As Introduced

132nd General Assembly Regular Session 2017-2018

H. B. No. 167

Representative Edwards Cosponsor: Representative Householder

A BILL

Τc	o amend sections 4715.302, 4729.75, 4729.77,	1
	4729.79, 4731.052, and 4731.055 and to enact	2
	sections 4715.303, 4731.058, 4731.059, and	3
	5119.373 of the Revised Code regarding addiction	4
	treatment and opioid prescribing by physicians	5
	and dentists.	6

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

Section 1. That sections 4715.302, 4729.75, 4729.77,	7
4729.79, 4731.052, and 4731.055 be amended and sections	8
4715.303, 4731.058, 4731.059, and 5119.373 of the Revised Code	9
be enacted to read as follows:	10
Sec. 4715.302. (A) As used in this section:	11
(1) "Drug database" means the database established and	12
maintained by the state board of pharmacy pursuant to section	13
4729.75 of the Revised Code.	14
(2) "Opioid analgesic" and "benzodiazepine" have the same	15
meanings as in section 3719.01 of the Revised Code.	16
(B) Except as provided in divisions (C) and (E) of this	17

section, a dentist shall comply with all of the following as
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conditions of prescribing a drug that is either an opioid
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analgesic or a benzodiazepine, or personally furnishing a
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complete or partial supply of such a drug, as part of a
patient's course of treatment for a particular condition:

(1) Before initially prescribing or furnishing the drug, 23 the dentist or the dentist's delegate shall request from the 24 drug database a report of information related to the patient 25 that covers at least the twelve months immediately preceding the 26 date of the request. If the dentist practices primarily in a 27 county of this state that adjoins another state, the dentist or 28 delegate also shall request a report of any information 29 available in the drug database that pertains to prescriptions 30 issued or drugs furnished to the patient in the state adjoining 31 that county. 32

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the dentist or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B) (1) or (2) of
this section, the dentist shall assess the information in the
report. The dentist shall document in the patient's record that
the report was received and the information was assessed.

(C)(1) Division (B) of this section does not apply if a

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drug database report regarding the patient is not available. In 48 this event, the dentist shall document in the patient's record 49 the reason that the report is not available. 50 (2) Division (B) of this section does not apply if the 51 drug is prescribed or personally furnished in an amount-52 53 indicated for a period not to exceed seven days. (D) The state dental board may adopt rules that establish 54 standards and procedures to be followed by a dentist regarding 55 the review of patient information available through the drug 56 database under division (A) (5) of section 4729.80 of the Revised 57 Code. The rules shall be adopted in accordance with Chapter 119. 58 of the Revised Code. 59 (E) This section and any rules adopted under it do not 60 apply if the state board of pharmacy no longer maintains the 61 drug database. 62 Sec. 4715.303. (A) As used in this section, "opioid 63 analgesic" has the same meaning as in section 3719.01 of the 64 Revised Code. 65 (B) The state dental board shall determine, for the 66 purposes of this section, what constitutes the practice of_ 67 general dentistry. 68 (C) A dentist whose practice is primarily general 69 70 dentistry shall not prescribe or personally furnish an opioid analgesic if either of the following is the case: 71 (1) The morphine equivalent daily dose for the drug 72 exceeds fifty milligrams. 73 (2) Except as provided in division (D) of this section, 74 the drug is prescribed or furnished in an amount indicated for a 75

