collaboration after entering into a standard 2364
care arrangement; 2365

(33) Failure to comply with the terms of a consult 2366
agreement entered into with a pharmacist pursuant to section 2367
4729.39 of the Revised Code; 2368

(34) Failure to cooperate in an investigation conducted by 2369
the board under division (F) of this section, including failure 2370
to comply with a subpoena or order issued by the board or 2371
failure to answer truthfully a question presented by the board 2372
in an investigative interview, an investigative office 2373
conference, at a deposition, or in written interrogatories, 2374
except that failure to cooperate with an investigation shall not 2375
constitute grounds for discipline under this section if a court 2376
of competent jurisdiction has issued an order that either 2377
quashes a subpoena or permits the individual to withhold the 2378
testimony or evidence in issue; 2379

(35) Failure to supervise an anesthesiologist assistant in 2380
accordance with Chapter 4760. of the Revised Code and the 2381

board's rules for supervision of an anesthesiologist assistant;	2382
(36) Assisting suicide, as defined in section 3795.01 of	2383
the Revised Code;	2384
(37) Failure to comply with the requirements of section	2385
2317.561 of the Revised Code;	2386
(38) Failure to supervise a radiologist assistant in	2387
accordance with Chapter 4774. of the Revised Code and the	2388
board's rules for supervision of radiologist assistants;	2389
(39) Performing or inducing an abortion at an office or	2390
facility with knowledge that the office or facility fails to	2391
post the notice required under section 3701.791 of the Revised	2392
Code;	2393
(40) Failure to comply with the standards and procedures	2394
established in rules under section 4731.054 of the Revised Code	2395
for the operation of or the provision of care at a pain	2396
management clinic;	2397
(41) Failure to comply with the standards and procedures	2398
established in rules under section 4731.054 of the Revised Code	2399
for providing supervision, direction, and control of individuals	2400
at a pain management clinic;	2401
(42) Failure to comply with the requirements of section	2402
4729.79 or 4731.055 of the Revised Code, unless the state board	2403
of pharmacy no longer maintains a drug database pursuant to	2404
section 4729.75 of the Revised Code;	2405
(43) Failure to comply with the requirements of section	2406
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	2407
to submit to the department of health in accordance with a court	2408
order a complete report as described in section 2919.171 or	2409

2919.202 of the Revised Code; 2410

(44) Practicing at a facility that is subject to licensure 2411
as a category III terminal distributor of dangerous drugs with a 2412
pain management clinic classification unless the person 2413
operating the facility has obtained and maintains the license 2414
with the classification; 2415

(45) Owning a facility that is subject to licensure as a 2416
category III terminal distributor of dangerous drugs with a pain 2417
management clinic classification unless the facility is licensed 2418
with the classification; 2419

(46) Failure to comply with any of the requirements 2420
regarding making or maintaining medical records or documents 2421
described in division (A) of section 2919.192, division (C) of 2422
section 2919.193, division (B) of section 2919.195, or division 2423
(A) of section 2919.196 of the Revised Code; 2424

(47) Failure to comply with the requirements in section 2425
3719.061 of the Revised Code before issuing for a minor a 2426
prescription for an opioid analgesic, as defined in section 2427
3719.01 of the Revised Code; 2428

(48) Failure to comply with the requirements of section 2429
4731.30 of the Revised Code or rules adopted under section 2430
4731.301 of the Revised Code when recommending treatment with 2431
medical marijuana; 2432

(49) A pattern of continuous or repeated violations of 2433
division (E) (2) or (3) of section 3963.02 of the Revised Code; 2434

(50) Failure to fulfill the responsibilities of a 2435
collaboration agreement entered into with an athletic trainer as 2436
described in section 4755.621 of the Revised Code; 2437

(51) Failure to take the steps specified in section 2438
4731.911 of the Revised Code following an abortion or attempted 2439
abortion in an ambulatory surgical facility or other location 2440
that is not a hospital when a child is born alive; 2441

(52) Violation of section 4731.77 of the Revised Code; 2442

(53) Failure of a physician supervising a certified mental 2443
health assistant to maintain supervision in accordance with the 2444
requirements of Chapter 4772. of the Revised Code and the rules 2445
adopted under that chapter; 2446

(54) Failure to comply with the requirements of section 2447
3705.16 of the Revised Code when certifying a decedent's cause 2448
of death and completing and signing the medical certificate of 2449
death; 2450

(55) Failure of a physician supervising an advanced 2451
practice respiratory therapist to maintain supervision in 2452
accordance with the requirements of Chapter 4761. of the Revised 2453
Code and rules adopted under that chapter. 2454

(C) Disciplinary actions taken by the board under 2455
divisions (A) and (B) of this section shall be taken pursuant to 2456
an adjudication under Chapter 119. of the Revised Code, except 2457
that in lieu of an adjudication, the board may enter into a 2458
consent agreement with an individual to resolve an allegation of 2459
a violation of this chapter or any rule adopted under it. A 2460
consent agreement, when ratified by an affirmative vote of not 2461
fewer than six members of the board, shall constitute the 2462
findings and order of the board with respect to the matter 2463
addressed in the agreement. If the board refuses to ratify a 2464
consent agreement, the admissions and findings contained in the 2465
consent agreement shall be of no force or effect. 2466

A telephone conference call may be utilized for 2467
ratification of a consent agreement that revokes or suspends an 2468
individual's license or certificate to practice or certificate 2469
to recommend. The telephone conference call shall be considered 2470
a special meeting under division (F) of section 121.22 of the 2471
Revised Code. 2472

If the board takes disciplinary action against an 2473
individual under division (B) of this section for a second or 2474
subsequent plea of guilty to, or judicial finding of guilt of, a 2475
violation of section 2919.123 or 2919.124 of the Revised Code, 2476
the disciplinary action shall consist of a suspension of the 2477
individual's license or certificate to practice for a period of 2478
at least one year or, if determined appropriate by the board, a 2479
more serious sanction involving the individual's license or 2480
certificate to practice. Any consent agreement entered into 2481
under this division with an individual that pertains to a second 2482
or subsequent plea of guilty to, or judicial finding of guilt 2483
of, a violation of that section shall provide for a suspension 2484
of the individual's license or certificate to practice for a 2485
period of at least one year or, if determined appropriate by the 2486
board, a more serious sanction involving the individual's 2487
license or certificate to practice. 2488

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

procedural grounds. 2498

(E) The sealing or expungement of conviction records by 2499
any court shall have no effect upon a prior board order entered 2500
under this section or upon the board's jurisdiction to take 2501
action under this section if, based upon a plea of guilty, a 2502
judicial finding of guilt, or a judicial finding of eligibility 2503
for intervention in lieu of conviction, the board issued a 2504
notice of opportunity for a hearing prior to the court's order 2505
to seal or expunge the records. The board shall not be required 2506
to seal, expunge, destroy, redact, or otherwise modify its 2507
records to reflect the court's sealing of conviction records. 2508

(F) (1) The board shall investigate evidence that appears 2509
to show that a person has violated any provision of this chapter 2510
or any rule adopted under it. Any person may report to the board 2511
in a signed writing any information that the person may have 2512
that appears to show a violation of any provision of this 2513
chapter or any rule adopted under it. In the absence of bad 2514
faith, any person who reports information of that nature or who 2515
testifies before the board in any adjudication conducted under 2516
Chapter 119. of the Revised Code shall not be liable in damages 2517
in a civil action as a result of the report or testimony. Each 2518
complaint or allegation of a violation received by the board 2519
shall be assigned a case number and shall be recorded by the 2520
board. 2521

(2) Investigations of alleged violations of this chapter 2522
or any rule adopted under it shall be supervised by the 2523
supervising member elected by the board in accordance with 2524
section 4731.02 of the Revised Code and by the secretary as 2525
provided in section 4731.39 of the Revised Code. The president 2526
may designate another member of the board to supervise the 2527

investigation in place of the supervising member. Upon a vote of 2528
the majority of the board to authorize the addition of a 2529
consumer member in the supervision of any part of any 2530
investigation, the president shall designate a consumer member 2531
for supervision of investigations as determined by the 2532
president. The authorization of consumer member participation in 2533
investigation supervision may be rescinded by a majority vote of 2534
the board. No member of the board who supervises the 2535
investigation of a case shall participate in further 2536
adjudication of the case. 2537

(3) In investigating a possible violation of this chapter 2538
or any rule adopted under this chapter, or in conducting an 2539
inspection under division (E) of section 4731.054 of the Revised 2540
Code, the board may question witnesses, conduct interviews, 2541
administer oaths, order the taking of depositions, inspect and 2542
copy any books, accounts, papers, records, or documents, issue 2543
subpoenas, and compel the attendance of witnesses and production 2544
of books, accounts, papers, records, documents, and testimony, 2545
except that a subpoena for patient record information shall not 2546
be issued without consultation with the attorney general's 2547
office and approval of the secretary of the board. 2548

(a) Before issuance of a subpoena for patient record 2549
information, the secretary shall determine whether there is 2550
probable cause to believe that the complaint filed alleges a 2551
violation of this chapter or any rule adopted under it and that 2552
the records sought are relevant to the alleged violation and 2553
material to the investigation. The subpoena may apply only to 2554
records that cover a reasonable period of time surrounding the 2555
alleged violation. 2556

(b) On failure to comply with any subpoena issued by the 2557

board and after reasonable notice to the person being 2558
subpoenaed, the board may move for an order compelling the 2559
production of persons or records pursuant to the Rules of Civil 2560
Procedure. 2561

(c) A subpoena issued by the board may be served by a 2562
sheriff, the sheriff's deputy, or a board employee or agent 2563
designated by the board. Service of a subpoena issued by the 2564
board may be made by delivering a copy of the subpoena to the 2565
person named therein, reading it to the person, or leaving it at 2566
the person's usual place of residence, usual place of business, 2567
or address on file with the board. When serving a subpoena to an 2568
applicant for or the holder of a license or certificate issued 2569
under this chapter, service of the subpoena may be made by 2570
certified mail, return receipt requested, and the subpoena shall 2571
be deemed served on the date delivery is made or the date the 2572
person refuses to accept delivery. If the person being served 2573
refuses to accept the subpoena or is not located, service may be 2574
made to an attorney who notifies the board that the attorney is 2575
representing the person. 2576

(d) A sheriff's deputy who serves a subpoena shall receive 2577
the same fees as a sheriff. Each witness who appears before the 2578
board in obedience to a subpoena shall receive the fees and 2579
mileage provided for under section 119.094 of the Revised Code. 2580

(4) All hearings, investigations, and inspections of the 2581
board shall be considered civil actions for the purposes of 2582
section 2305.252 of the Revised Code. 2583

(5) A report required to be submitted to the board under 2584
this chapter, a complaint, or information received by the board 2585
pursuant to an investigation or pursuant to an inspection under 2586
division (E) of section 4731.054 of the Revised Code is 2587

confidential and not subject to discovery in any civil action. 2588

The board shall conduct all investigations or inspections 2589
and proceedings in a manner that protects the confidentiality of 2590
patients and persons who file complaints with the board. The 2591
board shall not make public the names or any other identifying 2592
information about patients or complainants unless proper consent 2593
is given or, in the case of a patient, a waiver of the patient 2594
privilege exists under division (B) of section 2317.02 of the 2595
Revised Code, except that consent or a waiver of that nature is 2596
not required if the board possesses reliable and substantial 2597
evidence that no bona fide physician-patient relationship 2598
exists. 2599

The board may share any information it receives pursuant 2600
to an investigation or inspection, including patient records and 2601
patient record information, with law enforcement agencies, other 2602
licensing boards, and other governmental agencies that are 2603
prosecuting, adjudicating, or investigating alleged violations 2604
of statutes or administrative rules. An agency or board that 2605
receives the information shall comply with the same requirements 2606
regarding confidentiality as those with which the state medical 2607
board must comply, notwithstanding any conflicting provision of 2608
the Revised Code or procedure of the agency or board that 2609
applies when it is dealing with other information in its 2610
possession. In a judicial proceeding, the information may be 2611
admitted into evidence only in accordance with the Rules of 2612
Evidence, but the court shall require that appropriate measures 2613
are taken to ensure that confidentiality is maintained with 2614
respect to any part of the information that contains names or 2615
other identifying information about patients or complainants 2616
whose confidentiality was protected by the state medical board 2617
when the information was in the board's possession. Measures to 2618

ensure confidentiality that may be taken by the court include 2619
sealing its records or deleting specific information from its 2620
records. 2621

No person shall knowingly access, use, or disclose 2622
confidential investigatory information in a manner prohibited by 2623
law. 2624

(6) On a quarterly basis, the board shall prepare a report 2625
that documents the disposition of all cases during the preceding 2626
three months. The report shall contain the following information 2627
for each case with which the board has completed its activities: 2628

(a) The case number assigned to the complaint or alleged 2629
violation; 2630

(b) The type of license or certificate to practice, if 2631
any, held by the individual against whom the complaint is 2632
directed; 2633

(c) A description of the allegations contained in the 2634
complaint; 2635

(d) Whether witnesses were interviewed; 2636

(e) Whether the individual against whom the complaint is 2637
directed is the subject of any pending complaints; 2638

(f) The disposition of the case. 2639

The report shall state how many cases are still pending 2640
and shall be prepared in a manner that protects the identity of 2641
each person involved in each case. The report shall be a public 2642
record under section 149.43 of the Revised Code. 2643

(7) The board may provide a status update regarding an 2644
investigation to a complainant on request if the board verifies 2645

the complainant's identity. 2646

(G) (1) If either of the following circumstances occur, the 2647
secretary and supervising member may recommend that the board 2648
suspend an individual's license or certificate to practice or 2649
certificate to recommend without a prior hearing: 2650

(a) The secretary and supervising member determine both of 2651
the following: 2652

(i) That there is clear and convincing evidence that an 2653
individual has violated division (B) of this section; 2654

(ii) That the individual's continued practice presents a 2655
danger of immediate and serious harm to the public. 2656

(b) The board receives verifiable information that a 2657
licensee has been charged in any state or federal court with a 2658
crime classified as a felony under the charging court's law and 2659
the conduct constitutes a violation of division (B) of this 2660
section. 2661

(2) If a recommendation is made to suspend without a prior 2662
hearing pursuant to division (G) (1) of this section, written 2663
allegations shall be prepared for consideration by the board. 2664
The board, upon review of those allegations and by an 2665
affirmative vote of not fewer than six of its members, excluding 2666
the secretary and supervising member, may suspend a license or 2667
certificate without a prior hearing. A telephone conference call 2668
may be utilized for reviewing the allegations and taking the 2669
vote on the summary suspension. 2670

The board shall serve a written order of suspension in 2671
accordance with sections 119.05 and 119.07 of the Revised Code. 2672
If the individual subject to the summary suspension requests an 2673
adjudicatory hearing by the board, the date set for the hearing 2674

shall be within fifteen days, but not earlier than seven days, 2675
after the individual requests the hearing, unless otherwise 2676
agreed to by both the board and the individual. 2677

(3) Any summary suspension imposed under division (G) (2) 2678
of this section is not a final appealable order and is not an 2679
adjudication that may be appealed under section 119.12 of the 2680
Revised Code. The summary suspension shall remain in effect 2681
until a final adjudicative order issued by the board pursuant to 2682
this section and Chapter 119. of the Revised Code becomes 2683
effective. Once a final adjudicative order has been issued by 2684
the board, any party adversely affected by it may file an appeal 2685
in accordance with the requirements of Chapter 119. of the 2686
Revised Code. 2687

The board shall issue its final adjudicative order within 2688
seventy-five days after completion of its hearing. A failure to 2689
issue the order within seventy-five days shall result in 2690
dissolution of the summary suspension order but shall not 2691
invalidate any subsequent, final adjudicative order. 2692

(H) If the board takes action under division (B) (9), (11), 2693
or (13) of this section and the judicial finding of guilt, 2694
guilty plea, or judicial finding of eligibility for intervention 2695
in lieu of conviction is overturned on appeal, upon exhaustion 2696
of the criminal appeal, a petition for reconsideration of the 2697
order may be filed with the board along with appropriate court 2698
documents. Upon receipt of a petition of that nature and 2699
supporting court documents, the board shall reinstate the 2700
individual's license or certificate to practice. The board may 2701
then hold an adjudication under Chapter 119. of the Revised Code 2702
to determine whether the individual committed the act in 2703
question. Notice of an opportunity for a hearing shall be given 2704

in accordance with Chapter 119. of the Revised Code. If the 2705
board finds, pursuant to an adjudication held under this 2706
division, that the individual committed the act or if no hearing 2707
is requested, the board may order any of the sanctions 2708
identified under division (B) of this section. 2709

(I) The license or certificate to practice issued to an 2710
individual under this chapter and the individual's practice in 2711
this state are automatically suspended as of the date of the 2712
individual's second or subsequent plea of guilty to, or judicial 2713
finding of guilt of, a violation of section 2919.123 or 2919.124 2714
of the Revised Code. In addition, the license or certificate to 2715
practice or certificate to recommend issued to an individual 2716
under this chapter and the individual's practice in this state 2717
are automatically suspended as of the date the individual pleads 2718
guilty to, is found by a judge or jury to be guilty of, or is 2719
subject to a judicial finding of eligibility for intervention in 2720
lieu of conviction in this state or treatment or intervention in 2721
lieu of conviction in another jurisdiction for any of the 2722
following criminal offenses in this state or a substantially 2723
equivalent criminal offense in another jurisdiction: aggravated 2724
murder, murder, voluntary manslaughter, felonious assault, 2725
trafficking in persons, kidnapping, rape, sexual battery, gross 2726
sexual imposition, aggravated arson, aggravated robbery, or 2727
aggravated burglary. Continued practice after suspension shall 2728
be considered practicing without a license or certificate. 2729

The board shall notify the individual subject to the 2730
suspension in accordance with sections 119.05 and 119.07 of the 2731
Revised Code. If an individual whose license or certificate is 2732
automatically suspended under this division fails to make a 2733
timely request for an adjudication under Chapter 119. of the 2734
Revised Code, the board shall do whichever of the following is 2735

applicable: 2736

(1) If the automatic suspension under this division is for 2737
a second or subsequent plea of guilty to, or judicial finding of 2738
guilt of, a violation of section 2919.123 or 2919.124 of the 2739
Revised Code, the board shall enter an order suspending the 2740
individual's license or certificate to practice for a period of 2741
at least one year or, if determined appropriate by the board, 2742
imposing a more serious sanction involving the individual's 2743
license or certificate to practice. 2744

(2) In all circumstances in which division (I)(1) of this 2745
section does not apply, enter a final order permanently revoking 2746
the individual's license or certificate to practice. 2747

(J) If the board is required by Chapter 119. of the 2748
Revised Code to give notice of an opportunity for a hearing and 2749
if the individual subject to the notice does not timely request 2750
a hearing in accordance with section 119.07 of the Revised Code, 2751
the board is not required to hold a hearing, but may adopt, by 2752
an affirmative vote of not fewer than six of its members, a 2753
final order that contains the board's findings. In that final 2754
order, the board may order any of the sanctions identified under 2755
division (A) or (B) of this section. 2756

