

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 51

Senator Maharath

Cosponsors: Senators Antonio, Thomas, Sykes

A BILL

To amend sections 1739.05, 4715.30, 4723.28, 1
4723.481, 4730.25, 4730.41, 4731.052, and 2
4731.22 and to enact sections 1751.76, 3702.41, 3
3702.411, 3702.412, 3702.413, 3702.414, 4
3702.415, 3702.416, 3719.065, 3923.91, 4723.53, 5
4730.57, and 4731.84 of the Revised Code 6
regarding non-opioid directives and non-opioid 7
therapies. 8

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

Section 1. That sections 1739.05, 4715.30, 4723.28, 9
4723.481, 4730.25, 4730.41, 4731.052, and 4731.22 be amended and 10
sections 1751.76, 3702.41, 3702.411, 3702.412, 3702.413, 11
3702.414, 3702.415, 3702.416, 3719.065, 3923.91, 4723.53, 12
4730.57, and 4731.84 of the Revised Code be enacted to read as 13
follows: 14

Sec. 1739.05. (A) A multiple employer welfare arrangement 15
that is created pursuant to sections 1739.01 to 1739.22 of the 16
Revised Code and that operates a group self-insurance program 17
may be established only if any of the following applies: 18

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers.	19 20
(2) The arrangement has and maintains a minimum enrollment of three hundred self-employed individuals.	21 22
(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A) (1) and (2) of this section.	23 24 25
(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 3923.80, 3923.84, 3923.85, 3923.851, 3923.86, 3923.89, 3923.90, <u>3923.91</u> , 3924.031, 3924.032, and 3924.27 of the Revised Code.	26 27 28 29 30 31 32 33 34 35
(C) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell or solicit sickness and accident insurance.	36 37 38 39 40
(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees, or are eligible for continuation of coverage under section 1751.53 or 3923.38 of the Revised Code or under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100	41 42 43 44 45 46 47

Stat. 227, 29 U.S.C.A. 1161, as amended. 48

(E) A multiple employer welfare arrangement created 49
pursuant to sections 1739.01 to 1739.22 of the Revised Code is 50
subject to, and shall comply with, sections 3903.81 to 3903.93 51
of the Revised Code in the same manner as other life or health 52
insurers, as defined in section 3903.81 of the Revised Code. 53

Sec. 1751.76. (A) As used in this section, "opioid 54
analgesic" has the same meaning as in section 3719.01 of the 55
Revised Code. 56

(B) Notwithstanding section 3901.71 of the Revised Code, 57
each individual or group health insuring corporation policy, 58
contract, or agreement providing basic health care services that 59
is delivered, issued for delivery, or renewed in this state 60
shall provide coverage for evidence-based therapies that do not 61
require the use of opioid analgesics in the treatment of pain. 62
Of the therapies that are covered, all of the following must be 63
included: 64

(1) Services of a chiropractor authorized under Chapter 65
4734. of the Revised Code to practice chiropractic or 66
acupuncture, regardless of whether chiropractic services are 67
considered supplemental health care services; 68

(2) Services of an oriental medicine practitioner or 69
acupuncturist licensed to practice under Chapter 4762. of the 70
Revised Code; 71

(3) Services of a physician authorized to practice 72
osteopathic medicine and surgery under Chapter 4731. of the 73
Revised Code that do not involve the use of opioid analgesics. 74

Sec. 3702.41. (A) As used in this section and in sections 75
3702.411 to 3702.416 of the Revised Code: 76

(1) "Community addiction services provider" has the same 77
meaning as in section 5119.01 of the Revised Code. 78

(2) "Emergency medical services personnel" has the same 79
meaning as in section 2133.21 of the Revised Code. 80

(3) "Minor" means an individual under eighteen years of 81
age who is not emancipated. 82

For purposes of this section, an individual under eighteen 83
years of age is emancipated only if the individual has married, 84
has entered the armed services of the United States, has become 85
employed and self-sustaining, or otherwise has become 86
independent from the care and control of the individual's 87
parent, guardian, or legal custodian. 88

(4) "Prescriber" means any of the following: 89

(a) An advanced practice registered nurse who holds a 90
current, valid license issued under Chapter 4723. of the Revised 91
Code and is designated as a clinical nurse specialist, certified 92
nurse-midwife, or certified nurse practitioner; 93

(b) A dentist licensed under Chapter 4715. of the Revised 94
Code; 95

(c) A physician authorized under Chapter 4731. of the 96
Revised Code to practice medicine and surgery or osteopathic 97
medicine and surgery; 98

(d) A physician assistant who is licensed under Chapter 99
4730. of the Revised Code, holds a valid prescriber number 100
issued by the state medical board, and has been granted 101
physician-delegated prescriptive authority; 102

(e) A podiatrist authorized under Chapter 4731. of the 103
Revised Code to practice podiatric medicine and surgery. 104

(5) "Opioid analgesic" has the same meaning as in section 3719.01 of the Revised Code. 105
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(6) "Recipient" means the prescriber or a person or government entity specified by the department of health in rules adopted under section 3702.413 of the Revised Code, or the delegate of any of the foregoing, that may receive and file a patient's non-opioid directive form. 107
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(B) Not later than one year after the effective date of this section, the department of health shall develop a non-opioid directive form. The form shall specify that the patient who is the subject of the form desires not to be offered, prescribed, administered, personally furnished, or otherwise provided with an opioid analgesic. 112
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When developing the form, the department shall seek input on the form's content from organizations representing each of the following: 118
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(1) Prescribers; 121

(2) Emergency medical services personnel; 122

(3) Nursing homes; 123

(4) Hospitals; 124

(5) Ambulatory surgical facilities; 125

(6) Any other group the department considers appropriate. 126

(C) The department shall make the form available on its internet web site. The department also shall notify each board of a city or general health district, as well as prescribers, community addiction services providers, hospitals, and other health care providers and facilities in this state, when the 127
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form initially becomes available and, if applicable, when 132
updates become available. The form shall be made available in a 133
format that can be downloaded free of charge and reproduced. 134

Sec. 3702.411. (A)(1) Any individual or the individual's 135
representative may complete a non-opioid directive form. In the 136
case of a patient who is a minor, the individual's 137
representative is the individual's parent, guardian, or legal 138
custodian. 139

The decision to complete a non-opioid directive form is 140
voluntary. 141

(2) A non-opioid directive form becomes effective when 142
both of the following have occurred: 143

(a) The form is signed in the presence of the recipient by 144
the individual to whom it pertains or the individual's 145
representative. 146

(b) The individual or the individual's representative 147
submits the form to the recipient, the recipient signs and dates 148
it in the presenter's presence, and the recipient makes a 149
photocopy of the signed form for the individual's records. 150

(B) In accordance with rules adopted under section 151
3702.413 of the Revised Code, the recipient shall file the 152
signed non-opioid directive form in the individual's medical 153
record. 154

(C) A recipient, a prescriber to whom a copy of an 155
effective non-opioid directive form has been transmitted, and 156
any delegate of the foregoing shall comply with the non-opioid 157
directive form. 158

Sec. 3702.412. The individual who is the subject of a non- 159

opioid directive form or the individual's representative may 160
revoke a non-opioid directive form at any time and in any manner 161
that communicates the intent to revoke. 162

Sec. 3702.413. (A) The director of health shall adopt 163
rules to implement sections 3702.41 to 3702.412 of the Revised 164
Code. The rules shall do all of the following: 165

(1) Specify the persons who are not prescribers and the 166
government entities that may receive an individual's non-opioid 167
directive form and file it in the individual's medical record; 168

(2) Establish a standard cover sheet that a recipient may 169
use to transmit, in accordance with applicable state and federal 170
laws governing patient confidentiality, a copy of a non-opioid 171
directive form to a prescriber or other person or government 172
entity specified in rules adopted under division (A)(1) of this 173
section; 174

(3) Establish a procedure for filing a non-opioid 175
directive form in the medical record of the individual to whom 176
it pertains; 177

(4) Establish a procedure for an individual to appoint a 178
proxy to override a previously filed non-opioid directive form; 179

(5) Establish a procedure to ensure that any recording, 180
sharing, or distributing of information associated with a non- 181
opioid directive form complies with applicable federal and state 182
laws governing patient confidentiality. 183

(B) All rules adopted under this section shall be adopted 184
in accordance with Chapter 119. of the Revised Code. 185

Sec. 3702.414. (A) A pharmacist to whom a valid 186
prescription for an opioid analgesic is presented for dispensing 187

is neither required to inquire about the existence of a non- 188
opioid directive form for the individual who is the subject of 189
the prescription nor required to determine if the individual is 190
the subject of a non-opioid directive form. 191

(B) (1) Unless a pharmacist knowingly failed to comply with 192
an individual's non-opioid directive form, the pharmacist is not 193
subject to criminal prosecution for dispensing the opioid 194
analgesic. 195

(2) Unless a pharmacist failed to comply with an 196
individual's non-opioid directive form in a manner that 197
constitutes willful or wanton misconduct, the pharmacist is not 198
subject to either of the following for dispensing the opioid 199
analgesic: 200

(a) Liability for damages in tort or other civil action 201
for injury, death, or loss to person or property; 202

(b) Professional disciplinary action. 203

Sec. 3702.415. (A) Unless a recipient or a delegate, 204
employee, or contractor of a recipient knowingly failed to 205
comply with an effective non-opioid directive form, that party 206
is not subject to criminal prosecution for offering, 207
prescribing, administering, personally furnishing, or otherwise 208
providing an opioid analgesic to an individual who has an 209
effective non-opioid directive form. 210

(B) Unless a recipient or a delegate, employee, or 211
contractor of a recipient failed to comply with an effective 212
non-opioid directive form in a manner that constitutes willful 213
or wanton misconduct, that party is not subject to either of the 214
following for offering, prescribing, administering, personally 215
furnishing, or otherwise providing an opioid analgesic to an 216

