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Am. H. B. No. 203

Representative Lipps

Cosponsors: Representatives Carfagna, Smith, R., Seitz, Smith, K., LaTourette, Dean, Rogers, Becker, Clites, Grendell, Lepore-Hagan, Plummer, Russo, West, Brown, Carruthers, Crossman, Cupp, Denson, Galonski, Ginter, Green, Greenspan, Hambley, Ingram, Jones, Lanese, Lang, Leland, Liston, Manning, G., Miller, J., O'Brien, Oelslager, Patterson, Patton, Roemer, Sheehy, Sobecki, Stein, Swearingen, Upchurch, Wiggam

A BILL

To amend sections 4715.14, 4715.30, and 4715.36 and 1
to enact sections 4715.70, 4715.71, and 4715.72 2
of the Revised Code to specify requirements for 3
the operation of mobile dental facilities. 4

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

Section 1. That sections 4715.14, 4715.30, and 4715.36 be 5
amended and sections 4715.70, 4715.71, and 4715.72 of the 6
Revised Code be enacted to read as follows: 7

Sec. 4715.14. (A) (1) Each person who is licensed to 8
practice dentistry in Ohio shall, on or before the first day of 9
January of each even-numbered year, register with the state 10
dental board. The registration shall be made on a form 11
prescribed by the board and furnished by the secretary, shall 12
include the licensee's name, address, license number, and such 13
other reasonable information as the board may consider 14
necessary, and shall include payment of a biennial registration 15

fee of three hundred twelve dollars. If the licensee is a mobile 16
dental facility operator as defined in section 4715.70 of the 17
Revised Code, the licensee shall so specify on the form and 18
include any other information the board considers necessary to 19
monitor compliance with sections 4715.71 and 4715.72 of the 20
Revised Code. Subject to division (C) of this section, a 21
registration shall be in effect for the two-year period 22
beginning on the first day of January of the even-numbered year 23
and ending on the last day of December of the following odd- 24
numbered year, and shall be renewed in accordance with the 25
standard renewal procedure of sections 4745.01 to 4745.03 of the 26
Revised Code. 27

(2) (a) Except as provided in division (A) (2) (b) of this 28
section, in the case of a licensee seeking registration who 29
prescribes or personally furnishes opioid analgesics or 30
benzodiazepines, as defined in section 3719.01 of the Revised 31
Code, the licensee shall certify to the board whether the 32
licensee has been granted access to the drug database 33
established and maintained by the state board of pharmacy 34
pursuant to section 4729.75 of the Revised Code. 35

(b) The requirement in division (A) (2) (a) of this section 36
does not apply if any of the following is the case: 37

(i) The state board of pharmacy notifies the state dental 38
board pursuant to section 4729.861 of the Revised Code that the 39
licensee has been restricted from obtaining further information 40
from the drug database. 41

(ii) The state board of pharmacy no longer maintains the 42
drug database. 43

(iii) The licensee does not practice dentistry in this 44

state. 45

(3) If a licensee certifies to the state dental board that 46
the licensee has been granted access to the drug database and 47
the board finds through an audit or other means that the 48
licensee has not been granted access, the board may take action 49
under section 4715.30 of the Revised Code. 50

(B) A licensed dentist who desires to temporarily retire 51
from practice and who has given the board notice in writing to 52
that effect shall be granted such a retirement, provided only 53
that at that time all previous registration fees and additional 54
costs of reinstatement have been paid. 55

(C) Not later than the thirty-first day of January of an 56
even-numbered year, the board shall send a notice by certified 57
mail to a dentist who fails to renew a license in accordance 58
with division (A) of this section. The notice shall state all of 59
the following: 60

(1) That the board has not received the registration form 61
and fee described in that division; 62

(2) That the license shall remain valid and in good 63
standing until the first day of April following the last day of 64
December of the odd-numbered year in which the dentist was 65
scheduled to renew if the dentist remains in compliance with all 66
other applicable provisions of this chapter and any rule adopted 67
under it; 68

(3) That the license may be renewed until the first day of 69
April following the last day of December of the odd-numbered 70
year in which the dentist was scheduled to renew by the payment 71
of the biennial registration fee and an additional fee of one 72
hundred twenty-seven dollars to cover the cost of late renewal; 73

(4) That unless the board receives the registration form 74
and fee before the first day of April following the last day of 75
December of the odd-numbered year in which the dentist was 76
scheduled to renew, the board may, on or after the relevant 77
first day of April, initiate disciplinary action against the 78
dentist pursuant to Chapter 119. of the Revised Code; 79