(K) Any action taken by the board under division (B) of 2757
this section resulting in a suspension from practice shall be 2758
accompanied by a written statement of the conditions under which 2759
the individual's license or certificate to practice may be 2760
reinstated. The board shall adopt rules governing conditions to 2761
be imposed for reinstatement. Reinstatement of a license or 2762
certificate suspended pursuant to division (B) of this section 2763
requires an affirmative vote of not fewer than six members of 2764
the board. 2765

(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. 2796

(4) The placement of an individual's license on retired 2797
status, as described in section 4731.283 of the Revised Code, 2798
does not remove or limit the board's jurisdiction to take any 2799
disciplinary action against the individual with regard to the 2800
license as it existed before being placed on retired status. 2801

(5) At the request of the board, a license or certificate 2802
holder shall immediately surrender to the board a license or 2803
certificate that the board has suspended, revoked, or 2804
permanently revoked. 2805

(N) Sanctions shall not be imposed under division (B) (28) 2806
of this section against any person who waives deductibles and 2807
copayments as follows: 2808

(1) In compliance with the health benefit plan that 2809
expressly allows such a practice. Waiver of the deductibles or 2810
copayments shall be made only with the full knowledge and 2811
consent of the plan purchaser, payer, and third-party 2812
administrator. Documentation of the consent shall be made 2813
available to the board upon request. 2814

(2) For professional services rendered to any other person 2815
authorized to practice pursuant to this chapter, to the extent 2816
allowed by this chapter and rules adopted by the board. 2817

(O) Under the board's investigative duties described in 2818
this section and subject to division (F) of this section, the 2819
board shall develop and implement a quality intervention program 2820
designed to improve through remedial education the clinical and 2821
communication skills of individuals authorized under this 2822
chapter to practice medicine and surgery, osteopathic medicine 2823
and surgery, and podiatric medicine and surgery. In developing 2824

and implementing the quality intervention program, the board may 2825
do all of the following: 2826

(1) Offer in appropriate cases as determined by the board 2827
an educational and assessment program pursuant to an 2828
investigation the board conducts under this section; 2829

(2) Select providers of educational and assessment 2830
services, including a quality intervention program panel of case 2831
reviewers; 2832

(3) Make referrals to educational and assessment service 2833
providers and approve individual educational programs 2834
recommended by those providers. The board shall monitor the 2835
progress of each individual undertaking a recommended individual 2836
educational program. 2837

(4) Determine what constitutes successful completion of an 2838
individual educational program and require further monitoring of 2839
the individual who completed the program or other action that 2840
the board determines to be appropriate; 2841

(5) Adopt rules in accordance with Chapter 119. of the 2842
Revised Code to further implement the quality intervention 2843
program. 2844

An individual who participates in an individual 2845
educational program pursuant to this division shall pay the 2846
financial obligations arising from that educational program. 2847

(P) The board shall not refuse to issue a license to an 2848
applicant because of a conviction, plea of guilty, judicial 2849
finding of guilt, judicial finding of eligibility for 2850
intervention in lieu of conviction, or the commission of an act 2851
that constitutes a criminal offense, unless the refusal is in 2852
accordance with section 9.79 of the Revised Code. 2853

(Q) A license or certificate to practice or certificate to
recommend issued to an individual under this chapter and an
individual's practice under this chapter in this state are
automatically suspended if the individual's license or
certificate to practice a health care occupation or provide
health care services is suspended, revoked, or surrendered or
relinquished in lieu of discipline 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. The automatic suspension begins
immediately upon entry of the order by the agency and lasts for
ninety days to permit the board to investigate the basis for the
action under this chapter. Continued practice during the
automatic suspension shall be considered practicing without a
license or certificate.

The board shall notify the individual subject to the
automatic suspension by certified mail or in person in
accordance with section 119.07 of the Revised Code. If an
individual subject to an automatic suspension under this
division fails to make a timely request for an adjudication
under Chapter 119. 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.

Sec. 4731.2210. (A) As used in this section:

(1) "Key third party" means an individual closely involved
in a patient's decision-making regarding health care services,
including a patient's spouse or partner, parents, children,

siblings, or guardians. An individual's status as a key third 2884
party ceases upon termination of a practitioner-patient 2885
relationship or termination of the relationship between a 2886
patient and the individual. 2887

(2) "Practitioner" means any of the following: 2888

(a) An individual authorized under this chapter to 2889
practice medicine and surgery, osteopathic medicine and surgery, 2890
podiatric medicine and surgery, or a limited branch of medicine; 2891

(b) An individual licensed under Chapter 4730. of the 2892
Revised Code to practice as a physician assistant; 2893

(c) An individual authorized under Chapter 4759. of the 2894
Revised Code to practice as a dietitian; 2895

(d) An individual authorized under Chapter 4760. of the 2896
Revised Code to practice as an anesthesiologist assistant; 2897

(e) An individual authorized under Chapter 4761. of the 2898
Revised Code to practice respiratory care or as an advanced 2899
practice respiratory therapist; 2900

(f) An individual authorized under Chapter 4762. of the 2901
Revised Code to practice as an acupuncturist; 2902

(g) An individual authorized under Chapter 4772. of the 2903
Revised Code to practice as a certified mental health assistant; 2904

(h) An individual authorized under Chapter 4774. of the 2905
Revised Code to practice as a radiologist assistant; 2906

(i) An individual licensed under Chapter 4778. of the 2907
Revised Code to practice as a genetic counselor. 2908

(3) "Sexual misconduct" has the same meaning as in section 2909
4731.224 of the Revised Code. 2910

(B) Except as provided in division (D) of this section, 2911
the state medical board may require a practitioner that is 2912
subject to a probationary order of the board that involves a 2913
circumstance described in division (C) of this section, to 2914
provide to each patient, or to the patient's guardian or a key 2915
third party, a written disclosure signed by the practitioner 2916
that includes all of the following: 2917

- (1) The practitioner's probation status; 2918
- (2) The total length of the probation; 2919
- (3) The probation end date; 2920
- (4) Practice restrictions placed on the practitioner by 2921
the board; 2922
- (5) The board's telephone number; 2923
- (6) An explanation of how the patient can find additional 2924
information regarding the probation on the practitioner's 2925
profile page on the board's internet web site. 2926

The written disclosure, if required by the board, shall be 2927
provided before the patient's first visit following the 2928
probationary order of the board. The practitioner shall obtain a 2929
copy of the disclosure signed by the patient, or the patient's 2930
guardian or a key third party, and maintain the signed copy in 2931
the patient's medical record. The signed copy shall be made 2932
available to the board immediately upon request. 2933

(C) The written disclosure described in division (B) of 2934
this section applies in both of the following circumstances: 2935

- (1) Issuance by the board of a final order, final 2936
adjudicative order under Chapter 119. of the Revised Code, or a 2937
consent agreement that is ratified by an affirmative vote of not 2938

fewer than six members of the board establishing any of the 2939
following: 2940

(a) Commission of any act of sexual misconduct with a 2941
patient or key third party; 2942

(b) Drug or alcohol abuse directly resulting in patient 2943
harm, or that impairs the ability of the practitioner to 2944
practice safely; 2945

(c) Criminal conviction directly resulting in harm to 2946
patient health; 2947

(d) Inappropriate prescribing directly resulting in 2948
patient harm. 2949

(2) A statement of issues alleged that the practitioner 2950
committed any of the acts described in divisions (C) (1) (a) 2951
through (d) and, notwithstanding a lack of admission of guilt, a 2952
consent agreement ratified by an affirmative vote of not fewer 2953
than six members of the board includes express acknowledgement 2954
that the disclosure requirements of this section would serve to 2955
protect the public interest. 2956

(D) Written disclosure as described in this section is not 2957
required in the following circumstances: 2958

(1) The patient is unconscious or otherwise unable to 2959
comprehend the disclosure and sign it, and a guardian or a key 2960
third party is unavailable to comprehend and sign it; 2961

(2) The direct patient interaction occurs in an emergency 2962
department or otherwise occurs as an immediate result of a 2963
medical emergency; 2964

(3) The practitioner does not have a direct treatment 2965
relationship with the patient and does not have direct contact 2966

or direct communication with the patient. 2967

(E) The board shall provide the following information 2968
regarding practitioners on probation and those practicing under 2969
probationary status, in plain view on a practitioner's profile 2970
page on the board's internet web site: 2971

(1) Formal action documents detailing the citation, 2972
reports and recommendations, board order, and consent agreement; 2973

(2) The length of the probation and the end date; 2974

(3) Practice restrictions placed on the practitioner by 2975
the board. 2976

(F) The board shall provide a sample probation disclosure 2977
letter on its internet web site to be used by practitioners to 2978
comply with this section. 2979

Sec. 4731.25. (A) As used in this section and in sections 2980
4731.251 to 4731.255 of the Revised Code: 2981

(1) "Applicant" means an individual who has applied under 2982
Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4772., 4774., 2983
or 4778. of the Revised Code for a license, training or other 2984
certificate, limited permit, or other authority to practice as 2985
any one of the following practitioners: a physician assistant, 2986
physician, podiatrist, limited branch of medicine practitioner, 2987
dietitian, anesthesiologist assistant, respiratory care 2988
professional, advanced practice respiratory therapist, 2989
acupuncturist, certified mental health assistant, radiologist 2990
assistant, or genetic counselor. "Applicant" may include an 2991
individual who has been granted authority by the state medical 2992
board to practice as one type of practitioner, but has applied 2993
for authority to practice as another type of practitioner. 2994

(2) "Impaired" or "impairment" means either or both of the 2995
following: 2996

(a) Impairment of ability to practice as described in 2997
division (B) (5) of section 4730.25, division (B) (26) of section 2998
4731.22, division (A) (18) of section 4759.07, division (B) (6) of 2999
section 4760.13, division (A) (18) of section 4761.09, division 3000
(B) (6) of section 4762.13, division (B) (6) of section 4772.20, 3001
division (B) (6) of section 4774.13, or division (B) (6) of 3002
section 4778.14 of the Revised Code; 3003

(b) Inability to practice as described in division (B) (4) 3004
of section 4730.25, division (B) (19) of section 4731.22, 3005
division (A) (14) of section 4759.07, division (B) (5) of section 3006
4760.13, division (A) (14) of section 4761.09, division (B) (5) of 3007
section 4762.13, division (B) (5) of section 4774.13, or division 3008
(B) (5) of section 4778.14 of the Revised Code. 3009

(3) "Practitioner" means any of the following: 3010

(a) An individual authorized under this chapter to 3011
practice medicine and surgery, osteopathic medicine and surgery, 3012
podiatric medicine and surgery, or a limited branch of medicine; 3013

(b) An individual licensed under Chapter 4730. of the 3014
Revised Code to practice as a physician assistant; 3015

(c) An individual authorized under Chapter 4759. of the 3016
Revised Code to practice as a dietitian; 3017

(d) An individual authorized under Chapter 4760. of the 3018
Revised Code to practice as an anesthesiologist assistant; 3019

(e) An individual authorized under Chapter 4761. of the 3020
Revised Code to practice respiratory care or to practice as an 3021
advanced practice respiratory therapist; 3022

(f) An individual licensed under Chapter 4762. of the 3023
Revised Code to practice as an acupuncturist; 3024

(g) An individual licensed under Chapter 4772. of the 3025
Revised Code to practice as a certified mental health assistant; 3026

(h) An individual licensed under Chapter 4774. of the 3027
Revised Code to practice as a radiologist assistant; 3028

(i) An individual licensed under Chapter 4778. of the 3029
Revised Code to practice as a genetic counselor. 3030

(B) The state medical board shall establish a 3031
confidential, nondisciplinary program for the evaluation and 3032
treatment of practitioners and applicants who are, or may be, 3033
impaired and also meet the eligibility conditions described in 3034
section 4731.252 or 4731.253 of the Revised Code. The program 3035
shall be known as the confidential monitoring program. 3036

The board shall contract with a monitoring organization to 3037
conduct the program and perform monitoring services. To be 3038
qualified to contract with the board, an organization shall meet 3039
all of the following requirements: 3040

(1) Be a professionals health program sponsored by one or 3041
more professional associations or societies of practitioners; 3042

(2) Be organized as a not-for-profit entity and exempt 3043
from federal income taxation under subsection 501(c)(3) of the 3044
Internal Revenue Code; 3045

(3) Contract with or employ a medical director who is 3046
authorized under this chapter to practice medicine and surgery 3047
or osteopathic medicine and surgery and specializes or has 3048
training and expertise in addiction medicine; 3049

(4) Contract with or employ licensed health care 3050

professionals necessary for the organization's operation. 3051

(C) The monitoring organization shall do all of the 3052
following pursuant to the contract: 3053

(1) Receive from the board a referral regarding an 3054
applicant or receive any report of suspected practitioner 3055
impairment from any source, including from the board; 3056

(2) Notify a practitioner who is the subject of a report 3057
received under division (C) (1) of this section that the report 3058
has been made and that the practitioner may be eligible to 3059
participate in the program conducted under this section; 3060

(3) Provide a practitioner who is the subject of a report 3061
received under division (C) (1) of this section with the list of 3062
approved evaluators and treatment providers prepared and updated 3063
as described in section 4731.251 of the Revised Code; 3064

(4) Determine whether a practitioner reported or applicant 3065
referred to the monitoring organization is eligible to 3066
participate in the program, which in the case of an applicant 3067
may include evaluating records as described in division (E) (1) 3068
(d) of this section, and notify the practitioner or applicant of 3069
the determination; 3070

(5) In the case of a practitioner reported by a treatment 3071
provider, notify the treatment provider of the eligibility 3072
determination; 3073

(6) Report to the board any practitioner or applicant who 3074
is determined ineligible to participate in the program; 3075

(7) Refer an eligible practitioner who chooses to 3076
participate in the program for evaluation by an evaluator 3077
approved by the monitoring organization, unless the report 3078

received by the monitoring organization was made by an approved 3079
evaluator and the practitioner has already been evaluated; 3080

(8) Monitor the evaluation of an eligible practitioner; 3081

(9) Refer an eligible practitioner who chooses to 3082
participate in the program to a treatment provider approved by 3083
the monitoring organization; 3084

(10) Establish, in consultation with the treatment 3085
provider to which a practitioner is referred, the terms and 3086
conditions with which the practitioner must comply for continued 3087
participation in and successful completion of the program; 3088

(11) Report to the board any practitioner who does not 3089
complete evaluation or treatment or does not comply with any of 3090
the terms and conditions established by the monitoring 3091
organization and the treatment provider; 3092

(12) Perform any other activities specified in the 3093
contract with the board or that the monitoring organization 3094
considers necessary to comply with this section and sections 3095
4731.251 to 4731.255 of the Revised Code. 3096

(D) The monitoring organization shall not disclose to the 3097
board the name of a practitioner or applicant or any records 3098
relating to a practitioner or applicant, unless any of the 3099
following occurs: 3100

(1) The practitioner or applicant is determined to be 3101
ineligible to participate in the program. 3102

(2) The practitioner or applicant requests the disclosure. 3103

(3) The practitioner or applicant is unwilling or unable 3104
to complete or comply with any part of the program, including 3105
evaluation, treatment, or monitoring. 3106

(4) The practitioner or applicant presents an imminent 3107
danger to oneself or the public, as a result of the 3108
practitioner's or applicant's impairment. 3109

(5) The practitioner's impairment has not been 3110
substantially alleviated by participation in the program. 3111

(E) (1) The monitoring organization shall develop 3112
procedures governing each of the following: 3113

(a) Receiving reports of practitioner impairment; 3114

(b) Notifying practitioners of reports and eligibility 3115
determinations; 3116

(c) Receiving applicant referrals as described in section 3117
4731.253 of the Revised Code; 3118

(d) Evaluating records of referred applicants, in 3119
particular records from other jurisdictions regarding prior 3120
treatment for impairment or current or continued monitoring; 3121

(e) Notifying applicants of eligibility determinations; 3122

(f) Referring eligible practitioners for evaluation or 3123
treatment; 3124

(g) Establishing individualized treatment plans for 3125
eligible practitioners, as recommended by treatment providers; 3126

(h) Establishing individualized terms and conditions with 3127
which eligible practitioners or applicants must comply for 3128
continued participation in and successful completion of the 3129
program. 3130

(2) The monitoring organization, in consultation with the 3131
board, shall develop procedures governing each of the following: 3132

(a) Providing reports to the board on a periodic basis on 3133

the total number of practitioners or applicants participating in 3134
the program, without disclosing the names or records of any 3135
program participants other than those about whom reports are 3136
required by this section; 3137

(b) Reporting to the board any practitioner or applicant 3138
who due to impairment presents an imminent danger to oneself or 3139
the public; 3140

(c) Reporting to the board any practitioner or applicant 3141
who is unwilling or unable to complete or comply with any part 3142
of the program, including evaluation, treatment, or monitoring; 3143

(d) Reporting to the board any practitioner or applicant 3144
whose impairment was not substantially alleviated by 3145
participation in the program. 3146

Sec. 4743.09. (A) As used in this section: 3147

(1) "Durable medical equipment" means a type of equipment, 3148
such as a remote monitoring device utilized by a physician, 3149
physician assistant, or advanced practice registered nurse in 3150
accordance with this section, that can withstand repeated use, 3151
is primarily and customarily used to serve a medical purpose, 3152
and generally is not useful to a person in the absence of 3153
illness or injury and, in addition, includes repair and 3154
replacement parts for the equipment. 3155

(2) "Facility fee" means any fee charged or billed for 3156
telehealth services provided in a facility that is intended to 3157
compensate the facility for its operational expenses and is 3158
separate and distinct from a professional fee. 3159

(3) "Health care professional" means: 3160

(a) An advanced practice registered nurse, as defined in 3161

section 4723.01 of the Revised Code;	3162
(b) An optometrist licensed under Chapter 4725. of the	3163
Revised Code to practice optometry;	3164
(c) A pharmacist licensed under Chapter 4729. of the	3165
Revised Code;	3166
(d) A physician assistant licensed under Chapter 4730. of	3167
the Revised Code;	3168
(e) A physician licensed under Chapter 4731. of the	3169
Revised Code to practice medicine and surgery, osteopathic	3170
medicine and surgery, or podiatric medicine and surgery;	3171
(f) A psychologist, independent school psychologist, or	3172
school psychologist licensed under Chapter 4732. of the Revised	3173
Code;	3174
(g) A chiropractor licensed under Chapter 4734. of the	3175
Revised Code;	3176
(h) An audiologist or speech-language pathologist licensed	3177
under Chapter 4753. of the Revised Code;	3178
(i) An occupational therapist or physical therapist	3179
licensed under Chapter 4755. of the Revised Code;	3180
(j) An occupational therapy assistant or physical	3181
therapist assistant licensed under Chapter 4755. of the Revised	3182
Code;	3183
(k) A professional clinical counselor, independent social	3184
worker, independent marriage and family therapist, art	3185
therapist, or music therapist licensed under Chapter 4757. of	3186
the Revised Code;	3187
(l) An independent chemical dependency counselor licensed	3188

under Chapter 4758. of the Revised Code; 3189

(m) A dietitian licensed under Chapter 4759. of the 3190
Revised Code; 3191

(n) A respiratory care professional or advanced practice 3192
respiratory therapist licensed under Chapter 4761. of the 3193
Revised Code; 3194