<u>individual who has an effective non-opioid directive form:</u>	217
<u>(1) Liability for damages in tort or other civil action</u>	218
<u>for injury, death, or loss to person or property;</u>	219
<u>(2) Professional disciplinary action.</u>	220
<u>Sec. 3702.416.</u> <u>The existence or absence of a non-opioid</u>	221
<u>directive form for an individual does not do any of the</u>	222
<u>following:</u>	223
<u>(A) Affect in any manner the sale, procurement, issuance,</u>	224
<u>or renewal of a policy of life insurance or annuity,</u>	225
<u>notwithstanding any term of a policy or annuity to the contrary;</u>	226
<u>(B) Modify in any manner or invalidate the terms of a</u>	227
<u>policy of life insurance or annuity that is in effect on the</u>	228
<u>effective date of this section;</u>	229
<u>(C) Impair or invalidate a policy of life insurance or</u>	230
<u>annuity or any health benefit plan.</u>	231
<u>Sec. 3719.065.</u> <u>(A) As used in this section:</u>	232
<u>(1) "Acute pain" means pain that normally fades with</u>	233
<u>healing, is related to tissue damage, significantly alters a</u>	234
<u>patient's typical function, and is expected to be time limited.</u>	235
<u>(2) "Chronic pain" has the same meaning as in section</u>	236
<u>4731.052 of the Revised Code.</u>	237
<u>(3) "Prescriber," notwithstanding section 3719.01 of the</u>	238
<u>Revised Code, has the same meaning as in section 3702.41 of the</u>	239
<u>Revised Code, except that it does not include a dentist.</u>	240
<u>(B) Before initiating a plan of treatment that includes</u>	241
<u>the use of an opioid analgesic for acute pain or chronic pain, a</u>	242
<u>prescriber shall give the patient or the patient's</u>	243

representative information about evidence-based therapies that 244
do not require the use of an opioid analgesic to treat that 245
condition. At a minimum, the prescriber shall provide 246
information on all of the following: 247

(1) Services of a chiropractor authorized under Chapter 248
4734. of the Revised Code to practice chiropractic or 249
acupuncture; 250

(2) Services of an oriental medicine practitioner or 251
acupuncturist licensed to practice under Chapter 4762. of the 252
Revised Code; 253

(3) If the prescriber is not a physician authorized to 254
practice osteopathic medicine and surgery under Chapter 4731. of 255
the Revised Code, the services of such a physician that do not 256
involve the use of opioid analgesics. 257

Sec. 3923.91. (A) As used in this section, "opioid 258
analgesic" has the same meaning as in section 3719.01 of the 259
Revised Code. 260

(B) Notwithstanding section 3901.71 of the Revised Code, 261
each individual or group policy of sickness and accident 262
insurance that is delivered, issued for delivery, or renewed in 263
this state and each public employee benefit plan that is 264
established or modified in this state shall provide coverage for 265
evidence-based therapies that do not require the use of opioid 266
analgesics in the treatment of pain. Of the therapies that are 267
covered, all of the following must be included: 268

(1) Services of a chiropractor authorized under Chapter 269
4734. of the Revised Code to practice chiropractic or 270
acupuncture; 271

(2) Services of an oriental medicine practitioner or 272

<u>acupuncturist licensed to practice under Chapter 4762. of the</u>	273
<u>Revised Code;</u>	274
<u>(3) Services of a physician authorized to practice</u>	275
<u>osteopathic medicine and surgery under Chapter 4731. of the</u>	276
<u>Revised Code that do not involve the use of opioid analgesics.</u>	277
Sec. 4715.30. (A) An applicant for or holder of a	278
certificate or license issued under this chapter is subject to	279
disciplinary action by the state dental board for any of the	280
following reasons:	281
(1) Employing or cooperating in fraud or material	282
deception in applying for or obtaining a license or certificate;	283
(2) Obtaining or attempting to obtain money or anything of	284
value by intentional misrepresentation or material deception in	285
the course of practice;	286
(3) Advertising services in a false or misleading manner	287
or violating the board's rules governing time, place, and manner	288
of advertising;	289
(4) Commission of an act that constitutes a felony in this	290
state, regardless of the jurisdiction in which the act was	291
committed;	292
(5) Commission of an act in the course of practice that	293
constitutes a misdemeanor in this state, regardless of the	294
jurisdiction in which the act was committed;	295
(6) Conviction of, a plea of guilty to, a judicial finding	296
of guilt of, a judicial finding of guilt resulting from a plea	297
of no contest to, or a judicial finding of eligibility for	298
intervention in lieu of conviction for, any felony or of a	299
misdemeanor committed in the course of practice;	300

(7) Engaging in lewd or immoral conduct in connection with the provision of dental services;	301 302
(8) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes, or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a violation of any federal or state law regulating the possession, distribution, or use of any drug;	303 304 305 306 307 308 309 310
(9) Providing or allowing dental hygienists, expanded function dental auxiliaries, or other practitioners of auxiliary dental occupations working under the certificate or license holder's supervision, or a dentist holding a temporary limited continuing education license under division (C) of section 4715.16 of the Revised Code working under the certificate or license holder's direct supervision, to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results;	311 312 313 314 315 316 317 318 319
(10) Inability to practice under accepted standards of the profession because of physical or mental disability, dependence on alcohol or other drugs, or excessive use of alcohol or other drugs;	320 321 322 323
(11) Violation of any provision of this chapter or any rule adopted thereunder;	324 325
(12) Failure to use universal blood and body fluid precautions established by rules adopted under section 4715.03 of the Revised Code;	326 327 328
(13) Except as provided in division (H) of this section,	329

either of the following:	330
(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 dental services, would otherwise 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 certificate or license holder;	331 332 333 334 335 336 337
(b) Advertising that the certificate or license holder 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 dental services, would otherwise be required to pay.	338 339 340 341 342
(14) Failure to comply with section 4715.302 or 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	343 344 345 346
(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;	347 348 349 350 351 352 353 354 355 356
(16) Failure to cooperate in an investigation conducted by the board under division (D) of section 4715.03 of the Revised	357 358

Code, including failure to comply with a subpoena or order 359
issued by the board or failure to answer truthfully a question 360
presented by the board at a deposition or in written 361
interrogatories, except that failure to cooperate with an 362
investigation shall not constitute grounds for discipline under 363
this section if a court of competent jurisdiction has issued an 364
order that either quashes a subpoena or permits the individual 365
to withhold the testimony or evidence in issue; 366

(17) Failure to comply with the requirements ~~in~~ of section 367
3719.061 of the Revised Code before issuing for a minor a 368
prescription for an opioid analgesic, as defined in section 369
3719.01 of the Revised Code; 370

(18) Failure to comply with an individual's non-opioid 371
directive form as required by division (C) of section 3702.411 372
of the Revised Code. 373

(B) A manager, proprietor, operator, or conductor of a 374
dental facility shall be subject to disciplinary action if any 375
dentist, dental hygienist, expanded function dental auxiliary, 376
or qualified personnel providing services in the facility is 377
found to have committed a violation listed in division (A) of 378
this section and the manager, proprietor, operator, or conductor 379
knew of the violation and permitted it to occur on a recurring 380
basis. 381

(C) Subject to Chapter 119. of the Revised Code, the board 382
may take one or more of the following disciplinary actions if 383
one or more of the grounds for discipline listed in divisions 384
(A) and (B) of this section exist: 385

(1) Censure the license or certificate holder; 386

(2) Place the license or certificate on probationary 387

status for such period of time the board determines necessary	388
and require the holder to:	389
(a) Report regularly to the board upon the matters which	390
are the basis of probation;	391
(b) Limit practice to those areas specified by the board;	392
(c) Continue or renew professional education until a	393
satisfactory degree of knowledge or clinical competency has been	394
attained in specified areas.	395
(3) Suspend the certificate or license;	396
(4) Revoke the certificate or license.	397
Where the board places a holder of a license or	398
certificate on probationary status pursuant to division (C) (2)	399
of this section, the board may subsequently suspend or revoke	400
the license or certificate if it determines that the holder has	401
not met the requirements of the probation or continues to engage	402
in activities that constitute grounds for discipline pursuant to	403
division (A) or (B) of this section.	404
Any order suspending a license or certificate shall state	405
the conditions under which the license or certificate will be	406
restored, which may include a conditional restoration during	407
which time the holder is in a probationary status pursuant to	408
division (C) (2) of this section. The board shall restore the	409
license or certificate unconditionally when such conditions are	410
met.	411
(D) If the physical or mental condition of an applicant or	412
a license or certificate holder is at issue in a disciplinary	413
proceeding, the board may order the license or certificate	414
holder to submit to reasonable examinations by an individual	415

designated or approved by the board and at the board's expense. 416
The physical examination may be conducted by any individual 417
authorized by the Revised Code to do so, including a physician 418
assistant, a clinical nurse specialist, a certified nurse 419
practitioner, or a certified nurse-midwife. Any written 420
documentation of the physical examination shall be completed by 421
the individual who conducted the examination. 422

Failure to comply with an order for an examination shall 423
be grounds for refusal of a license or certificate or summary 424
suspension of a license or certificate under division (E) of 425
this section. 426

(E) If a license or certificate holder has failed to 427
comply with an order under division (D) of this section, the 428
board may apply to the court of common pleas of the county in 429
which the holder resides for an order temporarily suspending the 430
holder's license or certificate, without a prior hearing being 431
afforded by the board, until the board conducts an adjudication 432
hearing pursuant to Chapter 119. of the Revised Code. If the 433
court temporarily suspends a holder's license or certificate, 434
the board shall give written notice of the suspension personally 435
or by certified mail to the license or certificate holder. Such 436
notice shall inform the license or certificate holder of the 437
right to a hearing pursuant to Chapter 119. of the Revised Code. 438

(F) Any holder of a certificate or license issued under 439
this chapter who has pleaded guilty to, has been convicted of, 440
or has had a judicial finding of eligibility for intervention in 441
lieu of conviction entered against the holder in this state for 442
aggravated murder, murder, voluntary manslaughter, felonious 443
assault, kidnapping, rape, sexual battery, gross sexual 444
imposition, aggravated arson, aggravated robbery, or aggravated 445

burglary, or who has pleaded guilty to, has been convicted of, 446
or has had a judicial finding of eligibility for treatment or 447
intervention in lieu of conviction entered against the holder in 448
another jurisdiction for any substantially equivalent criminal 449
offense, is automatically suspended from practice under this 450
chapter in this state and any certificate or license issued to 451
the holder under this chapter is automatically suspended, as of 452
the date of the guilty plea, conviction, or judicial finding, 453
whether the proceedings are brought in this state or another 454
jurisdiction. Continued practice by an individual after the 455
suspension of the individual's certificate or license under this 456
division shall be considered practicing without a certificate or 457
license. The board shall notify the suspended individual of the 458
suspension of the individual's certificate or license under this 459
division by certified mail or in person in accordance with 460
section 119.07 of the Revised Code. If an individual whose 461
certificate or license is suspended under this division fails to 462
make a timely request for an adjudicatory hearing, the board 463
shall enter a final order revoking the individual's certificate 464
or license. 465

(G) If the supervisory investigative panel determines both 466
of the following, the panel may recommend that the board suspend 467
an individual's certificate or license without a prior hearing: 468

(1) That there is clear and convincing evidence that an 469
individual has violated division (A) of this section; 470

(2) That the individual's continued practice presents a 471
danger of immediate and serious harm to the public. 472