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period that exceeds three days.	76
(D) A dentist whose practice is primarily general	77
dentistry may prescribe or personally furnish an opioid	78
analgesic in an amount indicated for a period that exceeds three	79
days but is not more than seven days if all of the following	80
conditions are met:	81
(1) The dentist has completed at least eight hours of	82
training approved by the state dental board relating to opioids	83
and addiction.	84
(2) The dentist or dentist's employer or dental practice	85
utilizes an electronic medical records system that provides	86
direct access to reports of patient information from the drug	87
database established and maintained by the state board of	88
pharmacy pursuant to section 4729.75 of the Revised Code.	89
(3) The dentist annually completes at least two hours of	90
continuing education approved by the state dental board relating	91
to prescribing opioids.	92
(4) The dentist is able to refer patients to treatment for	93
opioid dependence or addiction, which may include medication-	94
assisted treatment and behavioral health services.	95
(E) The state dental board may establish limits on the	96
amount or morphine equivalent daily dose of an opioid analgesic	97
that may be prescribed or personally furnished by a dentist	98
whose practice is primarily in a specialty other than general	99
<u>dentistry.</u>	100
Sec. 4729.75. The state board of pharmacy may establish	101
and maintain a drug database. The board shall use the drug	102
database to monitor the misuse and diversion of the following:	103
controlled substances, as defined in section 3719.01 of the	104

Revised Code; medical marijuana, as authorized under Chapter 105 3796. of the Revised Code; <u>naltrexone;</u> and other dangerous drugs 106 the board includes in the database pursuant to rules adopted 107 under section 4729.84 of the Revised Code. In establishing and 108 maintaining the database, the board shall electronically collect 109 information pursuant to sections 4729.77, 4729.771, and 4729.79 110 of the Revised Code and shall disseminate information as 111 authorized or required by sections 4729.80 and 4729.81 of the 112 Revised Code. The board's collection and dissemination of 113 information shall be conducted in accordance with rules adopted 114 under section 4729.84 of the Revised Code. 115 Sec. 4729.77. (A) If the state board of pharmacy 116

establishes and maintains a drug database pursuant to section1174729.75 of the Revised Code, each pharmacy licensed as a118terminal distributor of dangerous drugs that dispenses drugs to119patients in this state and is included in the types of120pharmacies specified in rules adopted under section 4729.84 of121the Revised Code shall submit to the board the following122prescription information:123

(1) Terminal distributor identification; 124

- (2) Patient identification;(3) Prescriber identification;
- (4) Date prescription was issued by prescriber; 127
- (5) Date drug was dispensed;
- (6) Indication of whether the drug dispensed is new or a 129refill;130

(7) Name, strength, and national drug code of the drugdispensed;132

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(8) Quantity of drug dispensed; 133 (9) Number of days' supply of drug dispensed; 134 (10) Serial or prescription number assigned by the 135 terminal distributor; 136 (11) Source of payment for the drug dispensed; 137 (12) If applicable, the morphine equivalent daily dose of 138 the drug dispensed. 139 (B)(1) The information shall be transmitted as specified 140 by the board in rules adopted under section 4729.84 of the 141 Revised Code. 142 (2) The information shall be submitted electronically in 143 the format specified by the board, except that the board may 144 grant a waiver allowing the distributor to submit the 145 information in another format. 146 (3) The information shall be submitted in accordance with 147 any time limits specified by the board, except that the board 148 may grant an extension if either of the following occurs: 149 (a) The distributor suffers a mechanical or electronic 150 failure, or cannot meet the deadline for other reasons beyond 151 the distributor's control. 152 (b) The board is unable to receive electronic submissions. 153 (C) This section does not apply to a prescriber personally 154 furnishing or administering dangerous drugs to the prescriber's 155 156 patient. Sec. 4729.79. (A) If the state board of pharmacy 157 establishes and maintains a drug database pursuant to section 158 4729.75 of the Revised Code, each licensed health professional 159

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authorized to prescribe drugs, except as provided in division 160 (C) of this section, who personally furnishes to a patient a 161 controlled substance, naltrexone, or other dangerous drug the 162 board includes in the database pursuant to rules adopted under 163 section 4729.84 of the Revised Code shall submit to the board 164 the following information: 165 (1) Prescriber identification; 166 (2) Patient identification; 167 168 (3) Date drug was furnished by the prescriber; (4) Indication of whether the drug furnished is new or a 169 refill; 170 (5) Name, strength, and national drug code of drug 171 furnished; 172 (6) Quantity of drug furnished; 173 (7) Number of days' supply of drug furnished; 174 (8) Source of payment for the drug furnished; 175 (9) Identification of the owner of the drug furnished; 176 (10) If applicable, the morphine equivalent daily dose of 177 the drug furnished. 178 (B)(1) The information shall be transmitted as specified 179 by the board in rules adopted under section 4729.84 of the 180 Revised Code. 181 (2) The information shall be submitted electronically in 182 the format specified by the board, except that the board may 183 grant a waiver allowing the prescriber to submit the information 184 in another format. 185