(o) A genetic counselor licensed under Chapter 4778. of 3195
the Revised Code; 3196

(p) A certified Ohio behavior analyst certified under 3197
Chapter 4783. of the Revised Code; 3198

(q) A certified mental health assistant licensed under 3199
Chapter 4772. of the Revised Code. 3200

(4) "Health care professional licensing board" means any 3201
of the following: 3202

(a) The board of nursing; 3203

(b) The state vision professionals board; 3204

(c) The state board of pharmacy; 3205

(d) The state medical board; 3206

(e) The state board of psychology; 3207

(f) The state chiropractic board; 3208

(g) The state speech and hearing professionals board; 3209

(h) The Ohio occupational therapy, physical therapy, and 3210
athletic trainers board; 3211

(i) The counselor, social worker, and marriage and family 3212
therapist board; 3213

(j) The chemical dependency professionals board. 3214

(5) "Health plan issuer" has the same meaning as in 3215
section 3922.01 of the Revised Code. 3216

(6) "Telehealth services" means health care services 3217
provided through the use of information and communication 3218
technology by a health care professional, within the 3219
professional's scope of practice, who is located at a site other 3220
than the site where either of the following is located: 3221

(a) The patient receiving the services; 3222

(b) Another health care professional with whom the 3223
provider of the services is consulting regarding the patient. 3224

(B) (1) Each health care professional licensing board shall 3225
permit a health care professional under its jurisdiction to 3226
provide the professional's services as telehealth services in 3227
accordance with this section. Subject to division (B) (2) of this 3228
section, a board may adopt any rules it considers necessary to 3229
implement this section. All rules adopted under this section 3230
shall be adopted in accordance with Chapter 119. of the Revised 3231
Code. Any such rules adopted by a board are not subject to the 3232
requirements of division (F) of section 121.95 of the Revised 3233
Code. 3234

(2) (a) Except as provided in division (B) (2) (b) of this 3235
section, the rules adopted by a health care professional 3236
licensing board under this section shall establish a standard of 3237
care for telehealth services that is equal to the standard of 3238
care for in-person services. 3239

(b) Subject to division (B) (2) (c) of this section, a board 3240
may require an initial in-person visit prior to prescribing a 3241
schedule II controlled substance to a new patient, equivalent to 3242

applicable state and federal requirements. 3243

(c) (i) A board shall not require an initial in-person 3244
visit for a new patient whose medical record indicates that the 3245
patient is receiving hospice or palliative care, who is 3246
receiving medication-assisted treatment or any other medication 3247
for opioid-use disorder, who is a patient with a mental health 3248
condition, or who, as determined by the clinical judgment of a 3249
health care professional, is in an emergency situation. 3250

(ii) Notwithstanding division (B) of section 3796.01 of 3251
the Revised Code, medical marijuana shall not be considered a 3252
schedule II controlled substance. 3253

(C) With respect to the provision of telehealth services, 3254
all of the following apply: 3255

(1) A health care professional may use synchronous or 3256
asynchronous technology to provide telehealth services to a 3257
patient during an initial visit if the appropriate standard of 3258
care for an initial visit is satisfied. 3259

(2) A health care professional may deny a patient 3260
telehealth services and, instead, require the patient to undergo 3261
an in-person visit. 3262

(3) When providing telehealth services in accordance with 3263
this section, a health care professional shall comply with all 3264
requirements under state and federal law regarding the 3265
protection of patient information. A health care professional 3266
shall ensure that any username or password information and any 3267
electronic communications between the professional and a patient 3268
are securely transmitted and stored. 3269

(4) A health care professional may use synchronous or 3270
asynchronous technology to provide telehealth services to a 3271

patient during an annual visit if the appropriate standard of 3272
care for an annual visit is satisfied. 3273

(5) In the case of a health care professional who is a 3274
physician, physician assistant, or advanced practice registered 3275
nurse, both of the following apply: 3276

(a) The professional may provide telehealth services to a 3277
patient located outside of this state if permitted by the laws 3278
of the state in which the patient is located. 3279

(b) The professional may provide telehealth services 3280
through the use of medical devices that enable remote 3281
monitoring, including such activities as monitoring a patient's 3282
blood pressure, heart rate, or glucose level. 3283

(D) When a patient has consented to receiving telehealth 3284
services, the health care professional who provides those 3285
services is not liable in damages under any claim made on the 3286
basis that the services do not meet the same standard of care 3287
that would apply if the services were provided in-person. 3288

(E) (1) A health care professional providing telehealth 3289
services shall not charge a patient or a health plan issuer 3290
covering telehealth services under section 3902.30 of the 3291
Revised Code any of the following: a facility fee, an 3292
origination fee, or any fee associated with the cost of the 3293
equipment used at the provider site to provide telehealth 3294
services. 3295

A health care professional providing telehealth services 3296
may charge a health plan issuer for durable medical equipment 3297
used at a patient or client site. 3298

(2) A health care professional may negotiate with a health 3299
plan issuer to establish a reimbursement rate for fees 3300

associated with the administrative costs incurred in providing 3301
telehealth services as long as a patient is not responsible for 3302
any portion of the fee. 3303

(3) A health care professional providing telehealth 3304
services shall obtain a patient's consent before billing for the 3305
cost of providing the services, but the requirement to do so 3306
applies only once. 3307

(F) Nothing in this section limits or otherwise affects 3308
any other provision of the Revised Code that requires a health 3309
care professional who is not a physician to practice under the 3310
supervision of, in collaboration with, in consultation with, or 3311
pursuant to the referral of another health care professional. 3312

(G) It is the intent of the general assembly, through the 3313
amendments to this section, to expand access to and investment 3314
in telehealth services in this state in congruence with the 3315
expansion and investment in telehealth services made during the 3316
COVID-19 pandemic. 3317

Sec. 4755.48. (A) No person shall employ fraud or 3318
deception in applying for or securing a license to practice 3319
physical therapy or to be a physical therapist assistant. 3320

(B) No person shall practice or in any way imply or claim 3321
to the public by words, actions, or the use of letters as 3322
described in division (C) of this section to be able to practice 3323
physical therapy or to provide physical therapy services, 3324
including practice as a physical therapist assistant, unless the 3325
person holds a valid license under sections 4755.40 to 4755.56 3326
of the Revised Code or except for submission of claims as 3327
provided in section 4755.56 of the Revised Code. 3328

(C) No person shall use the words or letters, physical 3329

therapist, physical therapy, physical therapy services, 3330
physiotherapist, physiotherapy, physiotherapy services, licensed 3331
physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., 3332
D.P.T., M.S.P.T., P.T.A., physical therapy assistant, physical 3333
therapist assistant, physical therapy technician, licensed 3334
physical therapist assistant, L.P.T.A., R.P.T.A., or any other 3335
letters, words, abbreviations, or insignia, indicating or 3336
implying that the person is a physical therapist or physical 3337
therapist assistant without a valid license under sections 3338
4755.40 to 4755.56 of the Revised Code. 3339

(D) No person who practices physical therapy or assists in 3340
the provision of physical therapy treatments under the 3341
supervision of a physical therapist shall fail to display the 3342
person's current license granted under sections 4755.40 to 3343
4755.56 of the Revised Code in a conspicuous location in the 3344
place where the person spends the major part of the person's 3345
time so engaged. 3346

(E) Nothing in sections 4755.40 to 4755.56 of the Revised 3347
Code shall affect or interfere with the performance of the 3348
duties of any physical therapist or physical therapist assistant 3349
in active service in the army, navy, coast guard, marine corps, 3350
air force, public health service, or marine hospital service of 3351
the United States, while so serving. 3352

(F) Nothing in sections 4755.40 to 4755.56 of the Revised 3353
Code shall prevent or restrict the activities or services of a 3354
person pursuing a course of study leading to a degree in 3355
physical therapy in an accredited or approved educational 3356
program if the activities or services constitute a part of a 3357
supervised course of study and the person is designated by a 3358
title that clearly indicates the person's status as a student. 3359

(G) (1) Subject to division (G) (2) of this section, nothing 3360
in sections 4755.40 to 4755.56 of the Revised Code shall prevent 3361
or restrict the activities or services of any person who holds a 3362
current, unrestricted license to practice physical therapy in 3363
another state when that person, pursuant to contract or 3364
employment with an athletic team located in the state in which 3365
the person holds the license, provides physical therapy to any 3366
of the following while the team is traveling to or from or 3367
participating in a sporting event in this state: 3368

(a) A member of the athletic team; 3369

(b) A member of the athletic team's coaching, 3370
communications, equipment, or sports medicine staff; 3371

(c) A member of a band or cheerleading squad accompanying 3372
the athletic team; 3373

(d) The athletic team's mascot. 3374

(2) In providing physical therapy pursuant to division (G) 3375
(1) of this section, the person shall not do either of the 3376
following: 3377

(a) Provide physical therapy at a health care facility; 3378

(b) Provide physical therapy for more than sixty days in a 3379
calendar year. 3380

(3) The limitations described in divisions (G) (1) and (2) 3381
of this section do not apply to a person who is practicing in 3382
accordance with the compact privilege granted by this state 3383
through the "Physical Therapy Licensure Compact" entered into 3384
under section 4755.57 of the Revised Code. 3385

(4) The physical therapy section of the occupational 3386
therapy, physical therapy, and athletic trainers board shall not 3387

require a nonresident person who holds a license to practice 3388
physical therapy in another state to obtain a license in 3389
accordance with Chapter 4796. of the Revised Code to provide 3390
physical therapy services in the manner described under division 3391
(G) (1) of this section. 3392

(H) (1) Except as provided in division (H) (2) of this 3393
section and subject to division (I) of this section, no person 3394
shall practice physical therapy other than on the prescription 3395
of, or the referral of a patient by, a person who is licensed in 3396
this or another state to do at least one of the following: 3397

(a) Practice medicine and surgery, chiropractic, 3398
dentistry, osteopathic medicine and surgery, podiatric medicine 3399
and surgery; 3400

(b) Practice as a physician assistant; 3401

(c) Practice nursing as an advanced practice registered 3402
nurse; 3403

(d) Practice as an advanced practice respiratory 3404
therapist. 3405

(2) The prohibition in division (H) (1) of this section on 3406
practicing physical therapy other than on the prescription of, 3407
or the referral of a patient by, any of the persons described in 3408
that division does not apply if either of the following applies 3409
to the person: 3410

(a) The person holds a master's or doctorate degree from a 3411
professional physical therapy program that is accredited by a 3412
national physical therapy accreditation agency approved by the 3413
physical therapy section of the Ohio occupational therapy, 3414
physical therapy, and athletic trainers board. 3415

(b) On or before December 31, 2004, the person has 3416
completed at least two years of practical experience as a 3417
licensed physical therapist. 3418

(I) To be authorized to prescribe physical therapy or 3419
refer a patient to a physical therapist for physical therapy, a 3420
person described in division (H) (1) of this section must be in 3421
good standing with the relevant licensing board in this state or 3422
the state in which the person is licensed and must act only 3423
within the person's scope of practice. 3424

(J) In the prosecution of any person for violation of 3425
division (B) or (C) of this section, it is not necessary to 3426
allege or prove want of a valid license to practice physical 3427
therapy or to practice as a physical therapist assistant, but 3428
such matters shall be a matter of defense to be established by 3429
the accused. 3430

Sec. 4761.01. As used in this chapter: 3431

(A) "Respiratory care" means rendering or offering to 3432
render to individuals, groups, organizations, or the public any 3433
service involving the evaluation of cardiopulmonary function, 3434
the treatment of cardiopulmonary impairment, the assessment of 3435
treatment effectiveness, and the care of patients with 3436
deficiencies and abnormalities associated with the 3437
cardiopulmonary system. The practice of respiratory care 3438
includes: 3439

(1) Obtaining, analyzing, testing, measuring, and 3440
monitoring blood and gas samples in the determination of 3441
cardiopulmonary parameters and related physiologic data, 3442
including flows, pressures, and volumes, and the use of 3443
equipment employed for this purpose; 3444

(2) Administering, monitoring, recording the results of, 3445
and instructing in the use of medical gases, aerosols, and 3446
bronchopulmonary hygiene techniques, including drainage, 3447
aspiration, and sampling, and applying, maintaining, and 3448
instructing in the use of artificial airways, ventilators, and 3449
other life support equipment employed in the treatment of 3450
cardiopulmonary impairment and provided in collaboration with 3451
other licensed health care professionals responsible for 3452
providing care; 3453

(3) Performing cardiopulmonary resuscitation and 3454
respiratory rehabilitation techniques; 3455

(4) Administering medications for the testing or treatment 3456
of cardiopulmonary impairment. 3457

(B) "Respiratory care professional" means a person who is 3458
licensed under this chapter to practice the full range of 3459
services described in division (A) of this section. 3460

(C) "Physician" means an individual authorized under 3461
Chapter 4731. of the Revised Code to practice medicine and 3462
surgery or osteopathic medicine and surgery. 3463

(D) "Registered nurse" means an individual licensed under 3464
Chapter 4723. of the Revised Code to engage in the practice of 3465
nursing as a registered nurse. 3466

(E) "Hospital" has the same meaning as in section 3722.01 3467
of the Revised Code. 3468

(F) "Nursing facility" has the same meaning as in section 3469
5165.01 of the Revised Code. 3470

(G) "Advanced practice registered nurse" has the same 3471
meaning as in section 4723.01 of the Revised Code. 3472

(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 3502
in accordance with Chapter 119. of the Revised Code to carry out 3503
the purposes of this chapter, including rules prescribing the 3504
following: 3505

(1) The form and manner for filing applications under 3506
sections 4761.05 and 4761.06 of the Revised Code; 3507

(2) Standards for the approval of examinations and 3508
reexaminations administered by national organizations for 3509
licensure, license renewal, and license reinstatement; 3510

(3) Standards for the approval of educational programs 3511
required to qualify for licensure and approval of continuing 3512
education programs required for license renewal; 3513

(4) Continuing education courses and the number of hour 3514
requirements necessary for license renewal under section 4761.06 3515
of the Revised Code, including rules providing for pro rata 3516
reductions by month of the number of hours of continuing 3517
education that must be completed for license holders who are in 3518
their first renewal period, have been disabled by illness or 3519
accident, or have been absent from the country; 3520

(5) Procedures for the issuance and renewal of licenses 3521
and limited permits, including the duties that may be fulfilled 3522
by the board's executive director and other board employees; 3523

(6) Procedures for the limitation, suspension, and 3524
revocation of licenses and limited permits, the refusal to 3525
issue, renew, or reinstate licenses and limited permits, and the 3526
imposition of a reprimand or probation under section 4761.09 of 3527
the Revised Code; 3528

(7) Standards of ethical conduct for the practice of 3529
respiratory care; 3530

(8) The respiratory care tasks that may be performed by an 3531
individual practicing as a polysomnographic technologist 3532
pursuant to division (B) (3) of section 4761.10 of the Revised 3533
Code; 3534

(9) Requirements for criminal records checks of applicants 3535
under section 4776.03 of the Revised Code. 3536

(C) The board shall determine the sufficiency of an 3537
applicant's qualifications for admission to the licensing 3538
examination or a reexamination, and for the issuance or renewal 3539
of a license or limited permit. 3540

(D) The board shall determine the respiratory care 3541
educational programs that are acceptable for fulfilling the 3542
requirements of division (A) of section 4761.04 of the Revised 3543
Code. 3544

(E) (1) The board shall investigate evidence that appears 3545
to show that a person has violated any provision of this chapter 3546
or any rule adopted under it. Any person may report to the board 3547
in a signed writing any information that the person may have 3548
that appears to show a violation of any provision of this 3549
chapter or any rule adopted under it. In the absence of bad 3550
faith, any person who reports information of that nature or who 3551
testifies before the board in any adjudication conducted under 3552
Chapter 119. of the Revised Code shall not be liable in damages 3553
in a civil action as a result of the report or testimony. Each 3554
complaint or allegation of a violation received by the board 3555
shall be assigned a case number and shall be recorded by the 3556
board. 3557

(2) Investigations of alleged violations of this chapter 3558
or any rule adopted under it shall be supervised by the 3559

supervising member elected by the board in accordance with 3560
section 4731.02 of the Revised Code and by the secretary as 3561
provided in section 4761.012 of the Revised Code. The president 3562
may designate another member of the board to supervise the 3563
investigation in place of the supervising member. Upon a vote of 3564
the majority of the board to authorize the addition of a 3565
consumer member in the supervision of any part of any 3566
investigation, the president shall designate a consumer member 3567
for supervision of investigations as determined by the 3568
president. The authorization of consumer member participation in 3569
investigation supervision may be rescinded by a majority vote of 3570
the board. No member of the board who supervises the 3571
investigation of a case shall participate in further 3572
adjudication of the case. 3573

(3) In investigating a possible violation of this chapter 3574
or any rule adopted under it, the board may issue subpoenas, 3575
administer oaths, question witnesses, conduct interviews, order 3576
the taking of depositions, inspect and copy any books, accounts, 3577
papers, records, or documents, and compel the attendance of 3578
witnesses and production of books, accounts, papers, records, 3579
documents, and testimony, except that a subpoena for patient 3580
record information shall not be issued without consultation with 3581
the attorney general's office and approval of the secretary of 3582
the board. 3583

Before issuance of a subpoena for patient record 3584
information, the secretary shall determine whether there is 3585
probable cause to believe that the complaint filed alleges a 3586
violation of this chapter or any rule adopted under it and that 3587
the records sought are relevant to the alleged violation and 3588
material to the investigation. The subpoena may apply only to 3589
records that cover a reasonable period of time surrounding the 3590

alleged violation. 3591

On failure to comply with any subpoena issued by the board 3592
and after reasonable notice to the person being subpoenaed, the 3593
board may move for an order compelling the production of persons 3594
or records pursuant to the Rules of Civil Procedure. 3595

A subpoena issued by the board may be served by a sheriff, 3596
the sheriff's deputy, or a board employee or agent designated by 3597
the board. Service of a subpoena issued by the board may be made 3598
by delivering a copy of the subpoena to the person named 3599
therein, reading it to the person, or leaving it at the person's 3600
usual place of residence, usual place of business, or address on 3601
file with the board. When serving a subpoena to an applicant for 3602
or the holder of a license or limited permit issued under this 3603
chapter, service of the subpoena may be made by certified mail, 3604
return receipt requested, and the subpoena shall be deemed 3605
served on the date delivery is made or the date the person 3606
refuses to accept delivery. If the person being served refuses 3607
to accept the subpoena or is not located, service may be made to 3608
an attorney who notifies the board that the attorney is 3609
representing the person. 3610

A sheriff's deputy who serves a subpoena shall receive the 3611
same fees as a sheriff. Each witness who appears before the 3612
board in obedience to a subpoena shall receive the fees and 3613
mileage provided for under section 119.094 of the Revised Code. 3614