Written allegations shall be prepared for consideration by 473
the board. The board, upon review of those allegations and by an 474
affirmative vote of not fewer than four dentist members of the 475

board and seven of its members in total, excluding any member on 476
the supervisory investigative panel, may suspend a certificate 477
or license without a prior hearing. A telephone conference call 478
may be utilized for reviewing the allegations and taking the 479
vote on the summary suspension. 480

The board shall issue a written order of suspension by 481
certified mail or in person in accordance with section 119.07 of 482
the Revised Code. The order shall not be subject to suspension 483
by the court during pendency or any appeal filed under section 484
119.12 of the Revised Code. If the individual subject to the 485
summary suspension requests an adjudicatory hearing by the 486
board, the date set for the hearing shall be within fifteen 487
days, but not earlier than seven days, after the individual 488
requests the hearing, unless otherwise agreed to by both the 489
board and the individual. 490

Any summary suspension imposed under this division shall 491
remain in effect, unless reversed on appeal, until a final 492
adjudicative order issued by the board pursuant to this section 493
and Chapter 119. of the Revised Code becomes effective. The 494
board shall issue its final adjudicative order within seventy- 495
five days after completion of its hearing. A failure to issue 496
the order within seventy-five days shall result in dissolution 497
of the summary suspension order but shall not invalidate any 498
subsequent, final adjudicative order. 499

(H) Sanctions shall not be imposed under division (A) (13) 500
of this section against any certificate or license holder who 501
waives deductibles and copayments as follows: 502

(1) In compliance with the health benefit plan that 503
expressly allows such a practice. Waiver of the deductibles or 504
copayments shall be made only with the full knowledge and 505

consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

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

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

(J) The board may share any information it receives pursuant to an investigation under division (D) of section 4715.03 of the Revised Code, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state dental board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with

respect to any part of the information that contains names or 536
other identifying information about patients or complainants 537
whose confidentiality was protected by the state dental board 538
when the information was in the board's possession. Measures to 539
ensure confidentiality that may be taken by the court include 540
sealing its records or deleting specific information from its 541
records. 542

(K) The board may impose a fine against a dentist who 543
fails to comply with division (C) of section 3702.411 of the 544
Revised Code. 545

Sec. 4723.28. (A) The board of nursing, by a vote of a 546
quorum, may impose one or more of the following sanctions if it 547
finds that a person committed fraud in passing an examination 548
required to obtain a license or dialysis technician certificate 549
issued by the board or to have committed fraud, 550
misrepresentation, or deception in applying for or securing any 551
nursing license or dialysis technician certificate issued by the 552
board: deny, revoke, suspend, or place restrictions on any 553
nursing license or dialysis technician certificate issued by the 554
board; reprimand or otherwise discipline a holder of a nursing 555
license or dialysis technician certificate; or impose a fine of 556
not more than five hundred dollars per violation. 557

(B) The board of nursing, by a vote of a quorum, may 558
impose one or more of the following sanctions: deny, revoke, 559
suspend, or place restrictions on any nursing license or 560
dialysis technician certificate issued by the board; reprimand 561
or otherwise discipline a holder of a nursing license or 562
dialysis technician certificate; or impose a fine of not more 563
than five hundred dollars per violation. The sanctions may be 564
imposed for any of the following: 565

(1) Denial, revocation, suspension, or restriction of authority to engage in a licensed profession or practice a health care occupation, including nursing or practice as a dialysis technician, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;	566 567 568 569 570
(2) Engaging in the practice of nursing or engaging in practice as a dialysis technician, having failed to renew a nursing license or dialysis technician certificate issued under this chapter, or while a nursing license or dialysis technician certificate is under suspension;	571 572 573 574 575
(3) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	576 577 578 579 580 581
(4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;	582 583 584 585 586 587
(5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, violating any municipal, state, county, or federal drug law;	588 589 590 591 592 593 594 595

(6) Conviction of, a plea of guilty to, a judicial finding	596
of guilt of, a judicial finding of guilt resulting from a plea	597
of no contest to, or a judicial finding of eligibility for a	598
pretrial diversion or similar program or for intervention in	599
lieu of conviction for, an act in another jurisdiction that	600
would constitute a felony or a crime of moral turpitude in Ohio;	601
(7) Conviction of, a plea of guilty to, a judicial finding	602
of guilt of, a judicial finding of guilt resulting from a plea	603
of no contest to, or a judicial finding of eligibility for a	604
pretrial diversion or similar program or for intervention in	605
lieu of conviction for, an act in the course of practice in	606
another jurisdiction that would constitute a misdemeanor in	607
Ohio;	608
(8) Self-administering or otherwise taking into the body	609
any dangerous drug, as defined in section 4729.01 of the Revised	610
Code, in any way that is not in accordance with a legal, valid	611
prescription issued for that individual, or self-administering	612
or otherwise taking into the body any drug that is a schedule I	613
controlled substance;	614
(9) Habitual or excessive use of controlled substances,	615
other habit-forming drugs, or alcohol or other chemical	616
substances to an extent that impairs the individual's ability to	617
provide safe nursing care or safe dialysis care;	618
(10) Impairment of the ability to practice according to	619
acceptable and prevailing standards of safe nursing care or safe	620
dialysis care because of the use of drugs, alcohol, or other	621
chemical substances;	622
(11) Impairment of the ability to practice according to	623
acceptable and prevailing standards of safe nursing care or safe	624

dialysis care because of a physical or mental disability;	625
(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	626 627
(13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice;	628 629
(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	630 631 632 633 634 635
(15) The suspension or termination of employment by the United States department of defense or department of veterans affairs for any act that violates or would violate this chapter;	636 637 638
(16) Violation of this chapter or any rules adopted under it;	639 640
(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;	641 642
(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;	643 644 645
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	646 647
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	648 649 650
(21) In the case of a licensed practical nurse, engaging	651

in activities that exceed the practice of nursing as a licensed 652
practical nurse; 653

(22) In the case of a dialysis technician, engaging in 654
activities that exceed those permitted under section 4723.72 of 655
the Revised Code; 656

(23) Aiding and abetting a person in that person's 657
practice of nursing without a license or practice as a dialysis 658
technician without a certificate issued under this chapter; 659

(24) In the case of an advanced practice registered nurse, 660
except as provided in division (M) of this section, either of 661
the following: 662

(a) Waiving the payment of all or any part of a deductible 663
or copayment that a patient, pursuant to a health insurance or 664
health care policy, contract, or plan that covers such nursing 665
services, would otherwise be required to pay if the waiver is 666
used as an enticement to a patient or group of patients to 667
receive health care services from that provider; 668

(b) Advertising that the nurse will waive the payment of 669
all or any part of a deductible or copayment that a patient, 670
pursuant to a health insurance or health care policy, contract, 671
or plan that covers such nursing services, would otherwise be 672
required to pay. 673

(25) Failure to comply with the terms and conditions of 674
participation in the substance use disorder monitoring program 675
established under section 4723.35 of the Revised Code; 676

(26) Failure to comply with the terms and conditions 677
required under the practice intervention and improvement program 678
established under section 4723.282 of the Revised Code; 679

(27) In the case of an advanced practice registered nurse:	680
(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;	681 682 683
(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.	684 685
(28) In the case of an advanced practice registered nurse other than a certified registered nurse anesthetist, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;	686 687 688 689 690
(29) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;	691 692 693 694 695
(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	696 697
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	698 699 700
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	701 702 703 704
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	705 706
(b) Verbal behavior that is sexually demeaning to the	707

patient or may be reasonably interpreted by the patient as 708
sexually demeaning. 709

(33) Assisting suicide, as defined in section 3795.01 of 710
the Revised Code; 711

(34) Failure to comply with the requirements in section 712
3719.061 of the Revised Code before issuing for a minor a 713
prescription for an opioid analgesic, as defined in section 714
3719.01 of the Revised Code; 715

(35) Failure to comply with section 4723.487 of the 716
Revised Code, unless the state board of pharmacy no longer 717
maintains a drug database pursuant to section 4729.75 of the 718
Revised Code; 719

(36) The revocation, suspension, restriction, reduction, 720
or termination of clinical privileges by the United States 721
department of defense or department of veterans affairs or the 722
termination or suspension of a certificate of registration to 723
prescribe drugs by the drug enforcement administration of the 724
United States department of justice; 725

(37) In the case of an advanced practice registered nurse 726
who is designated as a clinical nurse specialist, certified 727
nurse-midwife, or certified nurse practitioner, failure to 728
comply with an individual's non-opioid directive form as 729
required by division (C) of section 3702.411 of the Revised 730
Code; 731

(38) Failure to comply with section 3719.065 of the 732
Revised Code before initiating a plan of treatment that includes 733
the use of an opioid analgesic for acute pain or chronic pain. 734

(C) Disciplinary actions taken by the board under 735
divisions (A) and (B) of this section shall be taken pursuant to 736

an adjudication conducted under Chapter 119. of the Revised 737
Code, except that in lieu of a hearing, the board may enter into 738
a consent agreement with an individual to resolve an allegation 739
of a violation of this chapter or any rule adopted under it. A 740
consent agreement, when ratified by a vote of a quorum, shall 741
constitute the findings and order of the board with respect to 742
the matter addressed in the agreement. If the board refuses to 743
ratify a consent agreement, the admissions and findings 744
contained in the agreement shall be of no effect. 745

(D) The hearings of the board shall be conducted in 746
accordance with Chapter 119. of the Revised Code, the board may 747
appoint a hearing examiner, as provided in section 119.09 of the 748
Revised Code, to conduct any hearing the board is authorized to 749
hold under Chapter 119. of the Revised Code. 750

In any instance in which the board is required under 751
Chapter 119. of the Revised Code to give notice of an 752
opportunity for a hearing and the applicant, licensee, or 753
certificate holder does not make a timely request for a hearing 754
in accordance with section 119.07 of the Revised Code, the board 755
is not required to hold a hearing, but may adopt, by a vote of a 756
quorum, a final order that contains the board's findings. In the 757
final order, the board may order any of the sanctions listed in 758
division (A) or (B) of this section. 759

(E) If a criminal action is brought against a registered 760
nurse, licensed practical nurse, or dialysis technician for an 761
act or crime described in divisions (B) (3) to (7) of this 762
section and the action is dismissed by the trial court other 763
than on the merits, the board shall conduct an adjudication to 764
determine whether the registered nurse, licensed practical 765
nurse, or dialysis technician committed the act on which the 766

action was based. If the board determines on the basis of the 767
adjudication that the registered nurse, licensed practical 768
nurse, or dialysis technician committed the act, or if the 769
registered nurse, licensed practical nurse, or dialysis 770
technician fails to participate in the adjudication, the board 771
may take action as though the registered nurse, licensed 772
practical nurse, or dialysis technician had been convicted of 773
the act. 774