(5) That a dentist whose license has been suspended as a 80
result of disciplinary action initiated pursuant to division (C) 81
(4) of this section may be reinstated by the payment of the 82
biennial registration fee and an additional fee of three hundred 83
eighty-one dollars to cover the cost of reinstatement. 84

(D) Each dentist licensed to practice, whether a resident 85
or not, shall notify the secretary in writing or electronically 86
of any change in the dentist's office address or employment 87
within ten days after such change has taken place. On the first 88
day of July of every even-numbered year, the secretary shall 89
issue a printed roster of the names and addresses so registered. 90

(E) Forty dollars of each biennial registration fee shall 91
be paid to the dentist loan repayment fund created under section 92
3702.95 of the Revised Code. 93

Sec. 4715.30. (A) An applicant for or holder of a 94
certificate or license issued under this chapter is subject to 95
disciplinary action by the state dental board for any of the 96
following reasons: 97

(1) Employing or cooperating in fraud or material 98
deception in applying for or obtaining a license or certificate; 99

(2) Obtaining or attempting to obtain money or anything of 100
value by intentional misrepresentation or material deception in 101
the course of practice; 102

(3) Advertising services in a false or misleading manner	103
or violating the board's rules governing time, place, and manner	104
of advertising;	105
(4) Commission of an act that constitutes a felony in this	106
state, regardless of the jurisdiction in which the act was	107
committed;	108
(5) Commission of an act in the course of practice that	109
constitutes a misdemeanor in this state, regardless of the	110
jurisdiction in which the act was committed;	111
(6) Conviction of, a plea of guilty to, a judicial finding	112
of guilt of, a judicial finding of guilt resulting from a plea	113
of no contest to, or a judicial finding of eligibility for	114
intervention in lieu of conviction for, any felony or of a	115
misdemeanor committed in the course of practice;	116
(7) Engaging in lewd or immoral conduct in connection with	117
the provision of dental services;	118
(8) Selling, prescribing, giving away, or administering	119
drugs for other than legal and legitimate therapeutic purposes,	120
or conviction of, a plea of guilty to, a judicial finding of	121
guilt of, a judicial finding of guilt resulting from a plea of	122
no contest to, or a judicial finding of eligibility for	123
intervention in lieu of conviction for, a violation of any	124
federal or state law regulating the possession, distribution, or	125
use of any drug;	126
(9) Providing or allowing dental hygienists, expanded	127
function dental auxiliaries, or other practitioners of auxiliary	128
dental occupations working under the certificate or license	129
holder's supervision, or a dentist holding a temporary limited	130
continuing education license under division (C) of section	131

4715.16 of the Revised Code working under the certificate or 132
license holder's direct supervision, to provide dental care that 133
departs from or fails to conform to accepted standards for the 134
profession, whether or not injury to a patient results; 135

(10) Inability to practice under accepted standards of the 136
profession because of physical or mental disability, dependence 137
on alcohol or other drugs, or excessive use of alcohol or other 138
drugs; 139

(11) Violation of any provision of this chapter or any 140
rule adopted thereunder; 141

(12) Failure to use universal blood and body fluid 142
precautions established by rules adopted under section 4715.03 143
of the Revised Code; 144

(13) Except as provided in division (H) of this section, 145
either of the following: 146

(a) Waiving the payment of all or any part of a deductible 147
or copayment that a patient, pursuant to a health insurance or 148
health care policy, contract, or plan that covers dental 149
services, would otherwise be required to pay if the waiver is 150
used as an enticement to a patient or group of patients to 151
receive health care services from that certificate or license 152
holder; 153

(b) Advertising that the certificate or license holder 154
will waive the payment of all or any part of a deductible or 155
copayment that a patient, pursuant to a health insurance or 156
health care policy, contract, or plan that covers dental 157
services, would otherwise be required to pay. 158

(14) Failure to comply with section 4715.302 or 4729.79 of 159
the Revised Code, unless the state board of pharmacy no longer 160

maintains a drug database pursuant to section 4729.75 of the Revised Code; 161
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(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand; 163
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(16) Failure to cooperate in an investigation conducted by the board under division (D) of section 4715.03 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue; 173
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(17) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code; 183
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(18) Failure to comply with the requirements of sections 4715.71 and 4715.72 of the Revised Code regarding the operation of a mobile dental facility. 187
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(B) A manager, proprietor, operator, or conductor of a dental facility shall be subject to disciplinary action if any dentist, dental hygienist, expanded function dental auxiliary, or qualified personnel providing services in the facility is found to have committed a violation listed in division (A) of this section and the manager, proprietor, operator, or conductor knew of the violation and permitted it to occur on a recurring basis.