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(3) The information shall be submitted in accordance with 186 any time limits specified by the board, except that the board 187 may grant an extension if either of the following occurs: 188 (a) The prescriber's transmission system suffers a 189 mechanical or electronic failure, or the prescriber cannot meet 190 the deadline for other reasons beyond the prescriber's control. 191 (b) The board is unable to receive electronic submissions. 192 (C) (1) The information required to be submitted under 193 division (A) of this section may be submitted on behalf of the 194 prescriber by the owner of the drug being personally furnished 195

or by a delegate approved by that owner.

(2) The requirements of this section to submit information to the board do not apply to a prescriber who is a veterinarian.

(D) If the board becomes aware of a prescriber's failure
to comply with this section, the board shall notify the
government entity responsible for licensing the prescriber.

Sec. 4731.052. (A) As used in this section:

(1) "Chronic pain" means pain that has persisted after 203 reasonable medical efforts have been made to relieve the pain or 204 cure its cause and that has continued, either continuously or 205 episodically, for longer than three continuous months. "Chronic 206 pain" does not include pain associated with a terminal condition 207 or with a progressive disease that, in the normal course of 208 progression, may reasonably be expected to result in a terminal 209 condition. 210

(2) "Controlled substance" has the same meaning as insection 3719.01 of the Revised Code.212

(3) "Physician" means an individual authorized under this 213

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chapter to practice medicine and surgery or osteopathic medicine and surgery.

(B) The state medical board shall adopt rules in 216 accordance with Chapter 119. of the Revised Code that establish 217 standards and procedures to be followed by physicians in the 218 diagnosis and treatment of chronic pain, including standards for 219 a physician's consultation with one or more other physicians who 220 specialize in the treatment of the area, system, or organ of the 221 body perceived as the source of pain and managing chronic pain 222 223 by prescribing, personally furnishing, or administering 224 controlled substances or products containing tramadol.

(C) When a physician diagnoses a patient as having chronic 225 pain, the physician may, subject to division (D) of this 226 section, treat the pain by managing it with controlled 227 substances and products containing tramadol. The physician's 228 diagnosis and treatment decisions shall be made according to 229 accepted and prevailing standards for medical care. For the 230 purpose of assisting with the diagnosis of chronic pain, the 231 physician shall obtain and review all available medical records 232 or detailed written summaries of the patient's treatment for 233 234 chronic pain or the condition causing the chronic pain. It is recommended that the physician also consider having the patient 235 evaluated by one or more other physicians who specialize in the 236 treatment of the area, system, or organ of the body perceived as 237 the source of the pain. 238

(D) (1) To be authorized to treat chronic pain with a 239 controlled substance or product containing tramadol, a physician 240 must do all of the following: 241 (a) Complete at least eight hours of training approved by 242 the state medical board relating to addiction; 243