If the board takes action on the basis of a conviction, 775
plea, or a judicial finding as described in divisions (B) (3) to 776
(7) of this section that is overturned on appeal, the registered 777
nurse, licensed practical nurse, or dialysis technician may, on 778
exhaustion of the appeal process, petition the board for 779
reconsideration of its action. On receipt of the petition and 780
supporting court documents, the board shall temporarily rescind 781
its action. If the board determines that the decision on appeal 782
was a decision on the merits, it shall permanently rescind its 783
action. If the board determines that the decision on appeal was 784
not a decision on the merits, it shall conduct an adjudication 785
to determine whether the registered nurse, licensed practical 786
nurse, or dialysis technician committed the act on which the 787
original conviction, plea, or judicial finding was based. If the 788
board determines on the basis of the adjudication that the 789
registered nurse, licensed practical nurse, or dialysis 790
technician committed such act, or if the registered nurse, 791
licensed practical nurse, or dialysis technician does not 792
request an adjudication, the board shall reinstate its action; 793
otherwise, the board shall permanently rescind its action. 794

Notwithstanding the provision of division (C) (2) of 795
section 2953.32 of the Revised Code specifying that if records 796
pertaining to a criminal case are sealed under that section the 797

proceedings in the case shall be deemed not to have occurred, 798
sealing of the following records on which the board has based an 799
action under this section shall have no effect on the board's 800
action or any sanction imposed by the board under this section: 801
records of any conviction, guilty plea, judicial finding of 802
guilt resulting from a plea of no contest, or a judicial finding 803
of eligibility for a pretrial diversion program or intervention 804
in lieu of conviction. 805

The board shall not be required to seal, destroy, redact, 806
or otherwise modify its records to reflect the court's sealing 807
of conviction records. 808

(F) The board may investigate an individual's criminal 809
background in performing its duties under this section. As part 810
of such investigation, the board may order the individual to 811
submit, at the individual's expense, a request to the bureau of 812
criminal identification and investigation for a criminal records 813
check and check of federal bureau of investigation records in 814
accordance with the procedure described in section 4723.091 of 815
the Revised Code. 816

(G) During the course of an investigation conducted under 817
this section, the board may compel any registered nurse, 818
licensed practical nurse, or dialysis technician or applicant 819
under this chapter to submit to a mental or physical 820
examination, or both, as required by the board and at the 821
expense of the individual, if the board finds reason to believe 822
that the individual under investigation may have a physical or 823
mental impairment that may affect the individual's ability to 824
provide safe nursing care. Failure of any individual to submit 825
to a mental or physical examination when directed constitutes an 826
admission of the allegations, unless the failure is due to 827

circumstances beyond the individual's control, and a default and 828
final order may be entered without the taking of testimony or 829
presentation of evidence. 830

If the board finds that an individual is impaired, the 831
board shall require the individual to submit to care, 832
counseling, or treatment approved or designated by the board, as 833
a condition for initial, continued, reinstated, or renewed 834
authority to practice. The individual shall be afforded an 835
opportunity to demonstrate to the board that the individual can 836
begin or resume the individual's occupation in compliance with 837
acceptable and prevailing standards of care under the provisions 838
of the individual's authority to practice. 839

For purposes of this division, any registered nurse, 840
licensed practical nurse, or dialysis technician or applicant 841
under this chapter shall be deemed to have given consent to 842
submit to a mental or physical examination when directed to do 843
so in writing by the board, and to have waived all objections to 844
the admissibility of testimony or examination reports that 845
constitute a privileged communication. 846

(H) The board shall investigate evidence that appears to 847
show that any person has violated any provision of this chapter 848
or any rule of the board. Any person may report to the board any 849
information the person may have that appears to show a violation 850
of any provision of this chapter or rule of the board. In the 851
absence of bad faith, any person who reports such information or 852
who testifies before the board in any adjudication conducted 853
under Chapter 119. of the Revised Code shall not be liable for 854
civil damages as a result of the report or testimony. 855

(I) All of the following apply under this chapter with 856
respect to the confidentiality of information: 857

(1) Information received by the board pursuant to a 858
complaint or an investigation is confidential and not subject to 859
discovery in any civil action, except that the board may 860
disclose information to law enforcement officers and government 861
entities for purposes of an investigation of either a licensed 862
health care professional, including a registered nurse, licensed 863
practical nurse, or dialysis technician, or a person who may 864
have engaged in the unauthorized practice of nursing or dialysis 865
care. No law enforcement officer or government entity with 866
knowledge of any information disclosed by the board pursuant to 867
this division shall divulge the information to any other person 868
or government entity except for the purpose of a government 869
investigation, a prosecution, or an adjudication by a court or 870
government entity. 871

(2) If an investigation requires a review of patient 872
records, the investigation and proceeding shall be conducted in 873
such a manner as to protect patient confidentiality. 874

(3) All adjudications and investigations of the board 875
shall be considered civil actions for the purposes of section 876
2305.252 of the Revised Code. 877

(4) Any board activity that involves continued monitoring 878
of an individual as part of or following any disciplinary action 879
taken under this section shall be conducted in a manner that 880
maintains the individual's confidentiality. Information received 881
or maintained by the board with respect to the board's 882
monitoring activities is not subject to discovery in any civil 883
action and is confidential, except that the board may disclose 884
information to law enforcement officers and government entities 885
for purposes of an investigation of a licensee or certificate 886
holder. 887

(J) Any action taken by the board under this section 888
resulting in a suspension from practice shall be accompanied by 889
a written statement of the conditions under which the person may 890
be reinstated to practice. 891

(K) When the board refuses to grant a license or 892
certificate to an applicant, revokes a license or certificate, 893
or refuses to reinstate a license or certificate, the board may 894
specify that its action is permanent. An individual subject to 895
permanent action taken by the board is forever ineligible to 896
hold a license or certificate of the type that was refused or 897
revoked and the board shall not accept from the individual an 898
application for reinstatement of the license or certificate or 899
for a new license or certificate. 900

(L) No unilateral surrender of a nursing license, 901
certificate of authority, or dialysis technician certificate 902
issued under this chapter shall be effective unless accepted by 903
majority vote of the board. No application for a nursing 904
license, certificate of authority, or dialysis technician 905
certificate issued under this chapter may be withdrawn without a 906
majority vote of the board. The board's jurisdiction to take 907
disciplinary action under this section is not removed or limited 908
when an individual has a license or certificate classified as 909
inactive or fails to renew a license or certificate. 910

(M) Sanctions shall not be imposed under division (B) (24) 911
of this section against any licensee who waives deductibles and 912
copayments as follows: 913

(1) In compliance with the health benefit plan that 914
expressly allows such a practice. Waiver of the deductibles or 915
copayments shall be made only with the full knowledge and 916
consent of the plan purchaser, payer, and third-party 917

administrator. Documentation of the consent shall be made 918
available to the board upon request. 919

(2) For professional services rendered to any other person 920
licensed pursuant to this chapter to the extent allowed by this 921
chapter and the rules of the board. 922

Sec. 4723.481. This section establishes standards and 923
conditions regarding the authority of an advanced practice 924
registered nurse who is designated as a clinical nurse 925
specialist, certified nurse-midwife, or certified nurse 926
practitioner to prescribe and personally furnish drugs and 927
therapeutic devices under a license issued under section 4723.42 928
of the Revised Code. 929

(A) Except as provided in division (F) of this section, a 930
clinical nurse specialist, certified nurse-midwife, or certified 931
nurse practitioner shall not prescribe or furnish any drug or 932
therapeutic device that is listed on the exclusionary formulary 933
established in rules adopted under section 4723.50 of the 934
Revised Code. 935

(B) The prescriptive authority of a clinical nurse 936
specialist, certified nurse-midwife, or certified nurse 937
practitioner shall not exceed the prescriptive authority of the 938
collaborating physician or podiatrist, including the 939
collaborating physician's authority to treat chronic pain with 940
controlled substances and products containing tramadol as 941
described in section 4731.052 of the Revised Code. 942

(C) (1) Except as provided in division (C) (2) or (3) of 943
this section, a clinical nurse specialist, certified nurse- 944
midwife, or certified nurse practitioner may prescribe to a 945
patient a schedule II controlled substance only if all of the 946

following are the case:	947
(a) The patient has a terminal condition, as defined in section 2133.01 of the Revised Code.	948 949
(b) A physician initially prescribed the substance for the patient.	950 951
(c) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, seventy-two-hour period.	952 953 954
(2) The restrictions on prescriptive authority in division (C)(1) of this section do not apply if a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issues the prescription to the patient from any of the following locations:	955 956 957 958 959
(a) A hospital registered under section 3701.07 of the Revised Code;	960 961
(b) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;	962 963 964
(c) A health care facility operated by the department of mental health and addiction services or the department of developmental disabilities;	965 966 967
(d) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;	968 969 970
(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;	971 972 973

(f) A hospice care program, as defined in section 3712.01 of the Revised Code;	974 975
(g) A community mental health services provider, as defined in section 5122.01 of the Revised Code;	976 977
(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;	978 979
(i) A freestanding birthing center, as defined in section 3702.141 of the Revised Code;	980 981
(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;	982 983
(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	984 985
(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	986 987 988 989
(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site;	990 991 992 993 994 995 996 997
(n) A residential care facility, as defined in section 3721.01 of the Revised Code.	998 999
(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a	1000 1001

prescription for a schedule II controlled substance from a 1002
convenience care clinic even if the clinic is owned or operated 1003
by an entity specified in division (C) (2) of this section. 1004

(D) A pharmacist who acts in good faith reliance on a 1005
prescription issued by a clinical nurse specialist, certified 1006
nurse-midwife, or certified nurse practitioner under division 1007
(C) (2) of this section is not liable for or subject to any of 1008
the following for relying on the prescription: damages in any 1009
civil action, prosecution in any criminal proceeding, or 1010
professional disciplinary action by the state board of pharmacy 1011
under Chapter 4729. of the Revised Code. 1012

(E) A-Both of the following apply to a clinical nurse 1013
specialist, certified nurse-midwife, or certified nurse 1014
practitioner with respect to the authority to prescribe opioid 1015
analgesics, as defined in section 3719.01 of the Revised Code: 1016

(1) The nurse shall comply with section 3719.061 of the 1017
Revised Code if the nurse prescribes an opioid analgesic for a 1018
minor, as defined in that section, ~~an opioid analgesic, as-~~ 1019
~~defined in section 3719.01 of the Revised Code.~~ 1020