(C) Subject to Chapter 119. of the Revised Code, the board may take one or more of the following disciplinary actions if one or more of the grounds for discipline listed in divisions (A) and (B) of this section exist:

(1) Censure the license or certificate holder;

(2) Place the license or certificate on probationary status for such period of time the board determines necessary and require the holder to:

(a) Report regularly to the board upon the matters which are the basis of probation;

(b) Limit practice to those areas specified by the board;

(c) Continue or renew professional education until a satisfactory degree of knowledge or clinical competency has been attained in specified areas.

(3) Suspend the certificate or license;

(4) Revoke the certificate or license.

Where the board places a holder of a license or certificate on probationary status pursuant to division (C) (2) of this section, the board may subsequently suspend or revoke the license or certificate if it determines that the holder has

not met the requirements of the probation or continues to engage 218
in activities that constitute grounds for discipline pursuant to 219
division (A) or (B) of this section. 220

Any order suspending a license or certificate shall state 221
the conditions under which the license or certificate will be 222
restored, which may include a conditional restoration during 223
which time the holder is in a probationary status pursuant to 224
division (C) (2) of this section. The board shall restore the 225
license or certificate unconditionally when such conditions are 226
met. 227

(D) If the physical or mental condition of an applicant or 228
a license or certificate holder is at issue in a disciplinary 229
proceeding, the board may order the license or certificate 230
holder to submit to reasonable examinations by an individual 231
designated or approved by the board and at the board's expense. 232
The physical examination may be conducted by any individual 233
authorized by the Revised Code to do so, including a physician 234
assistant, a clinical nurse specialist, a certified nurse 235
practitioner, or a certified nurse-midwife. Any written 236
documentation of the physical examination shall be completed by 237
the individual who conducted the examination. 238

Failure to comply with an order for an examination shall 239
be grounds for refusal of a license or certificate or summary 240
suspension of a license or certificate under division (E) of 241
this section. 242

(E) If a license or certificate holder has failed to 243
comply with an order under division (D) of this section, the 244
board may apply to the court of common pleas of the county in 245
which the holder resides for an order temporarily suspending the 246
holder's license or certificate, without a prior hearing being 247

afforded by the board, until the board conducts an adjudication 248
hearing pursuant to Chapter 119. of the Revised Code. If the 249
court temporarily suspends a holder's license or certificate, 250
the board shall give written notice of the suspension personally 251
or by certified mail to the license or certificate holder. Such 252
notice shall inform the license or certificate holder of the 253
right to a hearing pursuant to Chapter 119. of the Revised Code. 254

(F) Any holder of a certificate or license issued under 255
this chapter who has pleaded guilty to, has been convicted of, 256
or has had a judicial finding of eligibility for intervention in 257
lieu of conviction entered against the holder in this state for 258
aggravated murder, murder, voluntary manslaughter, felonious 259
assault, kidnapping, rape, sexual battery, gross sexual 260
imposition, aggravated arson, aggravated robbery, or aggravated 261
burglary, or who has pleaded guilty to, has been convicted of, 262
or has had a judicial finding of eligibility for treatment or 263
intervention in lieu of conviction entered against the holder in 264
another jurisdiction for any substantially equivalent criminal 265
offense, is automatically suspended from practice under this 266
chapter in this state and any certificate or license issued to 267
the holder under this chapter is automatically suspended, as of 268
the date of the guilty plea, conviction, or judicial finding, 269
whether the proceedings are brought in this state or another 270
jurisdiction. Continued practice by an individual after the 271
suspension of the individual's certificate or license under this 272
division shall be considered practicing without a certificate or 273
license. The board shall notify the suspended individual of the 274
suspension of the individual's certificate or license under this 275
division by certified mail or in person in accordance with 276
section 119.07 of the Revised Code. If an individual whose 277
certificate or license is suspended under this division fails to 278

make a timely request for an adjudicatory hearing, the board 279
shall enter a final order revoking the individual's certificate 280
or license. 281

(G) If the supervisory investigative panel determines both 282
of the following, the panel may recommend that the board suspend 283
an individual's certificate or license without a prior hearing: 284

(1) That there is clear and convincing evidence that an 285
individual has violated division (A) of this section; 286

(2) That the individual's continued practice presents a 287
danger of immediate and serious harm to the public. 288

Written allegations shall be prepared for consideration by 289
the board. The board, upon review of those allegations and by an 290
affirmative vote of not fewer than four dentist members of the 291
board and seven of its members in total, excluding any member on 292
the supervisory investigative panel, may suspend a certificate 293
or license without a prior hearing. A telephone conference call 294
may be utilized for reviewing the allegations and taking the 295
vote on the summary suspension. 296