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(b) Utilize an electronic medical records system that	244
provides direct access to reports of patient information from	245
the drug database established and maintained by the state board	246
of pharmacy pursuant to section 4729.75 of the Revised Code;	247
(c) Annually complete at least two hours of continuing	248
education approved by the state medical board relating to	249
prescribing controlled substances.	250
(2) A physician shall not prescribe, furnish, or	251
administer a controlled substance or product containing tramadol	252
for treatment of chronic pain if its morphine equivalent daily	253
dose exceeds fifty milligrams.	254
(3) For each patient a physician diagnoses as having	255
chronic pain, the physician shall maintain a written record of	256
all of the following:	257
(1) (a) Medical history and physical examination of the	258
patient;	259
(2) <u>(</u>b) The diagnosis of chronic pain, including signs,	260
symptoms, and causes;	261
(3) <u>(</u>c) The plan of treatment proposed, the patient's	262
response to treatment, and any modification to the plan of	263
treatment, including all of the following:	264
(a) <u>(i)</u> Documentation that other medically reasonable	265
treatments for relief of the patient's chronic pain have been	266
offered or attempted without adequate or reasonable success;	267
(b) <u>(</u>ii) Periodic assessment and documentation of the	268
patient's functional status, including the ability to engage in	269
work or other purposeful activities, the pain intensity and its	270
interference with activities of daily living, quality of family	271

life and social activities, and physical activity of the 272 patient; 273 (c) (iii) Periodic assessment and documentation of the 274 patient's progress toward treatment objectives, including the 275 intended role of controlled substances or products containing 276 tramadol within the overall plan of treatment; 277 (d) (iv) Periodic assessment and documentation for 278 indicators of possible addiction, drug abuse, or drug diversion; 279 280 (e) (v) Notation of any adverse drug effects. 281 (4) (d) The dates on which controlled substances or products containing tramadol were prescribed, furnished, or 282 administered, the name and address of the patient to or for whom 283 the controlled substances or products containing tramadol were 284 prescribed, furnished, or administered, and the amounts-and, 285 dosage forms, and if applicable, morphine equivalent daily dose 286 for the controlled substances or products containing tramadol 287 prescribed, furnished, or administered; 288 (5) (e) A copy of any record or report made by another 289 physician that was used or consulted for the purpose of 290 diagnosing the patient's chronic pain or treating the patient 291 292 for chronic pain. 293 (4) For each patient diagnosed as having chronic pain who a physician determines will no longer benefit from treatment 294 with a controlled substance or product containing tramadol, the 295 physician shall do both of the following: 296 (a) Review the guidelines regarding opioid tapering or 297 discontinuation established by the federal centers for disease 298 control and prevention and presented in the document "CDC 299

Guideline for Prescribing Opioids for Chronic Pain - United 300

States, 2016" or a successor document, unless the guidelines are	301
no longer in effect at the time of the physician's	302
determination;	303
(b) Modify the plan of treatment to cause the patient's	304
dosage to be tapered until the controlled substance or product	305
is no longer prescribed, furnished, or administered.	306
(E) A physician shall not prescribe, personally furnish,	307
or administer to a patient a controlled substance or product	308
containing tramadol without taking into account the potential	309
for abuse of the controlled substance or product, the	310
possibility the controlled substance or product may lead to	311
dependence, the possibility the patient will obtain the	312
controlled substance or product for a nontherapeutic use or	313
distribute it to other persons, and the potential existence of	314
an illicit market for the controlled substance or product. In	315
addition, the physician shall address with the patient the risks	316
associated with protracted treatment with controlled substances	317
or products containing tramadol, including informing the patient	318
of the potential for dependence, tolerance, and addiction and	319
the clinical or monitoring tools the physician may use if signs	320
of addiction, drug abuse, or drug diversion are present.	321
(F) A physician who treats chronic pain by managing it	322
with controlled substances or products containing tramadol is	323
not subject to disciplinary action by the board under section	324
4731.22 of the Revised Code solely because the physician treated	325
the chronic pain with controlled substances or products	326
containing tramadol.	327
Sec. 4731.055. (A) As used in this section:	328