(2) The nurse shall comply with section 4723.53 of the 1021
Revised Code if the nurse prescribes an opioid analgesic for use 1022
in the treatment of acute pain or chronic pain. 1023

(F) Until the board of nursing establishes a new formulary 1024
in rules adopted under section 4723.50 of the Revised Code, a 1025
clinical nurse specialist, certified nurse-midwife, or certified 1026
nurse practitioner who prescribes or furnishes any drug or 1027
therapeutic device shall do so in accordance with the formulary 1028
established by the board prior to ~~the effective date of this~~ 1029
~~amendment~~ April 6, 2017. 1030

<u>Sec. 4723.53. (A) As used in this section:</u>	1031
<u>(1) "Acute pain" means pain that normally fades with</u>	1032
<u>healing, is related to tissue damage, significantly alters a</u>	1033
<u>patient's typical function, and is expected to be time limited.</u>	1034
<u>(2) "Chronic pain" has the same meaning as in section</u>	1035
<u>4731.052 of the Revised Code.</u>	1036
<u>(3) "Opioid analgesic" has the same meaning as in section</u>	1037
<u>3719.01 of the Revised Code.</u>	1038
<u>(B) An advanced practice registered nurse shall comply</u>	1039
<u>with section 3719.065 of the Revised Code before initiating a</u>	1040
<u>plan of treatment that includes the use of an opioid analgesic</u>	1041
<u>for acute pain or chronic pain.</u>	1042
<u>(C) Division (B) of this section is in addition to any</u>	1043
<u>requirement that applies to an advanced practice registered</u>	1044
<u>nurse under division (B) of section 4723.481 of the Revised Code</u>	1045
<u>with respect to the treatment of chronic pain.</u>	1046
Sec. 4730.25. (A) The state medical board, by an	1047
affirmative vote of not fewer than six members, may revoke or	1048
may refuse to grant a license to practice as a physician	1049
assistant to a person found by the board to have committed	1050
fraud, misrepresentation, or deception in applying for or	1051
securing the license.	1052
(B) The board, by an affirmative vote of not fewer than	1053
six members, shall, to the extent permitted by law, limit,	1054
revoke, or suspend an individual's license to practice as a	1055
physician assistant or prescriber number, refuse to issue a	1056
license to an applicant, refuse to renew a certificate license,	1057
refuse to reinstate a license, or reprimand or place on	1058
probation the holder of a license for any of the following	1059

reasons:	1060
(1) Failure to practice in accordance with the supervising physician's supervision agreement with the physician assistant, including, if applicable, the policies of the health care facility in which the supervising physician and physician assistant are practicing;	1061 1062 1063 1064 1065
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	1066 1067 1068
(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;	1069 1070 1071 1072
(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	1073 1074 1075 1076
(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	1077 1078 1079 1080
(6) Administering drugs for purposes other than those authorized under this chapter;	1081 1082
(7) Willfully betraying a professional confidence;	1083
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of	1084 1085 1086 1087

medicine as it pertains to physician assistants; or in securing 1088
or attempting to secure a license to practice as a physician 1089
assistant. 1090

As used in this division, "false, fraudulent, deceptive, 1091
or misleading statement" means a statement that includes a 1092
misrepresentation of fact, is likely to mislead or deceive 1093
because of a failure to disclose material facts, is intended or 1094
is likely to create false or unjustified expectations of 1095
favorable results, or includes representations or implications 1096
that in reasonable probability will cause an ordinarily prudent 1097
person to misunderstand or be deceived. 1098

(9) Representing, with the purpose of obtaining 1099
compensation or other advantage personally or for any other 1100
person, that an incurable disease or injury, or other incurable 1101
condition, can be permanently cured; 1102

(10) The obtaining of, or attempting to obtain, money or 1103
anything of value by fraudulent misrepresentations in the course 1104
of practice; 1105

(11) A plea of guilty to, a judicial finding of guilt of, 1106
or a judicial finding of eligibility for intervention in lieu of 1107
conviction for, a felony; 1108

(12) Commission of an act that constitutes a felony in 1109
this state, regardless of the jurisdiction in which the act was 1110
committed; 1111

(13) A plea of guilty to, a judicial finding of guilt of, 1112
or a judicial finding of eligibility for intervention in lieu of 1113
conviction for, a misdemeanor committed in the course of 1114
practice; 1115

(14) A plea of guilty to, a judicial finding of guilt of, 1116

or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude; 1117
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(15) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 1119
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(16) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 1122
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(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs; 1125
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(18) Any of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, 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; 1130
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(19) A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established; 1138
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(20) Violation of the conditions placed by the board on a license to practice as a physician assistant; 1142
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(21) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 1144
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of the Revised Code;	1146
(22) Failure to cooperate in an investigation conducted by the board under section 4730.26 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;	1147 1148 1149 1150 1151 1152 1153 1154 1155 1156
(23) Assisting suicide, as defined in section 3795.01 of the Revised Code;	1157 1158
(24) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	1159 1160
(25) Failure to comply with section 4730.53 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	1161 1162 1163
(26) Failure to comply with the requirements in <u>of</u> 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;	1164 1165 1166 1167
(27) Having certification by the national commission on certification of physician assistants or a successor organization expire, lapse, or be suspended or revoked;	1168 1169 1170
(28) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to	1171 1172 1173 1174

prescribe drugs by the drug enforcement administration of the 1175
United States department of justice; 1176

(29) Failure to comply with an individual's non-opioid 1177
directive form as required by division (C) of section 3702.411 1178
of the Revised Code; 1179

(30) Failure to comply with section 3719.065 of the 1180
Revised Code before initiating a plan of treatment that includes 1181
the use of an opioid analgesic for acute pain or chronic pain. 1182

(C) Disciplinary actions taken by the board under 1183
divisions (A) and (B) of this section shall be taken pursuant to 1184
an adjudication under Chapter 119. of the Revised Code, except 1185
that in lieu of an adjudication, the board may enter into a 1186
consent agreement with a physician assistant or applicant to 1187
resolve an allegation of a violation of this chapter or any rule 1188
adopted under it. A consent agreement, when ratified by an 1189
affirmative vote of not fewer than six members of the board, 1190
shall constitute the findings and order of the board with 1191
respect to the matter addressed in the agreement. If the board 1192
refuses to ratify a consent agreement, the admissions and 1193
findings contained in the consent agreement shall be of no force 1194
or effect. 1195

(D) For purposes of divisions (B) (12), (15), and (16) of 1196
this section, the commission of the act may be established by a 1197
finding by the board, pursuant to an adjudication under Chapter 1198
119. of the Revised Code, that the applicant or license holder 1199
committed the act in question. The board shall have no 1200
jurisdiction under these divisions in cases where the trial 1201
court renders a final judgment in the license holder's favor and 1202
that judgment is based upon an adjudication on the merits. The 1203
board shall have jurisdiction under these divisions in cases 1204

where the trial court issues an order of dismissal upon 1205
technical or procedural grounds. 1206

(E) The sealing of conviction records by any court shall 1207
have no effect upon a prior board order entered under the 1208
provisions of this section or upon the board's jurisdiction to 1209
take action under the provisions of this section if, based upon 1210
a plea of guilty, a judicial finding of guilt, or a judicial 1211
finding of eligibility for intervention in lieu of conviction, 1212
the board issued a notice of opportunity for a hearing prior to 1213
the court's order to seal the records. The board shall not be 1214
required to seal, destroy, redact, or otherwise modify its 1215
records to reflect the court's sealing of conviction records. 1216

(F) For purposes of this division, any individual who 1217
holds a license issued under this chapter, or applies for a 1218
license issued under this chapter, shall be deemed to have given 1219
consent to submit to a mental or physical examination when 1220
directed to do so in writing by the board and to have waived all 1221
objections to the admissibility of testimony or examination 1222
reports that constitute a privileged communication. 1223

(1) In enforcing division (B) (4) of this section, the 1224
board, upon a showing of a possible violation, may compel any 1225
individual who holds a license issued under this chapter or who 1226
has applied for a license pursuant to this chapter to submit to 1227
a mental examination, physical examination, including an HIV 1228
test, or both a mental and physical examination. The expense of 1229
the examination is the responsibility of the individual 1230
compelled to be examined. Failure to submit to a mental or 1231
physical examination or consent to an HIV test ordered by the 1232
board constitutes an admission of the allegations against the 1233
individual unless the failure is due to circumstances beyond the 1234

individual's control, and a default and final order may be 1235
entered without the taking of testimony or presentation of 1236
evidence. If the board finds a physician assistant unable to 1237
practice because of the reasons set forth in division (B) (4) of 1238
this section, the board shall require the physician assistant to 1239
submit to care, counseling, or treatment by physicians approved 1240
or designated by the board, as a condition for an initial, 1241
continued, reinstated, or renewed license. An individual 1242
affected under this division shall be afforded an opportunity to 1243
demonstrate to the board the ability to resume practicing in 1244
compliance with acceptable and prevailing standards of care. 1245

(2) For purposes of division (B) (5) of this section, if 1246
the board has reason to believe that any individual who holds a 1247
license issued under this chapter or any applicant for a license 1248
suffers such impairment, the board may compel the individual to 1249
submit to a mental or physical examination, or both. The expense 1250
of the examination is the responsibility of the individual 1251
compelled to be examined. Any mental or physical examination 1252
required under this division shall be undertaken by a treatment 1253
provider or physician qualified to conduct such examination and 1254
chosen by the board. 1255

Failure to submit to a mental or physical examination 1256
ordered by the board constitutes an admission of the allegations 1257
against the individual unless the failure is due to 1258
circumstances beyond the individual's control, and a default and 1259
final order may be entered without the taking of testimony or 1260
presentation of evidence. If the board determines that the 1261
individual's ability to practice is impaired, the board shall 1262
suspend the individual's license or deny the individual's 1263
application and shall require the individual, as a condition for 1264
initial, continued, reinstated, or renewed licensure, to submit 1265

to treatment. 1266

Before being eligible to apply for reinstatement of a 1267
license suspended under this division, the physician assistant 1268
shall demonstrate to the board the ability to resume practice or 1269
prescribing in compliance with acceptable and prevailing 1270
standards of care. The demonstration shall include the 1271
following: 1272

(a) Certification from a treatment provider approved under 1273
section 4731.25 of the Revised Code that the individual has 1274
successfully completed any required inpatient treatment; 1275

(b) Evidence of continuing full compliance with an 1276
aftercare contract or consent agreement; 1277

(c) Two written reports indicating that the individual's 1278
ability to practice has been assessed and that the individual 1279
has been found capable of practicing according to acceptable and 1280
prevailing standards of care. The reports shall be made by 1281
individuals or providers approved by the board for making such 1282
assessments and shall describe the basis for their 1283
determination. 1284