The board shall issue a written order of suspension by 297
certified mail or in person in accordance with section 119.07 of 298
the Revised Code. The order shall not be subject to suspension 299
by the court during pendency or any appeal filed under section 300
119.12 of the Revised Code. If the individual subject to the 301
summary suspension requests an adjudicatory hearing by the 302
board, the date set for the hearing shall be within fifteen 303
days, but not earlier than seven days, after the individual 304
requests the hearing, unless otherwise agreed to by both the 305
board and the individual. 306

Any summary suspension imposed under this division shall 307

remain in effect, unless reversed on appeal, until a final 308
adjudicative order issued by the board pursuant to this section 309
and Chapter 119. of the Revised Code becomes effective. The 310
board shall issue its final adjudicative order within seventy- 311
five days after completion of its hearing. A failure to issue 312
the order within seventy-five days shall result in dissolution 313
of the summary suspension order but shall not invalidate any 314
subsequent, final adjudicative order. 315

(H) Sanctions shall not be imposed under division (A) (13) 316
of this section against any certificate or license holder who 317
waives deductibles and copayments as follows: 318

(1) In compliance with the health benefit plan that 319
expressly allows such a practice. Waiver of the deductibles or 320
copayments shall be made only with the full knowledge and 321
consent of the plan purchaser, payer, and third-party 322
administrator. Documentation of the consent shall be made 323
available to the board upon request. 324

(2) For professional services rendered to any other person 325
who holds a certificate or license issued pursuant to this 326
chapter to the extent allowed by this chapter and the rules of 327
the board. 328

(I) In no event shall the board consider or raise during a 329
hearing required by Chapter 119. of the Revised Code the 330
circumstances of, or the fact that the board has received, one 331
or more complaints about a person unless the one or more 332
complaints are the subject of the hearing or resulted in the 333
board taking an action authorized by this section against the 334
person on a prior occasion. 335

(J) The board may share any information it receives 336

pursuant to an investigation under division (D) of section 337
4715.03 of the Revised Code, including patient records and 338
patient record information, with law enforcement agencies, other 339
licensing boards, and other governmental agencies that are 340
prosecuting, adjudicating, or investigating alleged violations 341
of statutes or administrative rules. An agency or board that 342
receives the information shall comply with the same requirements 343
regarding confidentiality as those with which the state dental 344
board must comply, notwithstanding any conflicting provision of 345
the Revised Code or procedure of the agency or board that 346
applies when it is dealing with other information in its 347
possession. In a judicial proceeding, the information may be 348
admitted into evidence only in accordance with the Rules of 349
Evidence, but the court shall require that appropriate measures 350
are taken to ensure that confidentiality is maintained with 351
respect to any part of the information that contains names or 352
other identifying information about patients or complainants 353
whose confidentiality was protected by the state dental board 354
when the information was in the board's possession. Measures to 355
ensure confidentiality that may be taken by the court include 356
sealing its records or deleting specific information from its 357
records. 358

Sec. 4715.36. As used in this section and sections 359
4715.361 to 4715.374 of the Revised Code: 360

(A) "Accredited dental hygiene school" means a dental 361
hygiene school accredited by the American dental association 362
commission on dental accreditation or a dental hygiene school 363
whose educational standards are recognized by the American 364
dental association commission on dental accreditation and 365
approved by the state dental board. 366

(B) "Authorizing dentist" means a dentist who authorizes a dental hygienist to perform dental hygiene services under section 4715.365 of the Revised Code.

(C) "Clinical evaluation" means a diagnosis and treatment plan formulated for an individual patient by a dentist.

(D) "Dentist" means an individual licensed under this chapter to practice dentistry.

(E) "Dental hygienist" means an individual licensed under this chapter to practice as a dental hygienist.

(F) "Dental hygiene services" means the prophylactic, preventive, and other procedures that dentists are authorized by this chapter and rules of the state dental board to assign to dental hygienists, except for procedures while a patient is anesthetized, definitive root planing, definitive subgingival curettage, the administration of local anesthesia, and the procedures specified in rules adopted by the board as described in division (C) (3) of section 4715.22 of the Revised Code.