(4) In an investigation involving the practice or 3615
supervision of an advanced practice respiratory therapist 3616
pursuant to the policies of a health care facility, the board 3617
may require the health care facility to provide any information 3618
the board considers necessary to identify either or both of the 3619
following: 3620

(a) The facility's policies for the practice of advanced 3621
practice respiratory therapists within the facility; 3622

(b) The services that the facility has authorized a 3623
particular advanced practice respiratory therapist to provide 3624
for the facility. 3625

(5) All hearings, investigations, and inspections of the 3626
board shall be considered civil actions for the purposes of 3627
section 2305.252 of the Revised Code. 3628

~~+(5)~~ (6) A report required to be submitted to the board 3629
under this chapter, a complaint, or information received by the 3630
board pursuant to an investigation is confidential and not 3631
subject to discovery in any civil action. 3632

The board shall conduct all investigations or inspections 3633
and proceedings in a manner that protects the confidentiality of 3634
patients and persons who file complaints with the board. The 3635
board shall not make public the names or any other identifying 3636
information about patients or complainants unless proper consent 3637
is given. 3638

The board may share any information it receives pursuant 3639
to an investigation or inspection, including patient records and 3640
patient record information, with law enforcement agencies, other 3641
licensing boards, and other governmental agencies that are 3642
prosecuting, adjudicating, or investigating alleged violations 3643
of statutes or administrative rules. An agency or board that 3644
receives the information shall comply with the same requirements 3645
regarding confidentiality as those with which the state medical 3646
board must comply, notwithstanding any conflicting provision of 3647
the Revised Code or procedure of the agency or board that 3648
applies when it is dealing with other information in its 3649

possession. In a judicial proceeding, the information may be 3650
admitted into evidence only in accordance with the Rules of 3651
Evidence, but the court shall require that appropriate measures 3652
are taken to ensure that confidentiality is maintained with 3653
respect to any part of the information that contains names or 3654
other identifying information about patients or complainants 3655
whose confidentiality was protected by the state medical board 3656
when the information was in the board's possession. Measures to 3657
ensure confidentiality that may be taken by the court include 3658
sealing its records or deleting specific information from its 3659
records. 3660

No person shall knowingly access, use, or disclose 3661
confidential investigatory information in a manner prohibited by 3662
law. 3663

~~(6)~~ (7) On a quarterly basis, the board shall prepare a 3664
report that documents the disposition of all cases during the 3665
preceding three months. The report shall contain the following 3666
information for each case with which the board has completed its 3667
activities: 3668

(a) The case number assigned to the complaint or alleged 3669
violation; 3670

(b) The type of license or limited permit, if any, held by 3671
the individual against whom the complaint is directed; 3672

(c) A description of the allegations contained in the 3673
complaint; 3674

(d) Whether witnesses were interviewed; 3675

(e) Whether the individual against whom the complaint is 3676
directed is the subject of any pending complaints; 3677

(f) The disposition of the case. 3678

The report shall state how many cases are still pending 3679
and shall be prepared in a manner that protects the identity of 3680
each person involved in each case. The report shall be a public 3681
record under section 149.43 of the Revised Code. 3682

~~(7)~~(8) The board may provide a status update regarding an 3683
investigation to a complainant on request if the board verifies 3684
the complainant's identity. 3685

(F) The board shall keep records of its proceedings and do 3686
other things as are necessary and proper to carry out and 3687
enforce the provisions of this chapter. 3688

(G) The board shall maintain and publish on its internet 3689
web site all of the following: 3690

(1) The requirements for the issuance of licenses and 3691
limited permits under this chapter and rules adopted by the 3692
board; 3693

(2) A list of the names and locations of the institutions 3694
that each year granted degrees or certificates of completion in 3695
respiratory care. 3696

Sec. 4761.032. (A) The state medical board shall appoint a 3697
respiratory care advisory council for the purpose of advising 3698
the board on issues relating to the practice of respiratory 3699
care. The advisory council shall consist of not more than ~~seven~~ 3700
nine individuals knowledgeable in the area of respiratory care. 3701

A majority of the council members shall be individuals 3702
licensed under this chapter who are actively engaged in the 3703
practice of respiratory care. The board shall include all of the 3704
following on the council: 3705

(1) One physician who is a member of the state medical board; 3706
3707

(2) One physician who has clinical training and experience 3708
in pulmonary disease, and one physician who is a supervising 3709
physician of an advanced practice respiratory therapist. 3710

The Ohio state medical association, or its successor 3711
organization, may nominate not more than three individuals for 3712
consideration by the board in appointing the physician members 3713
described in division (A) (2) of this section. 3714

(3) One advanced practice respiratory therapist; 3715

(4) One individual who is not affiliated with any health 3716
care profession, who shall be appointed to represent the 3717
interest of consumers. 3718

The Ohio society for respiratory care, or its successor 3719
organization, may nominate not more than three individuals for 3720
consideration by the board in appointing any member of the 3721
council other than the members described in divisions (A) (1) and 3722
(2) of this section. 3723

~~The Ohio state medical association, or its successor~~ 3724
~~organization, may nominate not more than three individuals for~~ 3725
~~consideration by the board in appointing the physician member~~ 3726
~~described in division (A) (2) of this section.~~ 3727

~~The Ohio society for respiratory care, or its successor~~ 3728
~~organization, may nominate not more than three individuals for~~ 3729
~~consideration by the board in appointing any member of the~~ 3730
~~council other than the physician members described in divisions~~ 3731
~~(A) (1) and (2) of this section.~~ 3732

(B) Not later than ninety days after January 21, 2018, the 3733

board shall make initial appointments to the council. Initial 3734
members shall serve terms of office of one, two, or three years, 3735
as selected by the board. Thereafter, terms of office shall be 3736
for three years, with each term ending on the same day of the 3737
same month as the term that it succeeds. A council member shall 3738
continue in office subsequent to the expiration date of the 3739
member's term until a successor is appointed and takes office, 3740
or until a period of sixty days has elapsed, whichever occurs 3741
first. Each council member shall hold office from the date of 3742
appointment until the end of the term for which the member was 3743
appointed. 3744

(C) Members shall serve without compensation, but shall be 3745
reimbursed for actual and necessary expenses incurred in 3746
performing their official duties. 3747

(D) The council shall meet at least four times each year 3748
and at such other times as may be necessary to carry out its 3749
responsibilities. 3750

(E) The council may submit to the board recommendations 3751
concerning all of the following: 3752

(1) Requirements for issuing a license to practice as a 3753
respiratory care professional or as an advanced practice 3754
respiratory therapist and requirements for issuing a permit to 3755
practice as a limited permit holder, including the educational 3756
and experience requirements that must be met to receive the 3757
license or permit; 3758

(2) Existing and proposed rules pertaining to the practice 3759
of respiratory care and advanced practice respiratory care, 3760
including the supervisory relationship between advanced practice 3761
respiratory therapists and supervising physicians, and existing 3762

and proposed rules that otherwise pertain to the administration 3763
and enforcement of this chapter; 3764

(3) Standards for the approval of educational programs 3765
required to qualify for licensure and continuing education 3766
programs for licensure renewal; 3767

(4) Standards for the approval of examinations and re- 3768
examinations administered by national organizations for 3769
licensure, license renewal, and license reinstatement; 3770

(5) Policies related to the issuance and renewal of 3771
licenses and limited permits; 3772

~~(5)-(6) Fees for the issuance and renewal of a license to~~ 3773
~~practice respiratory care as a licensee or as a~~ 3774
~~limited permit holder permits;~~ 3775

~~(6)-(7) Standards of practice and ethical conduct in the~~ 3776
~~practice of respiratory care;~~ 3777

~~(7)-(8) The safe and effective practice of respiratory~~ 3778
~~care, including scope of practice and minimal standards of care;~~ 3779

(9) Any issue the board asks the council to consider. 3780

(F) In addition to the matters that are required to be 3781
reviewed under division (E) of this section, the council may 3782
review, and may submit to the board recommendations concerning, 3783
quality assurance activities to be performed by a supervising 3784
physician and advanced practice respiratory therapist under a 3785
quality assurance system established pursuant to division (F) of 3786
section 4761.40 of the Revised Code. 3787

(G) The board may permit meetings of the council to 3788
include the use of interactive videoconferencing, 3789
teleconferencing, or both if all of the following requirements 3790

are met: 3791

(1) The meeting location is open and accessible to the 3792
public. 3793

(2) Each council member is permitted to choose whether the 3794
member attends in person or through the use of the meeting's 3795
videoconferencing or teleconferencing. 3796

(3) Any meeting-related materials available before the 3797
meeting are sent to each council member by electronic mail, 3798
facsimile, or United States mail, or are hand-delivered. 3799

(4) If interactive videoconferencing is used, there is a 3800
clear video and audio connection that enables all participants 3801
at the meeting location to see and hear each council member. 3802

(5) If teleconferencing is used, there is a clear audio 3803
connection that enables all participants at the meeting location 3804
to hear each council member. 3805

(6) A roll call vote is recorded for each vote taken. 3806

(7) The meeting minutes specify for each member whether 3807
the member attended by videoconference, teleconference, or in 3808
person. 3809

Sec. 4761.033. In addition to rules that are specifically 3810
required or authorized by this chapter to be adopted, the state 3811
medical board may adopt any other rules necessary to govern the 3812
practice of advanced practice respiratory therapists, the 3813
supervisory relationship between advanced practice respiratory 3814
therapists and supervising physicians, and the administration 3815
and enforcement of this chapter. Rules adopted under this 3816
section shall be adopted in accordance with Chapter 119. of the 3817
Revised Code. 3818

Sec. 4761.06. (A) Each license to practice respiratory 3819
care shall expire on the date that is two years after the date 3820
of issuance and may be renewed for additional two-year periods. 3821
Each limited permit to practice respiratory care shall be 3822
renewed annually. Each person seeking to renew a license or 3823
limited permit to practice respiratory care shall apply to the 3824
state medical board in a manner prescribed by the board. 3825
Licenses and limited permits shall be renewed in accordance with 3826
the standard renewal procedure of Chapter 4745. of the Revised 3827
Code. The board shall renew a license if the holder pays the 3828
license renewal fee prescribed under section 4761.07 of the 3829
Revised Code and certifies that the holder has completed the 3830
continuing education or reexamination requirements of division 3831
(B) of this section. 3832

At least one month before a license expires, the board 3833
shall provide to the license holder a renewal notice. Failure of 3834
any license holder to receive a notice of renewal from the board 3835
shall not excuse the holder from the requirements contained in 3836
this section. Each license holder shall give notice to the board 3837
of a change in the holder's residence address, business address, 3838
or electronic mail address not later than thirty days after the 3839
change occurs. 3840

The board shall renew a limited permit if the holder pays 3841
the limited permit renewal fee prescribed under section 4761.07 3842
of the Revised Code and does either of the following: 3843

(1) If the limited permit was issued on the basis of 3844
division (B) (1) (a) of section 4761.05 of the Revised Code, 3845
certifies that the holder is enrolled and in good standing in an 3846
educational program that meets the requirements of division (A) 3847
(1) of section 4761.04 of the Revised Code or has graduated from 3848

such a program; 3849

(2) If the limited permit was issued on the basis of 3850
division (B) (1) (b) of section 4761.05 of the Revised Code, 3851
certifies that the applicant is employed as a provider of 3852
respiratory care under the supervision of a respiratory care 3853
professional. 3854

(B) On or before the annual renewal date, the holder of a 3855
limited permit issued under division (B) (1) (b) of section 3856
4761.05 of the Revised Code shall certify to the board that the 3857
holder has satisfactorily completed the number of hours of 3858
continuing education required by the board, which shall not be 3859
less than three nor more than ten hours of continuing education 3860
acceptable to the board. 3861

~~On~~ Subject to division (C) of section 4761.33 of the 3862
Revised Code, on or before the date a license expires, a license 3863
holder shall certify to the board that the license holder has 3864
satisfactorily completed the number of hours of continuing 3865
education required by the board, which shall be not less than 3866
six nor more than twenty hours of continuing education 3867
acceptable to the board, or has passed a reexamination in 3868
accordance with the board's renewal requirements. 3869

(C) (1) A license to practice respiratory care that is not 3870
renewed on or before its expiration date is automatically 3871
suspended on its expiration date. Continued practice after 3872
suspension shall be considered as practicing in violation of 3873
section 4761.10 of the Revised Code. 3874

(2) If a license has been suspended pursuant to division 3875
(C) (1) of this section for two years or less, it may be 3876
reinstated. The board shall reinstate the license upon the 3877

applicant's submission of a complete renewal application and 3878
payment of a reinstatement fee of one hundred dollars. 3879

If a license has been suspended pursuant to division (C) 3880
(1) of this section for more than two years, it may be restored. 3881
Subject to section 4761.061 of the Revised Code, the board may 3882
restore the license upon an applicant's submission of a complete 3883
restoration application and a restoration fee of one hundred 3884
twenty-five dollars and compliance with sections 4776.01 to 3885
4776.04 of the Revised Code. The board shall not restore a 3886
license unless the board, in its discretion, decides that the 3887
results of the criminal records check do not make the applicant 3888
ineligible for a license issued pursuant to division (A) of this 3889
section. 3890

(D) (1) The board may require a random sample of limited 3891
permit holders to submit materials documenting that the holder 3892
has completed the number of hours of continuing education as 3893
described in division (B) of this section. 3894

(2) The board may require a random sample of license 3895
holders to submit materials documenting that the holder has 3896
completed the number of hours of continuing education as 3897
described in division (B) of this section or has passed a 3898
reexamination. 3899

(3) Division (D) (1) or (2) of this section does not limit 3900
the board's authority to conduct investigations pursuant to 3901
section 4731.22 of the Revised Code. 3902

(E) (1) If, through a random sample conducted under 3903
division (D) of this section or through any other means, the 3904
board finds that an individual who certified passing the 3905
reexamination or completion of the number of hours and type of 3906

continuing education required to renew, reinstate, or restore a 3907
limited permit or license or to reactivate a license placed on 3908
retired status did not pass the reexamination or complete the 3909
requisite continuing education, the board may do either of the 3910
following: 3911

(a) Take disciplinary action against the individual under 3912
section 4761.09 of the Revised Code, impose a civil penalty, or 3913
both; 3914

(b) Permit the individual to agree in writing to pass the 3915
reexamination or complete the continuing education and pay a 3916
civil penalty. 3917

(2) The board's finding in any disciplinary action taken 3918
under division (E) (1) (a) of this section shall be made pursuant 3919
to an adjudication under Chapter 119. of the Revised Code and by 3920
an affirmative vote of not fewer than six of its members. 3921

(3) A civil penalty imposed under division (E) (1) (a) of 3922
this section or paid under division (E) (1) (b) of this section 3923
shall be in an amount specified by the board of not more than 3924
five thousand dollars. The board shall deposit civil penalties 3925
in accordance with section 4731.24 of the Revised Code. 3926

Sec. 4761.061. (A) This section applies to all of the 3927
following: 3928

(1) An applicant seeking restoration of a license issued 3929
under this chapter that has been in a suspended or inactive 3930
state for any cause for more than two years; 3931

(2) An applicant seeking issuance of a license pursuant to 3932
this chapter who for more than two years has not been engaged in 3933
the practice of respiratory care or advanced practice 3934
respiratory care as either of the following: 3935

- (a) An active practitioner; 3936
- (b) A student in an educational program as described in 3937
section 4761.04 or 4761.31 of the Revised Code. 3938
- (3) An applicant seeking to reactivate a license placed on 3939
retired status. 3940
- (B) Before issuing a license to an applicant subject to 3941
this section, or before restoring a license to good standing or 3942
reactivating a license placed on retired status for an applicant 3943
subject to this section, the state medical board may impose 3944
terms and conditions including any one or more of the following: 3945
- (1) Requiring the applicant to pass an oral or written 3946
examination, or both, to determine the applicant's present 3947
fitness to resume practice; 3948
- (2) Requiring the applicant to obtain additional training 3949
and to pass an examination upon completion of such training; 3950
- (3) Requiring an assessment of the applicant's physical 3951
skills for purposes of determining whether the applicant's 3952
coordination, fine motor skills, and dexterity are sufficient 3953
for performing evaluations and procedures in a manner that meets 3954
the minimal standards of care; 3955
- (4) Requiring an assessment of the applicant's skills in 3956
recognizing and understanding diseases and conditions; 3957
- (5) Requiring the applicant to undergo a comprehensive 3958
physical examination, which may include an assessment of 3959
physical abilities, evaluation of sensory capabilities, or 3960
screening for the presence of neurological disorders; 3961
- (6) Restricting or limiting the extent, scope, or type of 3962
practice of the applicant. 3963

The board shall consider the moral background and the 3964
activities of the applicant during the period of suspension, 3965
inactivity, or retirement. The board shall not issue, restore, 3966
or reactivate a license under this section unless the applicant 3967
complies with sections 4776.01 to 4776.04 of the Revised Code. 3968

Sec. 4761.07. (A) The state medical board shall charge any 3969
license applicant or holder who is to take an examination 3970
required under division (A) (2) of section 4761.04 or a 3971
reexamination required under division (B) of section 4761.06 of 3972
the Revised Code for license renewal or under section 4761.09 of 3973
the Revised Code for license reinstatement, a nonrefundable 3974
examination fee, not to exceed the amount necessary to cover the 3975
expense of administering the examination. The license applicant 3976
or holder shall pay the fee at the time of application for 3977
licensure or renewal. 3978

(B) The board shall establish the following additional 3979
nonrefundable fees and penalty: 3980

(1) An ~~For an initial license to practice respiratory~~ 3981
care, a fee of seventy-five dollars; 3982

(2) A ~~For renewal of a license to practice respiratory~~ 3983
care, a biennial license-renewal fee of seventy-five dollars; 3984

(3) A limited permit fee of twenty dollars; 3985

(4) A limited permit renewal fee of ten dollars; 3986

(5) For an initial license to practice as an advanced 3987
practice respiratory therapist, a fee to be determined by the 3988
board in an amount not to exceed one hundred seventy-five 3989
dollars; 3990

(6) For renewal of a license to practice as an advanced 3991

practice respiratory therapist, a biennial renewal fee to be 3992
determined by the board in an amount not to exceed one hundred 3993
twenty-five dollars; 3994

(7) A duplicate license or limited permit fee of thirty- 3995
five dollars; 3996

~~(6)~~ (8) In the case of a person holding a license issued 3997
under this chapter, a license verification fee of fifty dollars. 3998

(C) Notwithstanding division (B) (4) of this section, after 3999
the third renewal of a limited permit that meets the exception 4000
in division (B) (3) of section 4761.05 of the Revised Code, the 4001
limited permit renewal fee shall be thirty-five dollars. 4002

(D) All fees received by the board shall be deposited into 4003
the state treasury to the credit of the state medical board 4004
operating fund pursuant to section 4731.24 of the Revised Code. 4005

Sec. 4761.09. (A) The state medical board, by an 4006
affirmative vote of not fewer than six members, shall, except as 4007
provided in division (B) of this section, and to the extent 4008
permitted by law, limit, revoke, or suspend an individual's 4009
license or limited permit, refuse to issue a license or limited 4010
permit to an individual, refuse to renew a license or limited 4011
permit, refuse to reinstate a license or limited permit, or 4012
reprimand or place on probation the holder of a license or 4013
limited permit for one or more of the following reasons: 4014