The board may reinstate a license suspended under this 1285
division after such demonstration and after the individual has 1286
entered into a written consent agreement. 1287

When the impaired physician assistant resumes practice or 1288
prescribing, the board shall require continued monitoring of the 1289
physician assistant. The monitoring shall include compliance 1290
with the written consent agreement entered into before 1291
reinstatement or with conditions imposed by board order after a 1292
hearing, and, upon termination of the consent agreement, 1293
submission to the board for at least two years of annual written 1294

progress reports made under penalty of falsification stating 1295
whether the physician assistant has maintained sobriety. 1296

(G) If the secretary and supervising member determine that 1297
there is clear and convincing evidence that a physician 1298
assistant has violated division (B) of this section and that the 1299
individual's continued practice or prescribing presents a danger 1300
of immediate and serious harm to the public, they may recommend 1301
that the board suspend the individual's license without a prior 1302
hearing. Written allegations shall be prepared for consideration 1303
by the board. 1304

The board, upon review of those allegations and by an 1305
affirmative vote of not fewer than six of its members, excluding 1306
the secretary and supervising member, may suspend a license 1307
without a prior hearing. A telephone conference call may be 1308
utilized for reviewing the allegations and taking the vote on 1309
the summary suspension. 1310

The board shall issue a written order of suspension by 1311
certified mail or in person in accordance with section 119.07 of 1312
the Revised Code. The order shall not be subject to suspension 1313
by the court during pendency of any appeal filed under section 1314
119.12 of the Revised Code. If the physician assistant requests 1315
an adjudicatory hearing by the board, the date set for the 1316
hearing shall be within fifteen days, but not earlier than seven 1317
days, after the physician assistant requests the hearing, unless 1318
otherwise agreed to by both the board and the license holder. 1319

A summary suspension imposed under this division shall 1320
remain in effect, unless reversed on appeal, until a final 1321
adjudicative order issued by the board pursuant to this section 1322
and Chapter 119. of the Revised Code becomes effective. The 1323
board shall issue its final adjudicative order within sixty days 1324

after completion of its hearing. Failure to issue the order 1325
within sixty days shall result in dissolution of the summary 1326
suspension order, but shall not invalidate any subsequent, final 1327
adjudicative order. 1328

(H) If the board takes action under division (B) (11), 1329
(13), or (14) of this section, and the judicial finding of 1330
guilt, guilty plea, or judicial finding of eligibility for 1331
intervention in lieu of conviction is overturned on appeal, upon 1332
exhaustion of the criminal appeal, a petition for 1333
reconsideration of the order may be filed with the board along 1334
with appropriate court documents. Upon receipt of a petition and 1335
supporting court documents, the board shall reinstate the 1336
individual's license. The board may then hold an adjudication 1337
under Chapter 119. of the Revised Code to determine whether the 1338
individual committed the act in question. Notice of opportunity 1339
for hearing shall be given in accordance with Chapter 119. of 1340
the Revised Code. If the board finds, pursuant to an 1341
adjudication held under this division, that the individual 1342
committed the act, or if no hearing is requested, it may order 1343
any of the sanctions identified under division (B) of this 1344
section. 1345

(I) The license to practice issued to a physician 1346
assistant and the physician assistant's practice in this state 1347
are automatically suspended as of the date the physician 1348
assistant pleads guilty to, is found by a judge or jury to be 1349
guilty of, or is subject to a judicial finding of eligibility 1350
for intervention in lieu of conviction in this state or 1351
treatment or intervention in lieu of conviction in another state 1352
for any of the following criminal offenses in this state or a 1353
substantially equivalent criminal offense in another 1354
jurisdiction: aggravated murder, murder, voluntary manslaughter, 1355

felonious assault, kidnapping, rape, sexual battery, gross 1356
sexual imposition, aggravated arson, aggravated robbery, or 1357
aggravated burglary. Continued practice after the suspension 1358
shall be considered practicing without a license. 1359

The board shall notify the individual subject to the 1360
suspension by certified mail or in person in accordance with 1361
section 119.07 of the Revised Code. If an individual whose 1362
license is suspended under this division fails to make a timely 1363
request for an adjudication under Chapter 119. of the Revised 1364
Code, the board shall enter a final order permanently revoking 1365
the individual's license to practice. 1366

(J) In any instance in which the board is required by 1367
Chapter 119. of the Revised Code to give notice of opportunity 1368
for hearing and the individual subject to the notice does not 1369
timely request a hearing in accordance with section 119.07 of 1370
the Revised Code, the board is not required to hold a hearing, 1371
but may adopt, by an affirmative vote of not fewer than six of 1372
its members, a final order that contains the board's findings. 1373
In that final order, the board may order any of the sanctions 1374
identified under division (A) or (B) of this section. 1375

(K) Any action taken by the board under division (B) of 1376
this section resulting in a suspension shall be accompanied by a 1377
written statement of the conditions under which the physician 1378
assistant's license may be reinstated. The board shall adopt 1379
rules in accordance with Chapter 119. of the Revised Code 1380
governing conditions to be imposed for reinstatement. 1381
Reinstatement of a license suspended pursuant to division (B) of 1382
this section requires an affirmative vote of not fewer than six 1383
members of the board. 1384

(L) When the board refuses to grant or issue to an 1385

applicant a license to practice as a physician assistant, 1386
revokes an individual's license, refuses to renew an 1387
individual's license, or refuses to reinstate an individual's 1388
license, the board may specify that its action is permanent. An 1389
individual subject to a permanent action taken by the board is 1390
forever thereafter ineligible to hold the license and the board 1391
shall not accept an application for reinstatement of the license 1392
or for issuance of a new license. 1393

(M) Notwithstanding any other provision of the Revised 1394
Code, all of the following apply: 1395

(1) The surrender of a license issued under this chapter 1396
is not effective unless or until accepted by the board. 1397
Reinstatement of a license surrendered to the board requires an 1398
affirmative vote of not fewer than six members of the board. 1399

(2) An application made under this chapter for a license 1400
may not be withdrawn without approval of the board. 1401

(3) Failure by an individual to renew a license in 1402
accordance with section 4730.14 of the Revised Code shall not 1403
remove or limit the board's jurisdiction to take disciplinary 1404
action under this section against the individual. 1405

(N) The board may impose a fine against a physician 1406
assistant who fails to comply with division (C) of section 1407
3702.411 of the Revised Code. 1408

Sec. 4730.41. (A) A physician assistant who holds a valid 1409
prescriber number issued by the state medical board is 1410
authorized to prescribe and personally furnish drugs and 1411
therapeutic devices in the exercise of physician-delegated 1412
prescriptive authority. 1413

(B) In exercising physician-delegated prescriptive 1414

authority, a physician assistant is subject to all of the 1415
following: 1416

(1) The physician assistant shall exercise physician- 1417
delegated prescriptive authority only to the extent that the 1418
physician supervising the physician assistant has granted that 1419
authority. 1420

(2) The physician assistant shall comply with all 1421
conditions placed on the physician-delegated prescriptive 1422
authority, as specified by the supervising physician who is 1423
supervising the physician assistant in the exercise of 1424
physician-delegated prescriptive authority. 1425

(3) If the physician assistant possesses physician- 1426
delegated prescriptive authority for controlled substances, the 1427
physician assistant shall register with the federal drug 1428
enforcement administration. 1429

(4) If the physician assistant possesses physician- 1430
delegated prescriptive authority for schedule II controlled 1431
substances, the physician assistant shall comply with section 1432
4730.411 of the Revised Code. 1433

(5) If the physician assistant possesses physician- 1434
delegated prescriptive authority for opioid analgesics, as 1435
defined in section 3719.01 of the Revised Code, both of the 1436
following apply: 1437

(a) If the physician assistant is authorized to prescribe 1438
an opioid analgesic for a minor~~an opioid analgesic, as those~~ 1439
~~terms are defined in sections~~ section 3719.061 and 3719.01 of 1440
the Revised Code, ~~respectively,~~ the physician assistant shall 1441
comply with section 3719.061 of the Revised Code. 1442

(b) If the physician assistant is authorized to prescribe 1443

an opioid analgesic for use in the treatment of acute pain or 1444
chronic pain, the physician assistant shall comply with section 1445
4730.57 of the Revised Code. 1446

(6) The physician assistant shall comply with the 1447
requirements of section 4730.44 of the Revised Code. 1448

(C) A physician assistant shall not prescribe any drug in 1449
violation of state or federal law. 1450

Sec. 4730.57. (A) As used in this section: 1451

(1) "Acute pain" means pain that normally fades with 1452
healing, is related to tissue damage, significantly alters a 1453
patient's typical function, and is expected to be time limited. 1454

(2) "Chronic pain" has the same meaning as in section 1455
4731.052 of the Revised Code. 1456

(3) "Opioid analgesic" has the same meaning as in section 1457
3719.01 of the Revised Code. 1458

(B) A physician assistant shall comply with section 1459
3719.065 of the Revised Code before initiating a plan of 1460
treatment that includes the use of an opioid analgesic for acute 1461
pain or chronic pain. 1462

(C) Division (B) of this section is in addition to any 1463
requirement that applies to a physician assistant under division 1464
(A) (3) of section 4730.42 of the Revised Code with respect to 1465
the treatment of chronic pain. 1466

Sec. 4731.052. (A) As used in this section: 1467

(1) "Chronic pain" means pain that has persisted after 1468
reasonable medical efforts have been made to relieve the pain or 1469
cure its cause and that has continued, either continuously or 1470

episodically, for longer than three continuous months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

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

(3) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

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

(C) When a physician diagnoses a patient as having chronic pain, the physician may, subject to division (D) of this section, treat the pain by managing it with controlled substances and products containing tramadol. The physician's diagnosis and treatment decisions shall be made according to accepted and prevailing standards for medical care. For the purpose of assisting with the diagnosis of chronic pain, the physician shall obtain and review all available medical records or detailed written summaries of the patient's treatment for chronic pain or the condition causing the chronic pain. It is recommended that the physician also consider having the patient

evaluated by one or more other physicians who specialize in the 1501
treatment of the area, system, or organ of the body perceived as 1502
the source of the pain. 1503

(D) For each patient a physician diagnoses as having 1504
chronic pain, the physician shall maintain a written record of 1505
all of the following: 1506

(1) Medical history and physical examination of the 1507
patient; 1508

(2) The diagnosis of chronic pain, including signs, 1509
symptoms, and causes; 1510

(3) The plan of treatment proposed, the patient's response 1511
to treatment, and any modification to the plan of treatment, 1512
including all of the following: 1513