(1) "Drug database" means the database established and

maintained by the state board of pharmacy pursuant to section	330
4729.75 of the Revised Code.	331
(2) "Physician" means an individual authorized under this	332
chapter to practice medicine and surgery, osteopathic medicine	333
and surgery, or podiatric medicine and surgery.	334
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(3) "Opioid analgesic" and "benzodiazepine" have the same	335
meanings as in section 3719.01 of the Revised Code.	336
(B) Except as provided in divisions (C) and (E) of this	337
section, a physician shall comply with all of the following as	338
conditions of prescribing a drug that is either an opioid	339
analgesic or a benzodiazepine, or personally furnishing a	340
complete or partial supply of such a drug, as part of a	341
patient's course of treatment for a particular condition:	342
(1) Before initially prescribing or furnishing the drug,	343
the physician or the physician's delegate shall request from the	344
drug database a report of information related to the patient	345
that covers at least the twelve months immediately preceding the	346
date of the request. If the physician practices primarily in a	347
county of this state that adjoins another state, the physician	348
or delegate also shall request a report of any information	349
available in the drug database that pertains to prescriptions	350
issued or drugs furnished to the patient in the state adjoining	351
that county.	352
(2) If the patient's course of treatment for the condition	353
continues for more than ninety days after the initial report is	354
requested, the physician or delegate shall make periodic	355

requests for reports of information from the drug database until 356 the course of treatment has ended. The requests shall be made at 357 intervals not exceeding ninety days, determined according to the 358 date the initial request was made. The request shall be made in359the same manner provided in division (B)(1) of this section for360requesting the initial report of information from the drug361database.362

(3) On receipt of a report under division (B) (1) or (2) of
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this section, the physician shall assess the information in the
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report. The physician shall document in the patient's record
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that the report was received and the information was assessed.
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(C) Division (B) of this section does not apply in any of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the physician shall document in the patient's record the reason that the report is not available.

(2) The drug is prescribed or personally furnished in an
 amount indicated for a period not to exceed seven days.
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(3)—The drug is prescribed or personally furnished for the 374 treatment of cancer or another condition associated with cancer. 375

(4) (3)The drug is prescribed or personally furnished to376a hospice patient in a hospice care program, as those terms are377defined in section 3712.01 of the Revised Code, or any other378patient diagnosed as terminally ill.379

(5) (4)The drug is prescribed or personally furnished for380administration in a hospital, nursing home, or residential care381facility.382

(6) (5)The drug is prescribed or personally furnished to383treat acute pain resulting from a surgical or other invasive384procedure or a delivery.385

(D) The state medical board may adopt rules that establish 386

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standards and procedures to be followed by a physician regarding 387 the review of patient information available through the drug 388 database under division (A)(5) of section 4729.80 of the Revised 389 Code. The rules shall be adopted in accordance with Chapter 119. 390 of the Revised Code. 391 (E) This section and any rules adopted under it do not 392 apply if the state board of pharmacy no longer maintains the 393 drug database. 394 395 Sec. 4731.058. (A) As used in this section: (1) "Opioid agonist treatment medication" and "opioid 396 treatment program" have the same meanings as in 42 C.F.R. 8.2. 397 (2) "Physician" means an individual authorized under this 398 chapter to practice medicine and surgery or osteopathic medicine 399 400 and surgery. (B) To the extent permitted by federal law, a patient 401 accepted for treatment of opioid dependence or addiction by 402 either of the following shall be offered treatment with 403 <u>naltrexone:</u> 404 (1) An opioid treatment program that is the subject of a 405 406 valid certification pursuant to 42 C.F.R. 8.11; 407 (2) A physician who practices in a location other than an opioid treatment program, but holds a waiver pursuant to 21 408 U.S.C. 823(q)(2) and is authorized to issue prescriptions for 409 buprenorphine from the practice location. 410 411 (C) When offering treatment with naltrexone, a physician described in division (B)(2) of this section or practicing in an 412 opioid treatment program shall do all of the following: 413 (1) Discuss with the patient the benefits and risks of 414