(1) A plea of guilty to, a judicial finding of guilt of, 4015
or a judicial finding of eligibility for intervention in lieu of 4016
conviction for, a felony; 4017

(2) Commission of an act that constitutes a felony in this 4018
state, regardless of the jurisdiction in which the act was 4019
committed; 4020

(3) A plea of guilty to, a judicial finding of guilt of, 4021
or a judicial finding of eligibility for intervention in lieu of 4022
conviction for, a misdemeanor committed in the course of 4023
practice; 4024

(4) Commission of an act in the course of practice that 4025
constitutes a misdemeanor in this state, regardless of the 4026
jurisdiction in which the act was committed; 4027

(5) A plea of guilty to, a judicial finding of guilt of, 4028
or a judicial finding of eligibility for intervention in lieu of 4029
conviction for, a misdemeanor involving moral turpitude; 4030

(6) Commission of an act involving moral turpitude that 4031
constitutes a misdemeanor in this state, regardless of the 4032
jurisdiction in which the act was committed; 4033

(7) Except when civil penalties are imposed under section 4034
4761.091 of the Revised Code, violating or attempting to 4035
violate, directly or indirectly, or assisting in or abetting the 4036
violation of, or conspiring to violate, any provision of this 4037
chapter or the rules adopted by the board; 4038

(8) Making a false, fraudulent, deceptive, or misleading 4039
statement in the soliciting or advertising for employment, in 4040
connection with any solicitation of or ~~advertising~~ advertisement 4041
for patients⁺, in relation to the practice of respiratory care⁺, 4042
or advanced practice respiratory care, or in securing or 4043
attempting to secure any license or permit issued by the board 4044
under this chapter. 4045

As used in division (A) (8) of this section, "false, 4046
fraudulent, deceptive, or misleading statement" means a 4047
statement that includes a misrepresentation of fact, is likely 4048
to mislead or deceive because of a failure to disclose material 4049

facts, is intended or is likely to create false or unjustified 4050
expectations of favorable results, or includes representations 4051
or implications that in reasonable probability will cause an 4052
ordinarily prudent person to misunderstand or be deceived. 4053

(9) Committing fraud during the administration of the 4054
examination for a license to practice or committing fraud, 4055
misrepresentation, or deception in applying for, renewing, or 4056
securing any license or permit issued by the board; 4057

(10) A departure from, or failure to conform to, minimal 4058
standards of care of similar practitioners under the same or 4059
similar circumstances, whether or not actual injury to a patient 4060
is established; 4061

(11) Violating the standards of ethical conduct adopted by 4062
the board, in the practice of respiratory care or advanced 4063
practice respiratory care; 4064

(12) The obtaining of, or attempting to obtain, money or 4065
anything of value by fraudulent misrepresentations in the course 4066
of practice; 4067

(13) Violation of the conditions of limitation placed by 4068
the board upon a license or permit; 4069

(14) Inability to practice according to acceptable and 4070
prevailing standards of care by reason of mental illness or 4071
physical illness, including physical deterioration that 4072
adversely affects cognitive, motor, or perceptive skills; 4073

(15) Any of the following actions taken by an agency 4074
responsible for authorizing, certifying, or regulating an 4075
individual to practice a health care occupation or provide 4076
health care services in this state or another jurisdiction, for 4077
any reason other than the nonpayment of fees: the limitation, 4078

revocation, or suspension of an individual's license; acceptance 4079
of an individual's license surrender; denial of a license; 4080
refusal to renew or reinstate a license; imposition of 4081
probation; or issuance of an order of censure or other 4082
reprimand; 4083

(16) The revocation, suspension, restriction, reduction, 4084
or termination of practice privileges by the United States 4085
department of defense or department of veterans affairs; 4086

(17) Termination or suspension from participation in the 4087
medicare or medicaid programs by the department of health and 4088
human services or other responsible agency for any act or acts 4089
that also would constitute a violation of division (A) (10), 4090
(12), or (14) of this section; 4091

(18) Impairment of ability to practice according to 4092
acceptable and prevailing standards of care because of substance 4093
use disorder or excessive use or abuse of drugs, alcohol, or 4094
other substances that may impair ability to practice; 4095

(19) Failure to cooperate in an investigation conducted by 4096
the board under division (E) of section 4761.03 of the Revised 4097
Code, including failure to comply with a subpoena or order 4098
issued by the board or failure to answer truthfully a question 4099
presented by the board in an investigative interview, an 4100
investigative office conference, at a deposition, or in written 4101
interrogatories, except that failure to cooperate with an 4102
investigation shall not constitute grounds for discipline under 4103
this section if a court of competent jurisdiction has issued an 4104
order that either quashes a subpoena or permits the individual 4105
to withhold the testimony or evidence in issue; 4106

(20) Practicing in an area of respiratory care or advanced 4107

practice respiratory care for which the person is clearly 4108
untrained or incompetent or practicing in a manner that 4109
conflicts with section 4761.17 or 4761.37 of the Revised Code; 4110

(21) Employing, directing, or supervising a person who is 4111
not authorized to practice respiratory care under this chapter 4112
in the performance of respiratory care procedures; 4113

(22) Misrepresenting educational attainments or authorized 4114
functions for the purpose of obtaining some benefit related to 4115
the practice of respiratory care or advanced practice 4116
respiratory care; 4117

(23) Assisting suicide as defined in section 3795.01 of 4118
the Revised Code; 4119

(24) Representing, with the purpose of obtaining 4120
compensation or other advantage as personal gain or for any 4121
other person, that an incurable disease or injury, or other 4122
incurable condition, can be permanently cured; 4123

(25) Failure to comply with the requirements of this 4124
chapter, Chapter 4731. of the Revised Code, or any rules adopted 4125
by the board; 4126

(26) Violating or attempting to violate, directly or 4127
indirectly, or assisting in or abetting the violation of, or 4128
conspiring to violate, any provision of this chapter, Chapter 4129
4731. of the Revised Code, or the rules adopted by the board; 4130

(27) Failure to practice in accordance with the 4131
supervising physician's supervision agreement with the advanced 4132
practice respiratory therapist, including the policies of the 4133
health care facility in which the supervising physician and 4134
advanced practice respiratory therapist are practicing; 4135

(28) Administering drugs for purposes other than those 4136
authorized under this chapter; 4137

(29) A plea of guilty to, a judicial finding of guilt of, 4138
or a judicial finding of eligibility for intervention in lieu of 4139
conviction for violating any state or federal law regulating the 4140
possession, distribution, or use of any drug, including 4141
trafficking in drugs; 4142

(30) Willfully betraying a professional confidence; 4143

(31) Failure to use universal blood and body fluid 4144
precautions established by rules adopted under section 4731.051 4145
of the Revised Code; 4146

(32) Having the individual's qualification to practice 4147
advanced practice respiratory care from an organization that is 4148
recognized by the board expire, lapse, or otherwise fail to be 4149
active. 4150

Disciplinary actions taken by the board under division (A) 4151
of this section shall be taken pursuant to an adjudication under 4152
Chapter 119. of the Revised Code, except that in lieu of an 4153
adjudication, the board may enter into a consent agreement with 4154
an individual to resolve an allegation of a violation of this 4155
chapter or any rule adopted under it. A consent agreement, when 4156
ratified by an affirmative vote of not fewer than six members of 4157
the board, shall constitute the findings and order of the board 4158
with respect to the matter addressed in the agreement. If the 4159
board refuses to ratify a consent agreement, the admissions and 4160
findings contained in the consent agreement shall be of no 4161
effect. 4162

A telephone conference call may be utilized for 4163
ratification of a consent agreement that revokes or suspends an 4164

individual's license or permit. The telephone conference call 4165
shall be considered a special meeting under division (F) of 4166
section 121.22 of the Revised Code. 4167

(B) The board shall not refuse to issue a license or 4168
limited permit to an applicant because of a plea of guilty to, a 4169
judicial finding of guilt of, or a judicial finding of 4170
eligibility for intervention in lieu of conviction for an 4171
offense unless the refusal is in accordance with section 9.79 of 4172
the Revised Code. 4173

(C) Any action taken by the board under division (A) of 4174
this section resulting in a suspension from practice shall be 4175
accompanied by a written statement of the conditions under which 4176
the individual's license or permit may be reinstated. The board 4177
shall adopt rules governing conditions to be imposed for 4178
reinstatement. Reinstatement of a license or permit suspended 4179
pursuant to division (A) of this section requires an affirmative 4180
vote of not fewer than six members of the board. 4181

(D) When the board refuses to grant or issue a license or 4182
permit to an applicant, revokes an individual's license or 4183
permit, refuses to renew an individual's license or permit, or 4184
refuses to reinstate an individual's license or permit, the 4185
board may specify that its action is permanent. An individual 4186
subject to a permanent action taken by the board is forever 4187
thereafter ineligible to hold a license or permit and the board 4188
shall not accept an application for reinstatement of the license 4189
or permit or for issuance of a new license or permit. 4190

(E) If the board is required by Chapter 119. of the 4191
Revised Code to give notice of an opportunity for a hearing and 4192
if the individual subject to the notice does not timely request 4193
a hearing in accordance with section 119.07 of the Revised Code, 4194

the board is not required to hold a hearing, but may adopt, by 4195
an affirmative vote of not fewer than six of its members, a 4196
final order that contains the board's findings. In the final 4197
order, the board may order any of the sanctions identified under 4198
division (A) of this section. 4199

(F) In enforcing division (A)(14) of this section, the 4200
board, upon a showing of a possible violation, shall refer any 4201
individual authorized to practice by this chapter or who has 4202
submitted an application pursuant to this chapter to the 4203
monitoring organization that conducts the confidential 4204
monitoring program established under section 4731.25 of the 4205
Revised Code. The board also may compel the individual to submit 4206
to a mental examination, physical examination, including an HIV 4207
test, or both a mental and a physical examination. The expense 4208
of the examination is the responsibility of the individual 4209
compelled to be examined. Failure to submit to a mental or 4210
physical examination or consent to an HIV test ordered by the 4211
board constitutes an admission of the allegations against the 4212
individual unless the failure is due to circumstances beyond the 4213
individual's control, and a default and final order may be 4214
entered without the taking of testimony or presentation of 4215
evidence. If the board finds an individual unable to practice 4216
because of the reasons set forth in division (A)(14) of this 4217
section, the board shall require the individual to submit to 4218
care, counseling, or treatment by physicians approved or 4219
designated by the board, as a condition for initial, continued, 4220
reinstated, or renewed authority to practice. An individual 4221
affected under this division shall be afforded an opportunity to 4222
demonstrate to the board the ability to resume practice in 4223
compliance with acceptable and prevailing standards under the 4224
provisions of the individual's license or permit. For the 4225

purpose of division (A) (14) of this section, any individual who 4226
applies for or receives a license or permit to practice under 4227
this chapter accepts the privilege of practicing in this state 4228
and, by so doing, shall be deemed to have given consent to 4229
submit to a mental or physical examination when directed to do 4230
so in writing by the board, and to have waived all objections to 4231
the admissibility of testimony or examination reports that 4232
constitute a privileged communication. 4233

(G) For the purposes of division (A) (18) of this section, 4234
any individual authorized to practice by this chapter accepts 4235
the privilege of practicing in this state subject to supervision 4236
by the board. By filing an application for or holding a license 4237
or permit under this chapter, an individual shall be deemed to 4238
have given consent to submit to a mental or physical examination 4239
when ordered to do so by the board in writing, and to have 4240
waived all objections to the admissibility of testimony or 4241
examination reports that constitute privileged communications. 4242

If it has reason to believe that any individual authorized 4243
to practice by this chapter or any applicant for a license or 4244
permit suffers such impairment, the board shall refer the 4245
individual to the monitoring organization that conducts the 4246
confidential monitoring program established under section 4247
4731.25 of the Revised Code. The board also may compel the 4248
individual to submit to a mental or physical examination, or 4249
both. The expense of the examination is the responsibility of 4250
the individual compelled to be examined. Any mental or physical 4251
examination required under this division shall be undertaken by 4252
a treatment provider or physician who is qualified to conduct 4253
the examination and who is approved under section 4731.251 of 4254
the Revised Code. 4255

Failure to submit to a mental or physical examination 4256
ordered by the board constitutes an admission of the allegations 4257
against the individual unless the failure is due to 4258
circumstances beyond the individual's control, and a default and 4259
final order may be entered without the taking of testimony or 4260
presentation of evidence. If the board determines that the 4261
individual's ability to practice is impaired, the board shall 4262
suspend the individual's license or permit or deny the 4263
individual's application and shall require the individual, as a 4264
condition for an initial, continued, reinstated, or renewed 4265
license or permit, to submit to treatment. 4266

Before being eligible to apply for reinstatement of a 4267
license or permit suspended under this division, the impaired 4268
practitioner shall demonstrate to the board the ability to 4269
resume practice in compliance with acceptable and prevailing 4270
standards of care under the provisions of the practitioner's 4271
license or permit. The demonstration shall include, but shall 4272
not be limited to, the following: 4273

(1) Certification from a treatment provider approved under 4274
section 4731.251 of the Revised Code that the individual has 4275
successfully completed any required inpatient treatment; 4276

(2) Evidence of continuing full compliance with an 4277
aftercare contract or consent agreement; 4278

(3) Two written reports indicating that the individual's 4279
ability to practice has been assessed and that the individual 4280
has been found capable of practicing according to acceptable and 4281
prevailing standards of care. The reports shall be made by 4282
individuals or providers approved by the board for making the 4283
assessments and shall describe the basis for their 4284
determination. 4285

The board may reinstate a license or permit suspended 4286
under this division after that demonstration and after the 4287
individual has entered into a written consent agreement. 4288

When the impaired practitioner resumes practice, the board 4289
shall require continued monitoring of the individual. The 4290
monitoring shall include, but not be limited to, compliance with 4291
the written consent agreement entered into before reinstatement 4292
or with conditions imposed by board order after a hearing, and, 4293
upon termination of the consent agreement, submission to the 4294
board for at least two years of annual written progress reports 4295
made under penalty of perjury stating whether the individual has 4296
maintained sobriety. 4297

(H) (1) If either of the following circumstances occur, the 4298
secretary and supervising member may recommend that the board 4299
suspend an individual's license or permit without a prior 4300
hearing: 4301

(a) The secretary and supervising member determine both of 4302
the following: 4303

(i) That there is clear and convincing evidence that an 4304
individual has violated division (A) of this section; 4305

(ii) That the individual's continued practice presents a 4306
danger of immediate and serious harm to the public. 4307

(b) The board receives verifiable information that a 4308
licensee has been charged in any state or federal court for a 4309
crime classified as a felony under the charging court's law and 4310
the conduct charged constitutes a violation of division (A) of 4311
this section. 4312

(2) If a recommendation is made to suspend without a prior 4313
hearing pursuant to division (H) (1) of this section, written 4314

allegations shall be prepared for consideration by the board. 4315
The board, upon review of those allegations and by an 4316
affirmative vote of not fewer than six of its members, excluding 4317
the secretary and supervising member, may suspend a license or 4318
permit without a prior hearing. A telephone conference call may 4319
be utilized for reviewing the allegations and taking the vote on 4320
the summary suspension. 4321

The board shall serve a written order of suspension in 4322
accordance with sections 119.05 and 119.07 of the Revised Code. 4323
If the individual subject to the summary suspension requests an 4324
adjudicatory hearing by the board, the date set for the hearing 4325
shall be within fifteen days, but not earlier than seven days, 4326
after the individual requests the hearing, unless otherwise 4327
agreed to by both the board and the individual. 4328

(3) Any summary suspension imposed under division (H) (2) 4329
of this section is not a final appealable order and is not an 4330
adjudication that may be appealed under section 119.12 of the 4331
Revised Code. The summary suspension shall remain in effect 4332
until a final adjudicative order issued by the board pursuant to 4333
this section and Chapter 119. of the Revised Code becomes 4334
effective. Once a final adjudicative order has been issued by 4335
the board, any party adversely affected by it may file an appeal 4336
in accordance with the requirements of Chapter 119. of the 4337
Revised Code. 4338

The board shall issue its final adjudicative order within 4339
seventy-five days after completion of its hearing. A failure to 4340
issue the order within seventy-five days shall result in 4341
dissolution of the summary suspension order but shall not 4342
invalidate any subsequent, final adjudicative order. 4343

(I) For purposes of divisions (A) (2), (4), and (6) of this 4344

section, the commission of the act may be established by a 4345
finding by the board, pursuant to an adjudication under Chapter 4346
119. of the Revised Code, that the individual committed the act. 4347
The board does not have jurisdiction under those divisions if 4348
the trial court renders a final judgment in the individual's 4349
favor and that judgment is based upon an adjudication on the 4350
merits. The board has jurisdiction under those divisions if the 4351
trial court issues an order of dismissal upon technical or 4352
procedural grounds. 4353

(J) The sealing or expungement of conviction records by 4354
any court shall have no effect upon a prior board order entered 4355
under this section or upon the board's jurisdiction to take 4356
action under this section if, based upon a plea of guilty, a 4357
judicial finding of guilt, or a judicial finding of eligibility 4358
for intervention in lieu of conviction, the board issued a 4359
notice of opportunity for a hearing prior to the court's order 4360
to seal or expunge the records. The board shall not be required 4361
to seal, destroy, redact, or otherwise modify its records to 4362
reflect the court's sealing or expungement of conviction 4363
records. 4364

(K) If the board takes action under division (A) (1), (3), 4365
or (5) of this section, and the judicial finding of guilt, 4366
guilty plea, or judicial finding of eligibility for intervention 4367
in lieu of conviction is overturned on appeal, upon exhaustion 4368
of the criminal appeal, a petition for reconsideration of the 4369
order may be filed with the board along with appropriate court 4370
documents. Upon receipt of a petition for reconsideration and 4371
supporting court documents, the board shall reinstate the 4372
individual's license or permit. The board may then hold an 4373
adjudication under Chapter 119. of the Revised Code to determine 4374
whether the individual committed the act in question. Notice of 4375

an opportunity for a hearing shall be given in accordance with 4376
Chapter 119. of the Revised Code. If the board finds, pursuant 4377
to an adjudication held under this division, that the individual 4378
committed the act or if no hearing is requested, the board may 4379
order any of the sanctions identified under division (A) of this 4380
section. 4381

(L) The license or permit issued to an individual under 4382
this chapter and the individual's practice in this state are 4383
automatically suspended as of the date the individual pleads 4384
guilty to, is found by a judge or jury to be guilty of, or is 4385
subject to a judicial finding of eligibility for intervention in 4386
lieu of conviction in this state or treatment or intervention in 4387
lieu of conviction in another jurisdiction for any of the 4388
following criminal offenses in this state or a substantially 4389
equivalent criminal offense in another jurisdiction: aggravated 4390
murder, murder, voluntary manslaughter, felonious assault, 4391
trafficking in persons, kidnapping, rape, sexual battery, gross 4392
sexual imposition, aggravated arson, aggravated robbery, or 4393
aggravated burglary. Continued practice after suspension shall 4394
be considered practicing without a license or permit. 4395