(G) "Facility" means any of the following:

(1) A health care facility, as defined in section 4715.22 of the Revised Code;

(2) A state correctional institution, as defined in section 2967.01 of the Revised Code;

(3) A comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C. 9831, as amended, and is licensed as a child day-care center;

(4) A residential facility licensed under section 5123.19 of the Revised Code;

- (5) A public school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code; 395
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- (6) A nonpublic school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code; 399
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- (7) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code; 403
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- (8) A shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code; 406
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- (9) A facility operated by the department of youth services under Chapter 5139. of the Revised Code; 408
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- (10) A foster home, as defined in section 5103.02 of the Revised Code; 410
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- (11) A nonprofit clinic, as defined in section 3715.87 of the Revised Code; 412
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- (12) The residence of one or more individuals receiving services provided by a home health agency, as defined in section 3701.881 of the Revised Code; 414
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- (13) A dispensary; 417
- (14) A health care facility, such as a clinic or hospital, of the United States department of veterans affairs; 418
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- (15) The residence of one or more individuals enrolled in a home and community-based services medicaid waiver component, 420
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as defined in section 5166.01 of the Revised Code; 422

(16) A facility operated by the board of health of a city 423
or general health district or the authority having the duties of 424
a board of health under section 3709.05 of the Revised Code; 425

(17) A women, infants, and children clinic; 426

(18) A mobile dental ~~unit~~ facility, as defined in section 427
4715.70 of the Revised Code, located at any location listed in 428
divisions (G) (1) to (17) of this section; 429

(19) Any other location, as specified by the state dental 430
board in rules adopted under section 4715.372 of the Revised 431
Code, that is in an area designated as a dental health resource 432
shortage area pursuant to section 3702.87 of the Revised Code 433
and provides health care services to individuals who are 434
medicaid recipients and to indigent and uninsured persons, as 435
defined in section 2305.234 of the Revised Code. 436

Sec. 4715.70. As used in this section and sections 4715.71 437
and 4715.72 of the Revised Code: 438

(A) "Dental hygiene services" means the prophylactic, 439
preventive, and other procedures that dentists are authorized by 440
this chapter and rules of the state dental board to assign to 441
dental hygienists, except for procedures while a patient is 442
anesthetized, definitive root planing, definitive subgingival 443
curettage, the administration of local anesthesia, and the 444
procedures specified in rules adopted by the board as described 445
in division (C) (4) of section 4715.22 of the Revised Code. 446

(B) (1) "Minor" means an individual under eighteen years of 447
age who is not emancipated. 448

(2) For purposes of this division, an individual under 449

eighteen years of age is emancipated only if the individual has 450
married, has entered the armed services of the United States, 451
has become employed and self-sustaining, or otherwise has become 452
independent from the care and control of the individual's 453
parent, guardian, or custodian. 454

(C) "Mobile dental facility" means either of the 455
following: 456

(1) A self-contained, intact facility in which dentistry 457
or dental hygiene is practiced that may be transported from one 458
location to another; 459

(2) A site used on a temporary basis to provide dental or 460
dental hygiene services using portable equipment. 461

(D) "Mobile dental facility operator" means a dentist 462
licensed under this chapter who operates a mobile dental 463
facility. 464

(E) "Patient's representative" means a person who has 465
authority to make health care decisions on behalf of an adult or 466
emancipated minor, or the parent, legal guardian, or other 467
person acting in loco parentis who is authorized by law to make 468
health care decisions on behalf of a minor. 469

Sec. 4715.71. A mobile dental facility operator or the 470
operator's representative shall provide each patient receiving 471
dental or dental hygiene services at a mobile dental facility, 472
or the patient's representative, with all of the following: 473

(A) The name of each individual who arranged for or 474
provided dental or dental hygiene services to the patient; 475

(B) The telephone number to reach the mobile dental 476
facility operator or operator's representative in case of an 477

<u>emergency;</u>	478
<u>(C) A list of dental or dental hygiene services provided to the patient;</u>	479 480
<u>(D) Any recommendations regarding further dental or dental hygiene services that are advisable;</u>	481 482
<u>(E) A notice to the patient that the facility must provide access to the patient's complete dental records in accordance with Chapter 3798. of the Revised Code and applicable federal laws;</u>	483 484 485 486
<u>(F) Instructions for requesting a copy or transfer of the patient's records.</u>	487 488
<u>Sec. 4715.72.</u> <u>A mobile dental facility operator or the operator's representative shall notify the state dental board and all treatment venues not later than fourteen days after either of the following occurs:</u>	489 490 491 492
<u>(A) There is a change in the address or telephone number of the operator.</u>	493 494
<u>(B) The mobile dental facility ceases to operate.</u>	495
<u>The notice must be provided in writing.</u>	496
Section 2. <u>That existing sections 4715.14, 4715.30, and 4715.36 of the Revised Code are hereby repealed.</u>	497 498