(a) Documentation that other medically reasonable 1514
treatments for relief of the patient's chronic pain have been 1515
offered or attempted without adequate or reasonable success; 1516

(b) Periodic assessment and documentation of the patient's 1517
functional status, including the ability to engage in work or 1518
other purposeful activities, the pain intensity and its 1519
interference with activities of daily living, quality of family 1520
life and social activities, and physical activity of the 1521
patient; 1522

(c) Periodic assessment and documentation of the patient's 1523
progress toward treatment objectives, including the intended 1524
role of controlled substances or products containing tramadol 1525
within the overall plan of treatment; 1526

(d) Periodic assessment and documentation for indicators 1527
of possible addiction, drug abuse, or drug diversion; 1528

(e) Notation of any adverse drug effects.	1529
(4) The dates on which controlled substances or products containing tramadol were prescribed, furnished, or administered, the name and address of the patient to or for whom the controlled substances or products containing tramadol were prescribed, furnished, or administered, and the amounts and dosage forms for the controlled substances or products containing tramadol prescribed, furnished, or administered;	1530 1531 1532 1533 1534 1535 1536
(5) A copy of any record or report made by another physician that was used or consulted for the purpose of diagnosing the patient's chronic pain or treating the patient for chronic pain.	1537 1538 1539 1540
(E) A physician shall not prescribe, personally furnish, or administer to a patient a controlled substance or product containing tramadol without taking into account the potential for abuse of the controlled substance or product, the possibility the controlled substance or product may lead to dependence, the possibility the patient will obtain the controlled substance or product for a nontherapeutic use or distribute it to other persons, and the potential existence of an illicit market for the controlled substance or product. In addition, the physician shall address with the patient the risks associated with protracted treatment with controlled substances or products containing tramadol, including informing the patient of the potential for dependence, tolerance, and addiction and the clinical or monitoring tools the physician may use if signs of addiction, drug abuse, or drug diversion are present.	1541 1542 1543 1544 1545 1546 1547 1548 1549 1550 1551 1552 1553 1554 1555
<u>If the physician intends to prescribe an opioid analgesic, as defined in section 3719.01 of the Revised Code, for a patient diagnosed with chronic pain, the physician shall comply with</u>	1556 1557 1558

section 3719.065 of the Revised Code. 1559

(F) A physician who treats chronic pain by managing it 1560
with controlled substances or products containing tramadol is 1561
not subject to disciplinary action by the board under section 1562
4731.22 of the Revised Code solely because the physician treated 1563
the chronic pain with controlled substances or products 1564
containing tramadol. 1565

Sec. 4731.22. (A) The state medical board, by an 1566
affirmative vote of not fewer than six of its members, may 1567
limit, revoke, or suspend a license or certificate to practice 1568
or certificate to recommend, refuse to grant a license or 1569
certificate, refuse to renew a license or certificate, refuse to 1570
reinstate a license or certificate, or reprimand or place on 1571
probation the holder of a license or certificate if the 1572
individual applying for or holding the license or certificate is 1573
found by the board to have committed fraud during the 1574
administration of the examination for a license or certificate 1575
to practice or to have committed fraud, misrepresentation, or 1576
deception in applying for, renewing, or securing any license or 1577
certificate to practice or certificate to recommend issued by 1578
the board. 1579

(B) The board, by an affirmative vote of not fewer than 1580
six members, shall, to the extent permitted by law, limit, 1581
revoke, or suspend a license or certificate to practice or 1582
certificate to recommend, refuse to issue a license or 1583
certificate, refuse to renew a license or certificate, refuse to 1584
reinstate a license or certificate, or reprimand or place on 1585
probation the holder of a license or certificate for one or more 1586
of the following reasons: 1587

(1) Permitting one's name or one's license or certificate 1588

to practice to be used by a person, group, or corporation when 1589
the individual concerned is not actually directing the treatment 1590
given; 1591

(2) Failure to maintain minimal standards applicable to 1592
the selection or administration of drugs, or failure to employ 1593
acceptable scientific methods in the selection of drugs or other 1594
modalities for treatment of disease; 1595

(3) Except as provided in section 4731.97 of the Revised 1596
Code, selling, giving away, personally furnishing, prescribing, 1597
or administering drugs for other than legal and legitimate 1598
therapeutic purposes or a plea of guilty to, a judicial finding 1599
of guilt of, or a judicial finding of eligibility for 1600
intervention in lieu of conviction of, a violation of any 1601
federal or state law regulating the possession, distribution, or 1602
use of any drug; 1603

(4) Willfully betraying a professional confidence. 1604

For purposes of this division, "willfully betraying a 1605
professional confidence" does not include providing any 1606
information, documents, or reports under sections 307.621 to 1607
307.629 of the Revised Code to a child fatality review board; 1608
does not include providing any information, documents, or 1609
reports to the director of health pursuant to guidelines 1610
established under section 3701.70 of the Revised Code; does not 1611
include written notice to a mental health professional under 1612
section 4731.62 of the Revised Code; and does not include the 1613
making of a report of an employee's use of a drug of abuse, or a 1614
report of a condition of an employee other than one involving 1615
the use of a drug of abuse, to the employer of the employee as 1616
described in division (B) of section 2305.33 of the Revised 1617
Code. Nothing in this division affects the immunity from civil 1618

liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

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

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

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

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

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; 1648
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(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony; 1651
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(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; 1654
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(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice; 1657
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(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 1661
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(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude; 1664
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(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 1667
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(15) Violation of the conditions of limitation placed by the board upon a license or certificate to practice; 1670
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(16) Failure to pay license renewal fees specified in this chapter; 1672
1673

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of 1674
1675

patients, or the receiving of a thing of value in return for a 1676
specific referral of a patient to utilize a particular service 1677
or business; 1678

(18) Subject to section 4731.226 of the Revised Code, 1679
violation of any provision of a code of ethics of the American 1680
medical association, the American osteopathic association, the 1681
American podiatric medical association, or any other national 1682
professional organizations that the board specifies by rule. The 1683
state medical board shall obtain and keep on file current copies 1684
of the codes of ethics of the various national professional 1685
organizations. The individual whose license or certificate is 1686
being suspended or revoked shall not be found to have violated 1687
any provision of a code of ethics of an organization not 1688
appropriate to the individual's profession. 1689

For purposes of this division, a "provision of a code of 1690
ethics of a national professional organization" does not include 1691
any provision that would preclude the making of a report by a 1692
physician of an employee's use of a drug of abuse, or of a 1693
condition of an employee other than one involving the use of a 1694
drug of abuse, to the employer of the employee as described in 1695
division (B) of section 2305.33 of the Revised Code. Nothing in 1696
this division affects the immunity from civil liability 1697
conferred by that section upon a physician who makes either type 1698
of report in accordance with division (B) of that section. As 1699
used in this division, "employee," "employer," and "physician" 1700
have the same meanings as in section 2305.33 of the Revised 1701
Code. 1702

(19) Inability to practice according to acceptable and 1703
prevailing standards of care by reason of mental illness or 1704
physical illness, including, but not limited to, physical 1705

deterioration that adversely affects cognitive, motor, or 1706
perceptive skills. 1707

In enforcing this division, the board, upon a showing of a 1708
possible violation, may compel any individual authorized to 1709
practice by this chapter or who has submitted an application 1710
pursuant to this chapter to submit to a mental examination, 1711
physical examination, including an HIV test, or both a mental 1712
and a physical examination. The expense of the examination is 1713
the responsibility of the individual compelled to be examined. 1714
Failure to submit to a mental or physical examination or consent 1715
to an HIV test ordered by the board constitutes an admission of 1716
the allegations against the individual unless the failure is due 1717
to circumstances beyond the individual's control, and a default 1718
and final order may be entered without the taking of testimony 1719
or presentation of evidence. If the board finds an individual 1720
unable to practice because of the reasons set forth in this 1721
division, the board shall require the individual to submit to 1722
care, counseling, or treatment by physicians approved or 1723
designated by the board, as a condition for initial, continued, 1724
reinstated, or renewed authority to practice. An individual 1725
affected under this division shall be afforded an opportunity to 1726
demonstrate to the board the ability to resume practice in 1727
compliance with acceptable and prevailing standards under the 1728
provisions of the individual's license or certificate. For the 1729
purpose of this division, any individual who applies for or 1730
receives a license or certificate to practice under this chapter 1731
accepts the privilege of practicing in this state and, by so 1732
doing, shall be deemed to have given consent to submit to a 1733
mental or physical examination when directed to do so in writing 1734
by the board, and to have waived all objections to the 1735
admissibility of testimony or examination reports that 1736

constitute a privileged communication. 1737

(20) Except as provided in division (F)(1)(b) of section 1738
4731.282 of the Revised Code or when civil penalties are imposed 1739
under section 4731.225 of the Revised Code, and subject to 1740
section 4731.226 of the Revised Code, violating or attempting to 1741
violate, directly or indirectly, or assisting in or abetting the 1742
violation of, or conspiring to violate, any provisions of this 1743
chapter or any rule promulgated by the board. 1744

This division does not apply to a violation or attempted 1745
violation of, assisting in or abetting the violation of, or a 1746
conspiracy to violate, any provision of this chapter or any rule 1747
adopted by the board that would preclude the making of a report 1748
by a physician of an employee's use of a drug of abuse, or of a 1749
condition of an employee other than one involving the use of a 1750
drug of abuse, to the employer of the employee as described in 1751
division (B) of section 2305.33 of the Revised Code. Nothing in 1752
this division affects the immunity from civil liability 1753
conferred by that section upon a physician who makes either type 1754
of report in accordance with division (B) of that section. As 1755
used in this division, "employee," "employer," and "physician" 1756
have the same meanings as in section 2305.33 of the Revised 1757
Code. 1758

(21) The violation of section 3701.79 of the Revised Code 1759
or of any abortion rule adopted by the director of health 1760
pursuant to section 3701.341 of the Revised Code; 1761

(22) Any of the following actions taken by an agency 1762
responsible for authorizing, certifying, or regulating an 1763
individual to practice a health care occupation or provide 1764
health care services in this state or another jurisdiction, for 1765
any reason other than the nonpayment of fees: the limitation, 1766

revocation, or suspension of an individual's license to 1767
practice; acceptance of an individual's license surrender; 1768
denial of a license; refusal to renew or reinstate a license; 1769
imposition of probation; or issuance of an order of censure or 1770
other reprimand; 1771