The board shall serve the individual subject to the 4396
suspension in accordance with sections 119.05 and 119.07 of the 4397
Revised Code. If an individual whose license or permit is 4398
automatically suspended under this division fails to make a 4399
timely request for an adjudication under Chapter 119. of the 4400
Revised Code, the board shall enter a final order permanently 4401
revoking the individual's license or permit. 4402

(M) Notwithstanding any other provision of the Revised 4403
Code, all of the following apply: 4404

(1) The surrender of a license or permit issued under this 4405

chapter shall not be effective unless or until accepted by the 4406
board. A telephone conference call may be utilized for 4407
acceptance of the surrender of an individual's license or 4408
permit. The telephone conference call shall be considered a 4409
special meeting under division (F) of section 121.22 of the 4410
Revised Code. Reinstatement of a license or permit surrendered 4411
to the board requires an affirmative vote of not fewer than six 4412
members of the board. 4413

(2) An application for a license or permit made under the 4414
provisions of this chapter may not be withdrawn without approval 4415
of the board. 4416

(3) Failure by an individual to renew a license or permit 4417
in accordance with this chapter does not remove or limit the 4418
board's jurisdiction to take any disciplinary action under this 4419
section against the individual. 4420

(4) The placement of an individual's license on retired 4421
status, as described in section 4761.062 of the Revised Code, 4422
does not remove or limit the board's jurisdiction to take any 4423
disciplinary action against the individual with regard to the 4424
license as it existed before being placed on retired status. 4425

(5) At the request of the board, a license or permit 4426
holder shall immediately surrender to the board a license or 4427
permit that the board has suspended, revoked, or permanently 4428
revoked. 4429

Sec. 4761.13. (A) As used in this section, "prosecutor" 4430
has the same meaning as in section 2935.01 of the Revised Code. 4431

(B) The prosecutor in any case against any respiratory 4432
care professional, advanced practice respiratory therapist, or 4433
~~an~~ individual holding a limited permit issued under this chapter 4434

shall promptly notify the state medical board of any of the 4435
following: 4436

(1) A plea of guilty to, or a finding of guilt by a jury 4437
or court of, a felony, or a case in which the trial court issues 4438
an order of dismissal upon technical or procedural grounds of a 4439
felony charge; 4440

(2) A plea of guilty to, or a finding of guilt by a jury 4441
or court of, a misdemeanor committed in the course of practice, 4442
or a case in which the trial court issues an order of dismissal 4443
upon technical or procedural grounds of a charge of a 4444
misdemeanor, if the alleged act was committed in the course of 4445
practice; 4446

(3) A plea of guilty to, or a finding of guilt by a jury 4447
or court of, a misdemeanor involving moral turpitude, or a case 4448
in which the trial court issues an order of dismissal upon 4449
technical or procedural grounds of a charge of a misdemeanor 4450
involving moral turpitude. 4451

(C) The report shall include the name and address of the 4452
respiratory care professional, advanced practice respiratory 4453
therapist, or person holding a limited permit, the nature of the 4454
offense for which the action was taken, and the certified court 4455
documents recording the action. The board may prescribe and 4456
provide forms for prosecutors to make reports under this 4457
section. The form may be the same as the form required to be 4458
provided under section 2929.42 of the Revised Code. 4459

Sec. 4761.14. (A) As used in this section, "criminal 4460
conduct" and "sexual misconduct" have the same meanings as in 4461
section 4731.224 of the Revised Code. 4462

(B) (1) An employer that disciplines or terminates the 4463

employment of a respiratory care professional, advanced practice 4464
respiratory therapist, or individual holding a limited permit 4465
issued under this chapter because of conduct that would be 4466
grounds for disciplinary action under section 4761.09 of the 4467
Revised Code shall, not later than thirty days after the 4468
discipline or termination, report the action to the state 4469
medical board. The report shall state the name of the 4470
respiratory care professional, advanced practice respiratory 4471
therapist, or individual holding the limited permit and the 4472
reason the employer took the action. If an employer fails to 4473
report to the board, the board may seek an order from the 4474
Franklin county court of common pleas, or any other court of 4475
competent jurisdiction, compelling submission of the report. 4476

(2) Within thirty days after commencing an investigation 4477
regarding criminal conduct or sexual misconduct against any 4478
respiratory care professional, advanced practice respiratory 4479
therapist, or individual holding a ~~valid license or~~ limited 4480
permit issued ~~pursuant to~~ under this chapter, a health care 4481
facility, including a hospital, health care facility operated by 4482
a health insuring corporation, ambulatory surgical center, or 4483
similar facility or employer, shall report to the board the name 4484
of the respiratory care professional, advanced practice 4485
respiratory therapist, or individual holding the limited permit 4486
and a summary of the underlying facts related to the 4487
investigation being commenced. 4488

(C) If any individual authorized to practice under this 4489
chapter or any professional association or society of such 4490
individuals knows or has reasonable cause to suspect based on 4491
facts that would cause a reasonable person in a similar position 4492
to suspect that an individual authorized to practice under this 4493
chapter has committed or participated in criminal conduct or 4494

sexual misconduct the information upon which the belief is based 4495
shall be reported to the board within thirty days. 4496

This division does not apply to a professional association 4497
or society whose staff interacts with members of the association 4498
or society only in advocacy, governance, or educational 4499
capacities and whose staff does not regularly interact with 4500
members in practice settings. 4501

(D) In addition to the self-reporting of criminal offenses 4502
that is required for license renewal, an individual authorized 4503
to practice under this chapter shall report to the board 4504
criminal charges regarding criminal conduct, sexual misconduct, 4505
or any conduct involving the use of a motor vehicle while under 4506
the influence of alcohol or drugs, including offenses that are 4507
equivalent offenses under division (A) of section 4511.181 of 4508
the Revised Code, violations of division (D) of section 4511.194 4509
of the Revised Code, and violations of division (C) of section 4510
4511.79 of the Revised Code. Reports under this division shall 4511
be made within thirty days of the criminal charge being filed. 4512

Sec. 4761.17. All of the following apply to the practice 4513
of respiratory care by a person who holds a license or limited 4514
permit issued under this chapter: 4515

(A) The person shall practice only pursuant to a 4516
prescription or other order for respiratory care issued by any 4517
of the following: 4518

(1) A physician; 4519

(2) A clinical nurse specialist, certified nurse-midwife, 4520
or certified nurse practitioner who holds a current, valid 4521
license issued under Chapter 4723. of the Revised Code to 4522
practice nursing as an advanced practice registered nurse and 4523

has entered into a standard care arrangement with a physician; 4524

(3) A certified registered nurse anesthetist who holds a 4525
current, valid license issued under Chapter 4723. of the Revised 4526
Code to practice nursing as an advanced practice registered 4527
nurse and acts in compliance with sections 4723.43, 4723.433, 4528
and 4723.434 of the Revised Code; 4529

(4) A physician assistant who holds a valid prescriber 4530
number issued by the state medical board, has been granted 4531
physician-delegated prescriptive authority, and has entered into 4532
a supervision agreement that allows the physician assistant to 4533
prescribe or order respiratory care services; 4534

(5) An advanced practice respiratory therapist who has 4535
been granted physician-delegated prescriptive authority and has 4536
entered into a supervision agreement that allows the advanced 4537
practice respiratory therapist to prescribe and order 4538
respiratory care services. 4539

(B) The person shall practice only under the supervision 4540
of any of the following: 4541

(1) A physician; 4542

(2) A certified nurse practitioner, certified nurse- 4543
midwife, or clinical nurse specialist; 4544

(3) A physician assistant who is authorized to prescribe 4545
or order respiratory care services as provided in division (A) 4546
(4) of this section; 4547

(4) An advanced practice respiratory therapist who is 4548
authorized to prescribe or order respiratory care services as 4549
provided in division (A) (5) of this section. 4550

(C) (1) When practicing under the prescription or order of 4551

a certified nurse practitioner, certified nurse midwife, or 4552
clinical nurse specialist or under the supervision of such a 4553
nurse, the person's administration of medication that requires a 4554
prescription is limited to the drugs that the nurse is 4555
authorized to prescribe pursuant to section 4723.481 of the 4556
Revised Code. 4557

(2) When practicing under the order of a certified 4558
registered nurse anesthetist, the person's administration of 4559
medication is limited to the drugs that the nurse is authorized 4560
to order or direct the person to administer, as provided in 4561
sections 4723.43, 4723.433, and 4723.434 of the Revised Code. 4562

(3) When practicing under the prescription or order of a 4563
physician assistant or under the supervision of a physician 4564
assistant, the person's administration of medication that 4565
requires a prescription is limited to the drugs that the 4566
physician assistant is authorized to prescribe pursuant to the 4567
physician assistant's physician-delegated prescriptive 4568
authority. 4569

(4) When practicing under the prescription or order of an 4570
advanced practice respiratory therapist or under the supervision 4571
of an advanced practice respiratory therapist, the person's 4572
administration of medication that requires a prescription is 4573
limited to the drugs that an advanced practice respiratory 4574
therapist is authorized to prescribe pursuant to the advanced 4575
practice respiratory therapist's physician-delegated 4576
prescriptive authority. 4577

Sec. 4761.20. If the state medical board has reason to 4578
believe that any person who has been granted a license or 4579
limited permit under this chapter is mentally ill or mentally 4580
incompetent, it may file in the probate court of the county in 4581

which such person has a legal residence an affidavit in the form 4582
prescribed in section 5122.11 of the Revised Code and signed by 4583
the board secretary or a member of the secretary's staff, 4584
whereupon the same proceedings shall be had as provided in 4585
Chapter 5122. of the Revised Code. The attorney general may 4586
represent the board in any proceeding commenced under this 4587
section. 4588

If the license holder or limited permit holder is adjudged 4589
by a probate court to be mentally ill or mentally incompetent, 4590
the individual's license or limited permit shall be 4591
automatically suspended until the individual has filed with the 4592
board a certified copy of an adjudication by a probate court of 4593
being restored to competency or has submitted to the board 4594
proof, satisfactory to the board, of having been discharged as 4595
being restored to competency in the manner and form provided in 4596
section 5122.38 of the Revised Code. The judge of the court 4597
shall immediately notify the board of an adjudication of 4598
incompetence and note any suspension of a license in the margin 4599
of the court's record of the license. 4600

Sec. 4761.21. In the absence of fraud or bad faith, the 4601
state medical board, the board's respiratory care advisory 4602
council, a current or former board or council member, an agent 4603
of the board or council, a person formally requested by the 4604
board to be the board's representative or by the council to be 4605
the council's representative, or an employee of the board or 4606
council shall not be held liable in damages to any person as the 4607
result of any act, omission, proceeding, conduct, or decision 4608
related to official duties undertaken or performed pursuant to 4609
this chapter. If any such person requests to be defended by the 4610
state against any claim or action arising out of any act, 4611
omission, proceeding, conduct, or decision related to the 4612

person's official duties, and if the request is made in writing 4613
at a reasonable time before trial and the person requesting 4614
defense cooperates in good faith in the defense of the claim or 4615
action, the state shall provide and pay for the person's defense 4616
and shall pay any resulting judgment, compromise, or settlement. 4617
At no time shall the state pay any part of a claim or judgment 4618
that is for punitive or exemplary damages. 4619

Sec. 4761.30. A respiratory care professional or advanced 4620
practice respiratory therapist may provide telehealth services 4621
in accordance with section 4743.09 of the Revised Code. 4622

Sec. 4761.31. (A) An individual seeking an initial license 4623
to practice as an advanced practice respiratory therapist shall 4624
file with the state medical board a written application on a 4625
form prescribed and supplied by the board. The application shall 4626
be accompanied by the initial license fee determined by the 4627
board. The board shall deposit the fees in accordance with 4628
section 4731.24 of the Revised Code. 4629

(B) To be eligible for licensure as an advanced practice 4630
respiratory therapist, the individual's application must show, 4631
to the satisfaction of the board, all of the following: 4632

(1) That the individual has been issued a license to 4633
practice respiratory care under section 4761.05 of the Revised 4634
Code; 4635

(2) That the individual has successfully completed the 4636
requirements of a master's or doctoral educational program 4637
approved by the board that includes instruction in the following 4638
areas as they relate to cardiopulmonary disease: 4639
pathophysiology, symptomatology, differential diagnosis, disease 4640
management including the use and prescription of pharmacologic 4641

and nonpharmacologic interventions, health promotion, and 4642
disease prevention; 4643

(3) That the individual has passed an examination approved 4644
under rules adopted by the board that tests the applicant's 4645
knowledge of the biomedical and clinical sciences relating to 4646
advanced respiratory therapy theory and practice, professional 4647
skills and assessment, management and follow-up for 4648
cardiopulmonary disease, and such other subjects as the board 4649
considers useful in determining fitness to practice; 4650

(4) That the individual holds an active qualification to 4651
practice advanced practice respiratory care from an organization 4652
that is recognized by the board. 4653

Sec. 4761.311. An advanced practice respiratory therapist 4654
who fails to maintain an active qualification to practice 4655
advanced practice respiratory care from an organization that is 4656
recognized by the state medical board shall notify the board not 4657
later than fourteen days after the qualification is no longer 4658
active. 4659

Sec. 4761.32. (A) The state medical board shall review 4660
each application for a license to practice as an advanced 4661
practice respiratory therapist received under section 4761.31 of 4662
the Revised Code. Not later than sixty days after receiving a 4663
complete application, the board shall determine whether the 4664
applicant meets the requirements to receive the license, as 4665
specified in section 4761.31 of the Revised Code. 4666

(B) If the board determines that an applicant meets the 4667
requirements to receive the license, the secretary of the board 4668
shall register the applicant as an advanced practice respiratory 4669
therapist and issue to the applicant a license to practice as an 4670

advanced practice respiratory therapist.

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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.

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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.

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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.

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

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(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.

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(2) The applicant must comply with the renewal eligibility 4700
requirements established under section 4761.49 of the Revised 4701
Code that pertain to the applicant. 4702

(C) If an applicant submits a complete renewal application 4703
and qualifies for renewal pursuant to division (B) of this 4704
section, the board shall issue to the applicant a renewed 4705
license to practice as an advanced practice respiratory 4706
therapist. 4707

Completion of the continuing education required for an 4708
advanced practice respiratory therapist to maintain an active 4709
qualification to practice advanced practice respiratory care 4710
from an organization that is recognized by the board shall 4711
constitute satisfactory completion of continuing education or 4712
reexamination requirements for renewal of a license to practice 4713
respiratory care as set forth in division (B) of section 4761.06 4714
of the Revised Code. 4715

(D) The board may require a random sample of advanced 4716
practice respiratory therapists to submit materials documenting 4717
both of the following: 4718

(1) Maintenance of an active qualification to practice 4719
advanced practice respiratory care from an organization that is 4720
recognized by the board. 4721

(2) Completion of the continuing education in pharmacology 4722
required by section 4761.49 of the Revised Code. 4723

Division (D) of this section does not limit the board's 4724
authority to conduct investigations pursuant to section 4761.09 4725
of the Revised Code. 4726

(E) (1) A license to practice that is not renewed on or 4727
before its expiration date is automatically suspended on its 4728

expiration date. Continued practice after suspension of the 4729
license shall be considered as practicing in violation of 4730
section 4761.34 of the Revised Code. 4731

(2) If an advanced practice respiratory therapist's 4732
license to practice as a respiratory care professional is 4733
classified as inactive for any cause, the advanced practice 4734
respiratory therapist's license to practice as an advanced 4735
practice respiratory therapist is automatically classified as 4736
inactive while the license to practice as a respiratory care 4737
professional remains inactive. If either license held by an 4738
advanced practice respiratory therapist is revoked under this 4739
chapter, the other license is automatically revoked. If either 4740
license is suspended under this chapter, including for failure 4741
to renew under this section or section 4761.06 of the Revised 4742
Code, the other license is automatically suspended while the 4743
suspension remains in effect. 4744

(F) If a license has been suspended pursuant to division 4745
(E) of this section for two years or less, it may be reinstated. 4746
The board shall reinstate a license suspended for failure to 4747
renew upon an applicant's submission of a renewal application, 4748
the biennial renewal fee, and any applicable monetary penalty. 4749

If a license has been suspended pursuant to division (E) 4750
of this section for more than two years, it may be restored. In 4751
accordance with section 4761.061 of the Revised Code, the board 4752
may restore a license suspended for failure to renew upon an 4753
applicant's submission of a restoration application, the 4754
biennial renewal fee, and any applicable monetary penalty, and 4755
compliance with sections 4776.01 to 4776.04 of the Revised Code. 4756
The board shall not restore to an applicant a license to 4757
practice as an advanced practice respiratory therapist unless 4758

the board, in its discretion, decides that the results of the 4759
criminal records check do not make the applicant ineligible for 4760
a license issued pursuant to section 4761.32 of the Revised 4761
Code. 4762

The penalty for reinstatement shall be fifty dollars and 4763
the penalty for restoration shall be one hundred dollars. The 4764
board shall deposit penalties in accordance with section 4731.24 4765
of the Revised Code. 4766

(G) (1) If, through a random sample conducted under 4767
division (D) of this section or any other means, the board finds 4768
that an individual who certified maintenance of an active 4769
qualification or completion of continuing education in 4770
pharmacology required to renew, reinstate, or restore a license 4771
to practice did not complete the requisite maintenance or 4772
continuing education, the board may do either of the following: 4773

(a) Take disciplinary action against the individual under 4774
section 4761.09 of the Revised Code, impose a civil penalty, or 4775
both; 4776

(b) Permit the individual to agree in writing to re- 4777
establish an active qualification or complete the continuing 4778
education and pay a civil penalty. 4779

(2) The board's finding in any disciplinary action taken 4780
under division (G) (1) (a) of this section shall be made pursuant 4781
to an adjudication under Chapter 119. of the Revised Code and by 4782
an affirmative vote of not fewer than six of its members. 4783

(3) A civil penalty imposed under division (G) (1) (a) of 4784
this section or paid under division (G) (1) (b) of this section 4785
shall be in an amount specified by the board of not more than 4786
five thousand dollars. The board shall deposit civil penalties 4787

in accordance with section 4731.24 of the Revised Code.

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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.

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(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.

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(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.

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(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:

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

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(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.

