

**As Passed by the House**

**136th General Assembly**

**Regular Session**

**2025-2026**

**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**

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|                                                  |    |
|--------------------------------------------------|----|
| 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:**

|                                                                  |    |
|------------------------------------------------------------------|----|
| <b>Section 1.</b> 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 <del>podiatry</del> <u>podiatric medicine and surgery</u> ; | 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 <u>and advanced practice</u>                      | 73 |
| <u>respiratory therapists</u> 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 134  
worker. 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  
786  
including acetylfentanyl, furanylfentanyl, valerylfentanyl, 787  
788  
butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, 789  
790  
para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
- (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

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|-----------------------------------------------------------------|------|
| (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 <del>(18)</del> (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) For an initial license to practice respiratory 3981  
care, a fee of seventy-five dollars; 3982

(2) 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<sup>+</sup>, in relation to the practice of respiratory care<sup>+</sup>, 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 Revised Code;                                                                                                                                                    | 5364<br>5365                 |
| (10) A chiropractor licensed under Chapter 4734. of the Revised Code;                                                                                                                                                   | 5366<br>5367                 |
| (11) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;                                                                                                                                   | 5368<br>5369                 |
| (12) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;                                                                                                                     | 5370<br>5371                 |
| (13) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;                                                                                                      | 5372<br>5373                 |
| (14) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;                                                                                                               | 5374<br>5375                 |
| (15) A licensed professional clinical counselor, licensed professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code; | 5376<br>5377<br>5378<br>5379 |
| (16) A dietitian licensed under Chapter 4759. of the Revised Code;                                                                                                                                                      | 5380<br>5381                 |
| (17) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;                                                                                | 5382<br>5383<br>5384         |
| (18) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code;                                     | 5385<br>5386<br>5387<br>5388 |
| (19) A certified mental health assistant licensed under Chapter 4772. of the Revised Code.                                                                                                                              | 5389<br>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<br>under Chapter 4753. of the Revised Code;                                                                                                           | 5562<br>5563                 |
| (i) An audiology aide or speech-language pathology aide,<br>as defined in section 4753.072 of the Revised Code, or an<br>individual holding a conditional license under section 4753.071<br>of the Revised Code; | 5564<br>5565<br>5566<br>5567 |
| (j) An occupational therapist or physical therapist<br>licensed under Chapter 4755. of the Revised Code;                                                                                                         | 5568<br>5569                 |
| (k) An occupational therapy assistant or physical<br>therapist assistant licensed under Chapter 4755. of the Revised<br>Code.                                                                                    | 5570<br>5571<br>5572         |
| (l) A dietitian licensed under Chapter 4759. of the<br>Revised Code;                                                                                                                                             | 5573<br>5574                 |
| (m) A chiropractor licensed under Chapter 4734. of the<br>Revised Code;                                                                                                                                          | 5575<br>5576                 |
| (n) A pharmacist licensed under Chapter 4729. of the<br>Revised Code;                                                                                                                                            | 5577<br>5578                 |
| (o) A genetic counselor licensed under Chapter 4778. of<br>the Revised Code;                                                                                                                                     | 5579<br>5580                 |
| (p) An optometrist licensed under Chapter 4725. of the<br>Revised Code to practice optometry;                                                                                                                    | 5581<br>5582                 |
| (q) A respiratory care professional <u>or advanced practice</u><br><u>respiratory therapist</u> licensed under Chapter 4761. of the<br>Revised Code;                                                             | 5583<br>5584<br>5585         |
| (r) A certified Ohio behavior analyst certified under<br>Chapter 4783. of the Revised Code;                                                                                                                      | 5586<br>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 |