treatment with naltrexone as opposed to the benefits and risks	415
of treatment with an opioid agonist treatment medication such as	416
buprenorphine;	417
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(2) Obtain a consent form signed by the patient indicating	418
the type of treatment to be provided;	419
(3) Sign the consent form after it is signed by the	420
patient;	421
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(4) Place in the patient's medical record a copy of the	422
consent form signed by the patient and physician.	423
Sec. 4731.059. (A) As used in this section:	424
(1) "Opioid analgesic" has the same meaning as in section	425
3719.01 of the Revised Code.	426
(2) "Physician" means an individual authorized under this	427
chapter to practice medicine and surgery or osteopathic medicine	428
and surgery.	429
(D) The state modical beard shall determine for the	430
(B) The state medical board shall determine, for the	
purposes of this section, what constitutes a primary care	431
specialty.	432
(C) Except as provided in division (E) of this section, a	433
physician whose practice is primarily in a primary care	434
specialty shall not prescribe or personally furnish an opioid	435
analgesic if either of the following is the case:	436
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(1) The morphine equivalent daily dose for the drug	437
exceeds fifty milligrams.	438
(2) Except as provided in division (D) of this section,	439
the drug is prescribed or furnished in an amount indicated for a	440
period that exceeds three days.	441

(D) A physician whose practice is primarily in a primary	442
care specialty may prescribe or personally furnish an opioid	443
analgesic in an amount indicated for a period that exceeds three	444
days but is not more than seven days if all of the following	445
conditions are met:	446
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(1) The physician has completed at least eight hours of	447
training approved by the state medical board relating to opioids	448
and addiction.	449
(2) The physician or physician's employer or medical	450
practice utilizes an electronic medical records system that	451
provides direct access to reports of patient information from	452
the drug database established and maintained by the state board	453
of pharmacy pursuant to section 4729.75 of the Revised Code.	454
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(3) The physician completes on an annual basis at least	455
two hours of continuing education approved by the state medical	456
board relating to prescribing opioids.	457
(4) The physician is able to provide treatment for opioid	458
dependence or addiction, which may include medication-assisted	459
treatment and behavioral health services. In the case of	460
behavioral health services, a physician may refer a patient to	461
another individual who provides such services.	462
(E) This section does not apply when, as part of the	463
physician's regular practice, a physician prescribes or	464
personally furnishes opioid analgesics in any of the following	465
circumstances:	466
(1) For the treatment of cancer or another condition	467
associated with cancer;	468
associated with cancer,	400
(2) To a hospice patient in a hospice care program, as	469
those terms are defined in section 3712.01 of the Revised Code,	470

or to any other patient diagnosed as terminally ill;	471
(3) To an inpatient for administration in a hospital;	472
(4) To a resident of a nursing home or residential care_	473
facility for administration in the home or facility;	474
(5) To treat chronic pain in accordance with section	475
4731.052 of the Revised Code.	476
(F) The state medical board may establish limits on the	477
amount or morphine equivalent daily dose of an opioid analgesic	478
that may be prescribed or personally furnished by a physician	479
whose practice is primarily in a specialty other than primary	480
care.	481
Sec. 5119.373. (A) The department of mental health and	482
addiction services shall develop and make available one or more	483
online courses that provide the counseling and other ancillary	484
services required by 21 C.F.R. 1301.28(b)(1)(ii) to the patients	485
of a physician who meets all of the following criteria:	486
(1) Is authorized under Chapter 4731. of the Revised Code	487
to practice medicine and surgery or osteopathic medicine and	488
surgery;	489
(2) Holds a waiver issued pursuant to 21 U.S.C. 823(g)(2);	490
(3) Practices in a location other than an opioid treatment	491
program and is authorized to issue prescriptions for	492
buprenorphine from the practice location.	493
(B) In developing the online courses required by this	494
section, the department may consult with one or more individuals	495
or entities specializing in providing services, including	496
counseling, educational, or vocational services, to persons	497
treated for opioid dependence or addiction.	498

Section 2. That existing sections 4715.302, 4729.75,	499
4729.77, 4729.79, 4731.052, and 4731.055 of the Revised Code are	500
hereby repealed.	501
Section 3. This act shall be known as Daniel's Law.	502