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(E) No person practicing as an advanced practice
respiratory therapist shall perform general anesthesia,
monitored anesthesia care, regional anesthesia, or neuraxial

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anesthesia. 4817

(F) No person shall advertise to provide services as an 4818
advanced practice respiratory therapist, except for the purpose 4819
of seeking employment. 4820

(G) No person practicing as an advanced practice 4821
respiratory therapist shall fail to wear at all times when on 4822
duty a placard, plate, or other device identifying that person 4823
as an advanced practice respiratory therapist. 4824

(H) No person practicing as an advanced practice 4825
respiratory therapist shall prescribe controlled substances. 4826

(I) Division (A) of this section does not apply to a 4827
person who meets all of the following conditions: 4828

(1) The person holds in good standing a valid license or 4829
other form of authority to practice as an advanced practice 4830
respiratory therapist issued by another state. 4831

(2) The person is practicing as a volunteer without 4832
remuneration during a charitable event that lasts not more than 4833
seven days. 4834

(3) The medical care provided by the person will be 4835
supervised by the medical director of the charitable event or by 4836
another physician. 4837

When a person meets the conditions of this division, the 4838
person shall be deemed to hold, during the course of the 4839
charitable event, a license to practice as an advanced practice 4840
respiratory therapist from the state medical board and shall be 4841
subject to the provisions of this chapter authorizing the board 4842
to take disciplinary action against a license holder. Not less 4843
than seven calendar days before the first day of the charitable 4844

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; 4874

(D) Be construed as authorizing an advanced practice 4875
respiratory therapist independently to order or direct the 4876
execution of procedures or techniques by a registered nurse or 4877
licensed practical nurse in the care and treatment of a person, 4878
except to the extent that an advanced practice respiratory 4879
therapist is authorized to do so by a physician who is 4880
responsible for supervising the advanced practice respiratory 4881
therapist and the policies of the health care facility in which 4882
the advanced practice respiratory therapist is practicing. 4883

Sec. 4761.36. (A) As used in this section: 4884

(1) "Disaster" means any imminent threat or actual 4885
occurrence of widespread or severe damage to or loss of 4886
property, personal hardship or injury, or loss of life that 4887
results from any natural phenomenon or act of a human. 4888

(2) "Emergency" means an occurrence or event that poses an 4889
imminent threat to the health or life of a human. 4890

(B) Nothing in this chapter prohibits any of the following 4891
individuals from providing medical care, to the extent the 4892
individual is able, in response to a need for medical care 4893
precipitated by a disaster or emergency: 4894

(1) An individual who holds a license to practice as an 4895
advanced practice respiratory therapist issued under this 4896
chapter; 4897

(2) An individual licensed or authorized to practice as an 4898
advanced practice respiratory therapist in another state; 4899

(3) An individual employed as an advanced practice 4900
respiratory therapist by an agency, office, or other 4901

instrumentality of the federal government. 4902

(C) For purposes of the medical care provided by an 4903
advanced practice respiratory therapist pursuant to division (B) 4904
(1) of this section, both of the following apply notwithstanding 4905
any supervision requirement of this chapter to the contrary: 4906

(1) The physician who supervises the advanced practice 4907
respiratory therapist pursuant to a supervision agreement 4908
entered into under section 4761.38 of the Revised Code is not 4909
required to meet the supervision requirements established under 4910
this chapter. 4911

(2) The physician designated as the medical director of 4912
the disaster or emergency may supervise the medical care 4913
provided by the advanced practice respiratory therapist. 4914

Sec. 4761.37. (A) A license to practice as an advanced 4915
practice respiratory therapist issued under this chapter 4916
authorizes the holder to practice as an advanced practice 4917
respiratory therapist as follows: 4918

(1) The advanced practice respiratory therapist shall 4919
practice only under the supervision, control, and direction of a 4920
physician with whom the advanced practice respiratory therapist 4921
has entered into a supervision agreement under section 4761.38 4922
of the Revised Code. 4923

(2) The advanced practice respiratory therapist shall 4924
practice in accordance with the supervision agreement entered 4925
into with the physician who is responsible for supervising the 4926
advanced practice respiratory therapist, including the policies 4927
of the health care facility in which the advanced practice 4928
respiratory therapist is practicing. 4929

(B) The state medical board may adopt rules designating 4930

hospital-based facilities to be included as health care 4931
facilities that are in addition to hospitals as specified in 4932
division (K) (1) of section 4761.01 of the Revised Code. Any 4933
rules adopted shall be adopted in accordance with Chapter 119. 4934
of the Revised Code. 4935

Sec. 4761.38. (A) Before initiating supervision of an 4936
advanced practice respiratory therapist, a physician shall enter 4937
into a supervision agreement with the advanced practice 4938
respiratory therapist who will be supervised. A supervision 4939
agreement may not apply to more than one advanced practice 4940
respiratory therapist. Only a physician who specializes in one 4941
or more of the following areas is authorized to enter into a 4942
supervision agreement with an advanced practice respiratory 4943
therapist under this section: pulmonology, anesthesiology, 4944
critical care, or sleep medicine. 4945

The supervision agreement shall specify that the physician 4946
agrees to supervise the advanced practice respiratory therapist 4947
and the advanced practice respiratory therapist agrees to 4948
practice under that physician's supervision. The supervision 4949
agreement shall clearly state that the supervising physician is 4950
legally responsible and assumes legal liability for the services 4951
provided by the advanced practice respiratory therapist. The 4952
agreement shall be signed by the physician and the advanced 4953
practice respiratory therapist. 4954

(B) A supervision agreement shall include all of the 4955
following: 4956

(1) Terms that require the advanced practice respiratory 4957
therapist to practice in accordance with the policies of the 4958
health care facility in which the advanced practice respiratory 4959
therapist is practicing; 4960

(2) Any limitations on the responsibilities to be 4961
fulfilled by the advanced practice respiratory therapist; 4962

(3) The circumstances under which the advanced practice 4963
respiratory therapist is required to refer a patient to the 4964
supervising physician; 4965

(4) If the supervising physician chooses to designate 4966
physicians to act as alternate supervising physicians, the 4967
names, business addresses, and business telephone numbers of the 4968
physicians who have agreed to act in that capacity. 4969

(C) The supervising physician who entered into a 4970
supervision agreement shall retain a copy of the agreement in 4971
the records maintained by the supervising physician. Each 4972
advanced practice respiratory therapist who entered into the 4973
supervision agreement shall retain a copy of the agreement in 4974
the records maintained by the advanced practice respiratory 4975
therapist. 4976

(D) (1) If the board finds, through a review conducted 4977
under this section or through any other means, any of the 4978
following, the board may take disciplinary action against the 4979
individual under section 4731.22 or 4761.09 of the Revised Code, 4980
impose a civil penalty, or both: 4981

(a) That an advanced practice respiratory therapist has 4982
practiced in a manner that departs from, or fails to conform to, 4983
the terms of a supervision agreement entered into under this 4984
section; 4985

(b) That a physician has supervised an advanced practice 4986
respiratory therapist in a manner that departs from, or fails to 4987
conform to, the terms of a supervision agreement entered into 4988
under this section; 4989

(c) That a physician or an advanced practice respiratory 4990
therapist failed to comply with division (A) or (B) of this 4991
section. 4992

(2) If the board finds, through a review conducted under 4993
this section or through any other means, that a physician or 4994
advanced practice respiratory therapist failed to comply with 4995
division (C) of this section, the board may do either of the 4996
following: 4997

(a) Take disciplinary action against the individual under 4998
section 4731.22 or 4761.09 of the Revised Code, impose a civil 4999
penalty, or both; 5000

(b) Permit the individual to agree in writing to update 5001
the records to comply with division (C) of this section and pay 5002
a civil penalty. 5003

(3) The board's finding in any disciplinary action taken 5004
under division (D) of this section shall be made pursuant to an 5005
adjudication conducted under Chapter 119. of the Revised Code. 5006

(4) A civil penalty imposed under division (D) (1) or (2) 5007
(a) of this section or paid under division (D) (2) (b) of this 5008
section shall be in an amount specified by the board of not more 5009
than five thousand dollars and shall be deposited in accordance 5010
with section 4731.24 of the Revised Code. 5011

Sec. 4761.39. (A) An advanced practice respiratory 5012
therapist licensed under this chapter may perform any of the 5013
following services authorized by the supervising physician that 5014
are part of the supervising physician's normal course of 5015
practice and expertise: 5016

(1) Ordering diagnostic, therapeutic, and other medical 5017
services; 5018

(2) Prescribing physical therapy or referring a patient to 5019
a physical therapist for physical therapy; 5020

(3) Ordering occupational therapy or referring a patient 5021
to an occupational therapist for occupational therapy; 5022

(4) If the advanced practice respiratory therapist has 5023
been granted physician-delegated prescriptive authority, 5024
ordering, prescribing, and administering drugs and medical 5025
devices; 5026

(5) Any other services that are part of the supervising 5027
physician's normal course of practice and expertise. 5028

(B) The services an advanced practice respiratory 5029
therapist may provide under the policies of a health care 5030
facility are limited to the services the facility authorizes the 5031
advanced practice respiratory therapist to provide for the 5032
facility. A facility shall not authorize an advanced practice 5033
respiratory therapist to perform a service that is prohibited 5034
under this chapter. A physician who is supervising an advanced 5035
practice respiratory therapist within a health care facility may 5036
impose limitations on the advanced practice respiratory 5037
therapist's practice that are in addition to any limitations 5038
applicable under the policies of the facility. 5039

Sec. 4761.391. (A) Acting pursuant to a supervision 5040
agreement, an advanced practice respiratory therapist may 5041
delegate performance of a task to implement a patient's plan of 5042
care or, if the conditions in division (C) of this section are 5043
met, may delegate administration of a drug. Subject to division 5044
(D) of section 4761.35 of the Revised Code, delegation may be to 5045
any person. The advanced practice respiratory therapist must be 5046
physically present at the location where the task is performed 5047

or the drug administered. 5048

(B) Prior to delegating a task or administration of a 5049
drug, an advanced practice respiratory therapist shall determine 5050
that the task or drug is appropriate for the patient and the 5051
person to whom the delegation is to be made may safely perform 5052
the task or administer the drug. 5053

(C) An advanced practice respiratory therapist may 5054
delegate administration of a drug only if all of the following 5055
conditions are met: 5056

(1) The advanced practice respiratory therapist has been 5057
granted physician-delegated prescriptive authority and is 5058
authorized to prescribe the drug. 5059

(2) The drug is not a controlled substance. 5060

(3) The drug will not be administered intravenously. 5061

(4) The drug will not be administered in a hospital 5062
inpatient care unit, as defined in section 3727.50 of the 5063
Revised Code; a hospital emergency department; a freestanding 5064
emergency department; or an ambulatory surgical facility 5065
licensed under section 3702.30 of the Revised Code. 5066

(D) A person not otherwise authorized to administer a drug 5067
or perform a specific task may do so in accordance with an 5068
advanced practice respiratory therapist's delegation under this 5069
section. 5070

Sec. 4761.40. (A) The supervising physician of an advanced 5071
practice respiratory therapist exercises supervision, control, 5072
and direction of the advanced practice respiratory therapist. An 5073
advanced practice respiratory therapist may practice in any 5074
health care facility within which the supervising physician has 5075

supervision, control, and direction of the advanced practice 5076
respiratory therapist. 5077

In supervising an advanced practice respiratory therapist, 5078
all of the following apply: 5079

(1) The supervising physician shall provide only on-site 5080
supervision, consisting of being physically present at the 5081
location where the advanced practice respiratory therapist is 5082
practicing and being continuously available for direct 5083
communication with the advanced practice respiratory therapist. 5084

(2) The supervising physician shall personally and 5085
actively review the advanced practice respiratory therapist's 5086
professional activities. 5087

(3) The supervising physician shall ensure that the 5088
quality assurance system established pursuant to division (F) of 5089
this section is implemented and maintained. 5090

(4) The supervising physician shall regularly perform any 5091
other reviews of the advanced practice respiratory therapist 5092
that the supervising physician considers necessary. 5093

(B) A physician may enter into supervision agreements with 5094
any number of advanced practice respiratory therapists, but the 5095
physician may not supervise more than five advanced practice 5096
respiratory therapists at any one time. An advanced practice 5097
respiratory therapist may enter into supervision agreements with 5098
any number of supervising physicians. 5099

(C) A supervising physician may authorize an advanced 5100
practice respiratory therapist to perform a service only if the 5101
physician is satisfied that the advanced practice respiratory 5102
therapist is capable of competently performing the service. A 5103
supervising physician shall not authorize an advanced practice 5104

respiratory therapist to perform any service that is beyond the 5105
physician's or the advanced practice respiratory therapist's 5106
normal course of practice and expertise. 5107

(D) In the case of a health care facility with an 5108
emergency department, the supervising physician may, on 5109
occasion, send the advanced practice respiratory therapist to 5110
the facility's emergency department to assess a patient. In 5111
supervising the advanced practice respiratory therapist's 5112
assessment of the patient, the supervising physician shall 5113
determine the appropriate level of supervision in compliance 5114
with the requirements of divisions (A) to (C) of this section, 5115
except that the supervising physician must be available to go to 5116
the emergency department to personally evaluate the patient and, 5117
at the request of an emergency department physician, the 5118
supervising physician shall go to the emergency department to 5119
personally evaluate the patient. 5120

(E) Each time an advanced practice respiratory therapist 5121
writes a medical order, including prescriptions written in the 5122
exercise of physician-delegated prescriptive authority, the 5123
advanced practice respiratory therapist shall sign the form on 5124
which the order is written and record on the form the time and 5125
date that the order is written. 5126

(F) (1) The supervising physician of an advanced practice 5127
respiratory therapist shall establish a quality assurance system 5128
to be used in supervising the advanced practice respiratory 5129
therapist. All or part of the system may be applied to other 5130
advanced practice respiratory therapists who are supervised by 5131
the supervising physician. The system shall be developed in 5132
consultation with each advanced practice respiratory therapist 5133
to be supervised by the physician. 5134

(2) In establishing the quality assurance system, the 5135
supervising physician shall describe a process to be used for 5136
all of the following: 5137

(a) Routine review by the physician of selected patient 5138
record entries made by the advanced practice respiratory 5139
therapist and selected medical orders issued by the advanced 5140
practice respiratory therapist; 5141

(b) Discussion of complex cases; 5142

(c) Discussion of new medical developments relevant to the 5143
practice of the physician and advanced practice respiratory 5144
therapist; 5145

(d) Performance of any quality assurance activities 5146
required in rules adopted by the state medical board pursuant to 5147
any recommendations made by the respiratory care advisory 5148
council under section 4761.032 of the Revised Code; 5149

(e) Performance of any other quality assurance activities 5150
that the supervising physician considers to be appropriate. 5151

(3) The supervising physician and advanced practice 5152
respiratory therapist shall keep records of their quality 5153
assurance activities. On request, the records shall be made 5154
available to the board. 5155

Sec. 4761.41. (A) When performing authorized services, an 5156
advanced practice respiratory therapist acts as the agent of the 5157
advanced practice respiratory therapist's supervising physician. 5158
The supervising physician is legally responsible and assumes 5159
legal liability for the services provided by the advanced 5160
practice respiratory therapist. 5161

The physician is not responsible or liable for any 5162

services provided by the advanced practice respiratory therapist 5163
after their supervision agreement expires or is terminated. 5164

(B) When a health care facility permits advanced practice 5165
respiratory therapists to practice within that facility or any 5166
other health care facility under its control, the health care 5167
facility shall make reasonable efforts to explain to each 5168
individual who may work with a particular advanced practice 5169
respiratory therapist the scope of that advanced practice 5170
respiratory therapist's practice within the facility. The 5171
appropriate credentialing body within the health care facility 5172
shall provide, on request of an individual practicing in the 5173
facility with an advanced practice respiratory therapist, a copy 5174
of the facility's policies on the practice of advanced practice 5175
respiratory therapists within the facility and a copy of each 5176
supervision agreement applicable to the advanced practice 5177
respiratory therapist. 5178

An individual who follows the orders of an advanced 5179
practice respiratory therapist practicing in a health care 5180
facility is not subject to disciplinary action by any 5181
administrative agency that governs that individual's conduct and 5182
is not liable in damages in a civil action for injury, death, or 5183
loss to person or property resulting from the individual's acts 5184
or omissions in the performance of any procedure, treatment, or 5185
other health care service if the individual reasonably believed 5186
that the advanced practice respiratory therapist was acting 5187
within the proper scope of practice or was relaying medical 5188
orders from a supervising physician, unless the act or omission 5189
constitutes willful or wanton misconduct. 5190

Sec. 4761.42. A license issued by the state medical board 5191
under section 4761.32 of the Revised Code authorizes the license 5192

holder to be granted physician-delegated prescriptive authority 5193
and to exercise that authority as provided in division (A) (4) of 5194
section 4761.39 and section 4761.45 of the Revised Code. The 5195
board shall issue a prescriber number to each advanced practice 5196
respiratory therapist licensed under this chapter. 5197

Sec. 4761.44. The state medical board shall adopt rules 5198
governing physician-delegated prescriptive authority for 5199
advanced practice respiratory therapists. The rules shall be 5200
adopted in accordance with Chapter 119. of the Revised Code and 5201
shall establish, at a minimum, requirements regarding the 5202
pharmacology courses that an advanced practice respiratory 5203
therapist is required to complete. 5204

Sec. 4761.45. An advanced practice respiratory therapist 5205
is authorized to prescribe drugs and therapeutic devices in the 5206
exercise of physician-delegated prescriptive authority, subject 5207
to all of the following: 5208

(A) An advanced practice respiratory therapist shall 5209
exercise physician-delegated prescriptive authority only to the 5210
extent that the physician supervising the advanced practice 5211
respiratory therapist has granted that authority. 5212

(B) An advanced practice respiratory therapist shall 5213
comply with all conditions placed on the physician-delegated 5214
prescriptive authority, as specified by the supervising 5215
physician who is supervising the advanced practice respiratory 5216
therapist in the exercise of physician-delegated prescriptive 5217
authority. 5218

(C) An advanced practice respiratory therapist's 5219
physician-delegated prescriptive authority shall not include the 5220
authority to do either of the following: 5221

<u>(1) Prescribe a controlled substance;</u>	5222
<u>(2) Personally furnish any drug.</u>	5223
<u>(D) An advanced practice respiratory therapist shall not</u>	5224
<u>prescribe any drug in violation of state or federal law.</u>	5225
<u>Sec. 4761.46. (A) In granting physician-delegated</u>	5226
<u>prescriptive authority to a particular advanced practice</u>	5227
<u>respiratory therapist, the supervising physician shall supervise</u>	5228
<u>the advanced practice respiratory therapist in accordance with</u>	5229
<u>both of the following:</u>	5230
<u>(1) The supervision requirements specified in section</u>	5231
<u>4761.40 of the Revised Code;</u>	5232
<u>(2) The supervision agreement entered into with the</u>	5233
<u>advanced practice respiratory therapist under section 4761.38 of</u>	5234
<u>the Revised Code, including the policies of the health care</u>	5235
<u>facility in which the physician and advanced practice</u>	5236
<u>respiratory therapist are practicing.</u>	5237
<u>(B) (1) The supervising physician of an advanced practice</u>	5238
<u>respiratory therapist may place conditions on the physician-</u>	5239
<u>delegated prescriptive authority granted to the advanced</u>	5240
<u>practice respiratory therapist. If conditions are placed on that</u>	5241
<u>authority, the supervising physician shall maintain a written</u>	5242
<u>record of the conditions and make the record available to the</u>	5243
<u>state medical board on request.</u>	5244
<u>(2) The conditions that a supervising physician may place</u>	5245
<u>on the physician-delegated prescriptive authority granted to an</u>	5246
<u>advanced practice respiratory therapist include the following:</u>	5247
<u>(a) Identification by class and specific generic</u>	5248
<u>nomenclature of drugs and therapeutic devices that the physician</u>	5249

chooses not to permit the advanced practice respiratory 5250
therapist to prescribe; 5251

(b) Limitations on the dosage units or refills that the 5252
advanced practice respiratory therapist is authorized to 5253
prescribe; 5254

(c) Specification of circumstances under which the 5255
advanced practice respiratory therapist is required to refer 5256
patients to the supervising physician or another physician when 5257
exercising physician-delegated prescriptive authority; 5258

(d) Responsibilities to be fulfilled by the physician in 5259
supervising the advanced practice respiratory therapist that are 5260
not otherwise specified in the supervision agreement or 5261
otherwise required by this chapter. 5262

Sec. 4761.49. (A) To be eligible for renewal of a license 5263
to practice as an advanced practice respiratory therapist, an 5264
applicant who has been granted physician-delegated prescriptive 5265
authority shall complete every two years at least twelve hours 5266
of continuing education in pharmacology obtained through a 5267
program or course approved by the state medical board or a 5268
person the board has authorized to approve continuing 5269
pharmacology education programs and courses. Except as provided 5270
in section 5903.12 of the Revised Code, the continuing education 5271
shall be completed not later than the date on which the 5272
applicant's license expires. 5273

(B) The state medical board shall provide for pro rata 5274
reductions by month of the number of hours of continuing 5275
education in pharmacology that is required to be completed for 5276
advanced practice respiratory therapists who have been disabled 5277
due to illness or accident or have been absent from the country. 5278

The board shall adopt rules, in accordance with Chapter 119. of 5279
the Revised Code, as necessary to implement this division. 5280

(C) The continuing education required by this section is 5281
in addition to the requirement of section 4761.33 of the Revised 5282
Code to maintain an active qualification to practice advanced 5283
practice respiratory care from an organization that is 5284
recognized by the state medical board. 5285

(D) If the state medical board chooses to authorize 5286
persons to approve continuing pharmacology education programs 5287
and courses, the board shall establish standards for granting 5288
that authority and grant the authority in accordance with the 5289
standards. 5290

Sec. 4761.99. Whoever violates division (A) of section 5291
4761.10 of the Revised Code is guilty of a minor misdemeanor on 5292
a first offense. On a second offense, the person is guilty of a 5293
misdemeanor of the fourth degree. On each subsequent offense, 5294
the person is guilty of a misdemeanor of the first degree. 5295

Whoever violates division (B) (2) or (C) of section 4761.14 5296
of the Revised Code is guilty of a misdemeanor of the fourth 5297
degree; on each subsequent offense, the person is guilty of a 5298
misdemeanor of the first degree. 5299

Whoever violates division ~~(E) (5)~~ (E) (6) of section 4761.03 5300
of the Revised Code is guilty of a misdemeanor of the first 5301
degree. 5302

Whoever violates section 4761.34 of the Revised Code is 5303
guilty of a misdemeanor of the first degree on a first offense. 5304
On each subsequent offense, the person is guilty of a felony of 5305
the fourth degree. 5306

Sec. 4765.51. Nothing in this chapter prevents or 5307

restricts the practice, services, or activities of any 5308
registered nurse practicing within the scope of the registered 5309
nurse's practice. 5310

Nothing in this chapter prevents or restricts the 5311
practice, services, or activities of any physician assistant 5312
practicing in accordance with a supervision agreement entered 5313
into under section 4730.19 of the Revised Code, including, if 5314
applicable, the policies of the health care facility in which 5315
the physician assistant is practicing. 5316

Nothing in this chapter prevents or restricts the 5317
practice, services, or activities of any advanced practice 5318
respiratory therapist practicing in accordance with a 5319
supervision agreement entered into under section 4761.38 of the 5320
Revised Code, including the policies of the health care facility 5321
in which the advanced practice respiratory therapist is 5322
practicing. 5323

Nothing in this chapter prevents or restricts the 5324
practice, services, or activities of any certified mental health 5325
assistant practicing in accordance with a supervision agreement 5326
entered into under section 4772.10 of the Revised Code. 5327

Sec. 4769.01. As used in this chapter: 5328

(A) "Medicare" means the program established by Title 5329
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 5330
U.S.C.A. 301, as amended. 5331

(B) "Balance billing" means charging or collecting from a 5332
medicare beneficiary an amount in excess of the medicare 5333
reimbursement rate for medicare-covered services or supplies 5334
provided to a medicare beneficiary, except when medicare is the 5335
secondary insurer. When medicare is the secondary insurer, the 5336

health care practitioner may pursue full reimbursement under the 5337
terms and conditions of the primary coverage and, if applicable, 5338
the charge allowed under the terms and conditions of the 5339
appropriate provider contract, from the primary insurer, but the 5340
medicare beneficiary cannot be balance billed above the medicare 5341
reimbursement rate for a medicare-covered service or supply. 5342
"Balance billing" does not include charging or collecting 5343
deductibles or coinsurance required by the program. 5344

(C) "Health care practitioner" means all of the following: 5345

(1) A dentist or dental hygienist licensed under Chapter 5346
4715. of the Revised Code; 5347

(2) A registered or licensed practical nurse licensed 5348
under Chapter 4723. of the Revised Code; 5349

(3) An optometrist licensed under Chapter 4725. of the 5350
Revised Code; 5351

(4) A dispensing optician, whether a spectacle dispensing 5352
optician, or spectacle-contact lens dispensing optician, 5353
licensed under Chapter 4725. of the Revised Code; 5354

(5) A pharmacist licensed under Chapter 4729. of the 5355
Revised Code; 5356

(6) A physician authorized under Chapter 4731. of the 5357
Revised Code to practice medicine and surgery, osteopathic 5358
medicine and surgery, or ~~pediatrics~~podiatric medicine and surgery; 5359

(7) A physician assistant authorized under Chapter 4730. 5360
of the Revised Code to practice as a physician assistant; 5361

(8) A practitioner of a limited branch of medicine issued 5362
a certificate under Chapter 4731. of the Revised Code; 5363

(9) A psychologist licensed under Chapter 4732. of the	5364
Revised Code;	5365
(10) A chiropractor licensed under Chapter 4734. of the	5366
Revised Code;	5367
(11) A hearing aid dealer or fitter licensed under Chapter	5368
4747. of the Revised Code;	5369
(12) A speech-language pathologist or audiologist licensed	5370
under Chapter 4753. of the Revised Code;	5371
(13) An occupational therapist or occupational therapy	5372
assistant licensed under Chapter 4755. of the Revised Code;	5373
(14) A physical therapist or physical therapy assistant	5374
licensed under Chapter 4755. of the Revised Code;	5375
(15) A licensed professional clinical counselor, licensed	5376
professional counselor, social worker, or independent social	5377
worker licensed, or a social work assistant registered, under	5378
Chapter 4757. of the Revised Code;	5379
(16) A dietitian licensed under Chapter 4759. of the	5380
Revised Code;	5381
(17) A respiratory care professional <u>or advanced practice</u>	5382
<u>respiratory therapist</u> licensed under Chapter 4761. of the	5383
Revised Code;	5384
(18) An emergency medical technician-basic, emergency	5385
medical technician-intermediate, or emergency medical	5386
technician-paramedic certified under Chapter 4765. of the	5387
Revised Code;	5388
(19) A certified mental health assistant licensed under	5389
Chapter 4772. of the Revised Code.	5390

Sec. 5123.47. (A) As used in this section: 5391

(1) "In-home care" means the supportive services provided 5392
within the home of an individual with a developmental disability 5393
who receives funding for the services through a county board of 5394
developmental disabilities, including any recipient of 5395
residential services funded as home and community-based 5396
services, family support services provided under section 5126.11 5397
of the Revised Code, or supported living provided in accordance 5398
with sections 5126.41 to 5126.47 of the Revised Code. "In-home 5399
care" includes care that is provided outside an individual's 5400
home in places incidental to the home, and while traveling to 5401
places incidental to the home, except that "in-home care" does 5402
not include care provided in the facilities of a county board of 5403
developmental disabilities or care provided in schools. 5404

(2) "Parent" means either parent of a child, including an 5405
adoptive parent but not a foster parent. 5406

(3) "Unlicensed in-home care worker" means an individual 5407
who provides in-home care on a self-employed basis and does not 5408
employ, either directly or through contract, another person to 5409
provide the in-home care, but who is not a health care 5410
professional. 5411

(4) "Health care professional" means any of the following: 5412

(a) A dentist who holds a valid license issued under 5413
Chapter 4715. of the Revised Code; 5414

(b) A registered or licensed practical nurse who holds a 5415
valid license issued under Chapter 4723. of the Revised Code; 5416

(c) An optometrist who holds a valid license issued under 5417
Chapter 4725. of the Revised Code; 5418

(d) A pharmacist who holds a valid license issued under 5419
Chapter 4729. of the Revised Code; 5420

(e) A person who holds a valid license or certificate 5421
issued under Chapter 4731. of the Revised Code to practice 5422
medicine and surgery, osteopathic medicine and surgery, 5423
podiatric medicine and surgery, or a limited brand of medicine; 5424

(f) A physician assistant who holds a valid license issued 5425
under Chapter 4730. of the Revised Code; 5426

(g) An occupational therapist or occupational therapy 5427
assistant or a physical therapist or physical therapist 5428
assistant who holds a valid license issued under Chapter 4755. 5429
of the Revised Code; 5430

(h) A respiratory care professional or advanced practice 5431
respiratory therapist who holds a valid license issued under 5432
Chapter 4761. of the Revised Code; 5433

(i) A certified mental health assistant who holds a valid 5434
license issued under Chapter 4772. of the Revised Code. 5435

(5) "Health care task" means a task that is prescribed, 5436
ordered, or otherwise directed by a health care professional 5437
acting within the scope of the professional's practice. "Health 5438
care task" includes the administration of medications. 5439

(B) Except as provided in division (F) of this section, a 5440
family member of an individual with a developmental disability 5441
may authorize an unlicensed in-home care worker to perform 5442
health care tasks as part of the in-home care the worker 5443
provides to the individual, if all of the following apply: 5444

(1) The family member is the primary supervisor of the 5445
care. 5446

(2) At the time the family member both authorizes the 5447
unlicensed in-home care worker to perform health care tasks and 5448
supervises the care provided to the individual, the family 5449
member is not acting as a paid provider for the individual. 5450

(3) The unlicensed in-home care worker has been selected 5451
by the family member or the individual receiving care and is 5452
under the direct supervision of the family member. 5453

(4) The health care task is completed in accordance with 5454
standard, written instructions. 5455

(5) Performance of the health care task requires no 5456
judgment based on specialized health care knowledge or 5457
expertise. 5458

(6) The outcome of the health care task is reasonably 5459
predictable. 5460

(7) Performance of the health care task requires no 5461
complex observation of the individual receiving the care. 5462

(8) Improper performance of the health care task will 5463
result in only minimal complications that are not life- 5464
threatening. 5465

(C) A family member who authorizes an unlicensed in-home 5466
care worker to perform health care tasks under this section 5467
shall do all of the following: 5468

(1) Obtain a prescription, if applicable, and written 5469
instructions from a health care professional for the care to be 5470
provided to the individual; 5471

(2) Authorize the unlicensed in-home care worker to 5472
provide the care by preparing a written document granting the 5473
authority; 5474

(3) Provide the unlicensed in-home care worker with 5475
appropriate training and written instructions in accordance with 5476
the instructions obtained from the health care professional; 5477

(4) Be available to communicate with the unlicensed in- 5478
home care worker either in person or by telecommunication while 5479
the in-home care worker performs a health care task. 5480

(D) Before an unlicensed in-home care worker may perform 5481
the health care tasks authorized by a family member under this 5482
section, the worker shall accept the written document described 5483
in division (C) (2) of this section granting the worker that 5484
authority. 5485

(E) A family member who authorizes an unlicensed in-home 5486
care worker to perform health care tasks retains full 5487
responsibility for the health and safety of the individual 5488
receiving the care and for ensuring that the worker provides the 5489
care appropriately and safely. No entity that funds or monitors 5490
the provision of in-home care may be held liable for the results 5491
of the care provided under this section by an unlicensed in-home 5492
care worker, including such entities as the county board of 5493
developmental disabilities and the department of developmental 5494
disabilities. 5495

An unlicensed in-home care worker who is authorized under 5496
this section by a family member to provide care to an individual 5497
may not be held liable for any injury caused in providing the 5498
care, unless the worker provides the care in a manner that is 5499
not in accordance with the training and instructions received or 5500
the worker acts in a manner that constitutes willful or wanton 5501
misconduct. 5502

(F) A county board of developmental disabilities may 5503

evaluate the authority granted by a family member under this 5504
section to an unlicensed in-home care worker at any time it 5505
considers necessary and shall evaluate the authority on receipt 5506
of a complaint. In evaluating the authority, the board shall use 5507
appropriately licensed health care professionals. 5508

If, after its evaluation, the board determines that a 5509
family member has acted in a manner that is inappropriate for 5510
the health and safety of the individual receiving the care, then 5511
all of the following apply: 5512

(1) The authorization granted by the family member to an 5513
unlicensed in-home care worker is void. 5514

(2) The family member may not authorize other unlicensed 5515
in-home care workers to provide the care. 5516

(3) The board shall authorize appropriately licensed or 5517
certified providers to instead perform the health care tasks. 5518

(4) The board shall provide the family member an 5519
opportunity to file a complaint under section 5126.06 of the 5520
Revised Code. 5521

Sec. 5164.95. (A) As used in this section, "telehealth 5522
service" means a health care service delivered to a patient 5523
through the use of interactive audio, video, or other 5524
telecommunications or electronic technology from a site other 5525
than the site where the patient is located. 5526

(B) The department of medicaid shall establish standards 5527
for medicaid payments for health care services the department 5528
determines are appropriate to be covered by the medicaid program 5529
when provided as telehealth services. The standards shall be 5530
established in rules adopted under section 5164.02 of the 5531
Revised Code. 5532

In accordance with section 5162.021 of the Revised Code, 5533
the medicaid director shall adopt rules authorizing the 5534
directors of other state agencies to adopt rules regarding the 5535
medicaid coverage of telehealth services under programs 5536
administered by the other state agencies. Any such rules adopted 5537
by the medicaid director or the directors of other state 5538
agencies are not subject to the requirements of division (F) of 5539
section 121.95 of the Revised Code. 5540

(C) (1) To the extent permitted under rules adopted under 5541
section 5164.02 of the Revised Code and applicable federal law, 5542
the following practitioners are eligible to provide telehealth 5543
services covered pursuant to this section: 5544

(a) A physician licensed under Chapter 4731. of the 5545
Revised Code to practice medicine and surgery, osteopathic 5546
medicine and surgery, or podiatric medicine and surgery; 5547

(b) A psychologist, independent school psychologist, or 5548
school psychologist licensed under Chapter 4732. of the Revised 5549
Code; 5550

(c) A physician assistant licensed under Chapter 4730. of 5551
the Revised Code; 5552

(d) A clinical nurse specialist, certified nurse-midwife, 5553
or certified nurse practitioner licensed under Chapter 4723. of 5554
the Revised Code; 5555

(e) An independent social worker, independent marriage and 5556
family therapist, or professional clinical counselor licensed 5557
under Chapter 4757. of the Revised Code; 5558

(f) An independent chemical dependency counselor licensed 5559
under Chapter 4758. of the Revised Code; 5560

(g) A supervised practitioner or supervised trainee;	5561
(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;	5562 5563
(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;	5564 5565 5566 5567
(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;	5568 5569
(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.	5570 5571 5572
(l) A dietitian licensed under Chapter 4759. of the Revised Code;	5573 5574
(m) A chiropractor licensed under Chapter 4734. of the Revised Code;	5575 5576
(n) A pharmacist licensed under Chapter 4729. of the Revised Code;	5577 5578
(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;	5579 5580
(p) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry;	5581 5582
(q) A respiratory care professional <u>or advanced practice</u> <u>respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	5583 5584 5585
(r) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;	5586 5587

(s) A practitioner who provides services through a 5588
medicaid school program; 5589

(t) Subject to section 5119.368 of the Revised Code, a 5590
practitioner authorized to provide services and supports 5591
certified under section 5119.36 of the Revised Code through a 5592
community mental health services provider or community addiction 5593
services provider; 5594

(u) A certified mental health assistant licensed under 5595
Chapter 4772. of the Revised Code; 5596

(v) Any other practitioner the medicaid director considers 5597
eligible to provide telehealth services. 5598

(2) In accordance with division (B) of this section and to 5599
the extent permitted under rules adopted under section 5164.02 5600
of the Revised Code and applicable federal law, the following 5601
provider types are eligible to submit claims for medicaid 5602
payments for providing telehealth services: 5603

(a) Any practitioner described in division (C)(1) of this 5604
section, except for those described in divisions (C)(1)(g), (i), 5605
and (k) of this section; 5606

(b) A professional medical group; 5607

(c) A federally qualified health center or federally 5608
qualified health center look-alike, as defined in section 5609
3701.047 of the Revised Code; 5610

(d) A rural health clinic; 5611

(e) An ambulatory health care clinic; 5612

(f) An outpatient hospital; 5613

(g) A medicaid school program; 5614

(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, 4763.07, and 4772.081 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 5644
current reporting period because the licensee has served on 5645
active duty during the current or a prior reporting period. The 5646
licensee shall submit proper documentation certifying the active 5647
duty service and the length of that active duty service. Upon 5648
receiving the application and proper documentation, the 5649
licensing agency shall extend the current reporting period by an 5650
amount of time equal to the total number of months that the 5651
licensee spent on active duty during the current reporting 5652
period. For purposes of this division, any portion of a month 5653
served on active duty shall be considered one full month. 5654

Section 2. That existing sections 2305.234, 2925.01, 5655
2925.23, 2925.55, 2925.56, 3701.048, 3701.74, 3715.872, 5656
3719.121, 3719.13, 3719.81, 4729.01, 4729.51, 4731.22, 5657
4731.2210, 4731.25, 4743.09, 4755.48, 4761.01, 4761.03, 5658
4761.032, 4761.06, 4761.061, 4761.07, 4761.09, 4761.13, 4761.14, 5659
4761.17, 4761.30, 4761.99, 4765.51, 4769.01, 5123.47, 5164.95, 5660
and 5903.12 of the Revised Code are hereby repealed. 5661

Section 3. The General Assembly, applying the principle 5662
stated in division (B) of section 1.52 of the Revised Code that 5663
amendments are to be harmonized if reasonably capable of 5664
simultaneous operation, finds that the following sections, 5665
presented in this act as composites of the sections as amended 5666
by the acts indicated, are the resulting versions of the 5667
sections in effect prior to the effective date of the sections 5668
as presented in this act: 5669

Section 2925.23 of the Revised Code as amended by both 5670
H.B. 29 and S.B. 95 of the 135th General Assembly. 5671

Section 3701.74 of the Revised Code as amended by both 5672
S.B. 95 and S.B. 196 of the 135th General Assembly. 5673

Section 3715.872 of the Revised Code as amended by both	5674
S.B. 95 and S.B. 196 of the 135th General Assembly.	5675