(23) The violation of section 2919.12 of the Revised Code 1772
or the performance or inducement of an abortion upon a pregnant 1773
woman with actual knowledge that the conditions specified in 1774
division (B) of section 2317.56 of the Revised Code have not 1775
been satisfied or with a heedless indifference as to whether 1776
those conditions have been satisfied, unless an affirmative 1777
defense as specified in division (H) (2) of that section would 1778
apply in a civil action authorized by division (H) (1) of that 1779
section; 1780

(24) The revocation, suspension, restriction, reduction, 1781
or termination of clinical privileges by the United States 1782
department of defense or department of veterans affairs or the 1783
termination or suspension of a certificate of registration to 1784
prescribe drugs by the drug enforcement administration of the 1785
United States department of justice; 1786

(25) Termination or suspension from participation in the 1787
medicare or medicaid programs by the department of health and 1788
human services or other responsible agency; 1789

(26) Impairment of ability to practice according to 1790
acceptable and prevailing standards of care because of habitual 1791
or excessive use or abuse of drugs, alcohol, or other substances 1792
that impair ability to practice. 1793

For the purposes of this division, any individual 1794
authorized to practice by this chapter accepts the privilege of 1795

practicing in this state subject to supervision by the board. By 1796
filing an application for or holding a license or certificate to 1797
practice under this chapter, an individual shall be deemed to 1798
have given consent to submit to a mental or physical examination 1799
when ordered to do so by the board in writing, and to have 1800
waived all objections to the admissibility of testimony or 1801
examination reports that constitute privileged communications. 1802

If it has reason to believe that any individual authorized 1803
to practice by this chapter or any applicant for licensure or 1804
certification to practice suffers such impairment, the board may 1805
compel the individual to submit to a mental or physical 1806
examination, or both. The expense of the examination is the 1807
responsibility of the individual compelled to be examined. Any 1808
mental or physical examination required under this division 1809
shall be undertaken by a treatment provider or physician who is 1810
qualified to conduct the examination and who is chosen by the 1811
board. 1812

Failure to submit to a mental or physical examination 1813
ordered by the board constitutes an admission of the allegations 1814
against the individual unless the failure is due to 1815
circumstances beyond the individual's control, and a default and 1816
final order may be entered without the taking of testimony or 1817
presentation of evidence. If the board determines that the 1818
individual's ability to practice is impaired, the board shall 1819
suspend the individual's license or certificate or deny the 1820
individual's application and shall require the individual, as a 1821
condition for initial, continued, reinstated, or renewed 1822
licensure or certification to practice, to submit to treatment. 1823

Before being eligible to apply for reinstatement of a 1824
license or certificate suspended under this division, the 1825

impaired practitioner shall demonstrate to the board the ability 1826
to resume practice in compliance with acceptable and prevailing 1827
standards of care under the provisions of the practitioner's 1828
license or certificate. The demonstration shall include, but 1829
shall not be limited to, the following: 1830

(a) Certification from a treatment provider approved under 1831
section 4731.25 of the Revised Code that the individual has 1832
successfully completed any required inpatient treatment; 1833

(b) Evidence of continuing full compliance with an 1834
aftercare contract or consent agreement; 1835

(c) Two written reports indicating that the individual's 1836
ability to practice has been assessed and that the individual 1837
has been found capable of practicing according to acceptable and 1838
prevailing standards of care. The reports shall be made by 1839
individuals or providers approved by the board for making the 1840
assessments and shall describe the basis for their 1841
determination. 1842

The board may reinstate a license or certificate suspended 1843
under this division after that demonstration and after the 1844
individual has entered into a written consent agreement. 1845

When the impaired practitioner resumes practice, the board 1846
shall require continued monitoring of the individual. The 1847
monitoring shall include, but not be limited to, compliance with 1848
the written consent agreement entered into before reinstatement 1849
or with conditions imposed by board order after a hearing, and, 1850
upon termination of the consent agreement, submission to the 1851
board for at least two years of annual written progress reports 1852
made under penalty of perjury stating whether the individual has 1853
maintained sobriety. 1854

(27) A second or subsequent violation of section 4731.66	1855
or 4731.69 of the Revised Code;	1856
(28) Except as provided in division (N) of this section:	1857
(a) Waiving the payment of all or any part of a deductible	1858
or copayment that a patient, pursuant to a health insurance or	1859
health care policy, contract, or plan that covers the	1860
individual's services, otherwise would be required to pay if the	1861
waiver is used as an enticement to a patient or group of	1862
patients to receive health care services from that individual;	1863
(b) Advertising that the individual will waive the payment	1864
of all or any part of a deductible or copayment that a patient,	1865
pursuant to a health insurance or health care policy, contract,	1866
or plan that covers the individual's services, otherwise would	1867
be required to pay.	1868
(29) Failure to use universal blood and body fluid	1869
precautions established by rules adopted under section 4731.051	1870
of the Revised Code;	1871
(30) Failure to provide notice to, and receive	1872
acknowledgment of the notice from, a patient when required by	1873
section 4731.143 of the Revised Code prior to providing	1874
nonemergency professional services, or failure to maintain that	1875
notice in the patient's medical record;	1876
(31) Failure of a physician supervising a physician	1877
assistant to maintain supervision in accordance with the	1878
requirements of Chapter 4730. of the Revised Code and the rules	1879
adopted under that chapter;	1880
(32) Failure of a physician or podiatrist to enter into a	1881
standard care arrangement with a clinical nurse specialist,	1882
certified nurse-midwife, or certified nurse practitioner with	1883

whom the physician or podiatrist is in collaboration pursuant to 1884
section 4731.27 of the Revised Code or failure to fulfill the 1885
responsibilities of collaboration after entering into a standard 1886
care arrangement; 1887

(33) Failure to comply with the terms of a consult 1888
agreement entered into with a pharmacist pursuant to section 1889
4729.39 of the Revised Code; 1890

(34) Failure to cooperate in an investigation conducted by 1891
the board under division (F) of this section, including failure 1892
to comply with a subpoena or order issued by the board or 1893
failure to answer truthfully a question presented by the board 1894
in an investigative interview, an investigative office 1895
conference, at a deposition, or in written interrogatories, 1896
except that failure to cooperate with an investigation shall not 1897
constitute grounds for discipline under this section if a court 1898
of competent jurisdiction has issued an order that either 1899
quashes a subpoena or permits the individual to withhold the 1900
testimony or evidence in issue; 1901

(35) Failure to supervise an oriental medicine 1902
practitioner or acupuncturist in accordance with Chapter 4762. 1903
of the Revised Code and the board's rules for providing that 1904
supervision; 1905

(36) Failure to supervise an anesthesiologist assistant in 1906
accordance with Chapter 4760. of the Revised Code and the 1907
board's rules for supervision of an anesthesiologist assistant; 1908

(37) Assisting suicide, as defined in section 3795.01 of 1909
the Revised Code; 1910

(38) Failure to comply with the requirements of section 1911
2317.561 of the Revised Code; 1912

(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	1913 1914 1915
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	1916 1917 1918 1919
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	1920 1921 1922 1923
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	1924 1925 1926 1927
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	1928 1929 1930 1931
(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;	1932 1933 1934 1935 1936
(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;	1937 1938 1939 1940 1941

(46) Owning a facility that is subject to licensure as a	1942
category III terminal distributor of dangerous drugs with a pain	1943
management clinic classification unless the facility is licensed	1944
with the classification;	1945
(47) Failure to comply with the requirement regarding	1946
maintaining notes described in division (B) of section 2919.191	1947
of the Revised Code or failure to satisfy the requirements of	1948
section 2919.191 of the Revised Code prior to performing or	1949
inducing an abortion upon a pregnant woman;	1950
(48) Failure to comply with the requirements in section	1951
3719.061 of the Revised Code before issuing for a minor a	1952
prescription for an opioid analgesic, as defined in section	1953
3719.01 of the Revised Code;	1954
(49) Failure to comply with the requirements of section	1955
4731.30 of the Revised Code or rules adopted under section	1956
4731.301 of the Revised Code when recommending treatment with	1957
medical marijuana;	1958
(50) Practicing at a facility, clinic, or other location	1959
that is subject to licensure as a category III terminal	1960
distributor of dangerous drugs with an office-based opioid	1961
treatment classification unless the person operating that place	1962
has obtained and maintains the license with the classification;	1963
(51) Owning a facility, clinic, or other location that is	1964
subject to licensure as a category III terminal distributor of	1965
dangerous drugs with an office-based opioid treatment	1966
classification unless that place is licensed with the	1967
classification;	1968
(52) A pattern of continuous or repeated violations of	1969
division (E) (2) or (3) of section 3963.02 of the Revised Code;	1970

(53) Failure to comply with an individual's non-opioid directive form as required by division (C) of section 3702.411 of the Revised Code in a manner that constitutes willful misconduct; 1971
1972
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(54) Failure to comply with section 3719.065 of the Revised Code before initiating a plan of treatment that includes the use of an opioid analgesic for acute pain or chronic pain. 1975
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(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect. 1978
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A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or certificate to practice or certificate to recommend. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. 1990
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If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the 1996
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individual's license or certificate to practice for a period of 2001
at least one year or, if determined appropriate by the board, a 2002
more serious sanction involving the individual's license or 2003
certificate to practice. Any consent agreement entered into 2004
under this division with an individual that pertains to a second 2005
or subsequent plea of guilty to, or judicial finding of guilt 2006
of, a violation of that section shall provide for a suspension 2007
of the individual's license or certificate to practice for a 2008
period of at least one year or, if determined appropriate by the 2009
board, a more serious sanction involving the individual's 2010
license or certificate to practice. 2011

(D) For purposes of divisions (B) (10), (12), and (14) of 2012
this section, the commission of the act may be established by a 2013
finding by the board, pursuant to an adjudication under Chapter 2014
119. of the Revised Code, that the individual committed the act. 2015
The board does not have jurisdiction under those divisions if 2016
the trial court renders a final judgment in the individual's 2017
favor and that judgment is based upon an adjudication on the 2018
merits. The board has jurisdiction under those divisions if the 2019
trial court issues an order of dismissal upon technical or 2020
procedural grounds. 2021

(E) The sealing of conviction records by any court shall 2022
have no effect upon a prior board order entered under this 2023
section or upon the board's jurisdiction to take action under 2024
this section if, based upon a plea of guilty, a judicial finding 2025
of guilt, or a judicial finding of eligibility for intervention 2026
in lieu of conviction, the board issued a notice of opportunity 2027
for a hearing prior to the court's order to seal the records. 2028
The board shall not be required to seal, destroy, redact, or 2029
otherwise modify its records to reflect the court's sealing of 2030
conviction records. 2031

(F) (1) The board shall investigate evidence that appears 2032
to show that a person has violated any provision of this chapter 2033
or any rule adopted under it. Any person may report to the board 2034
in a signed writing any information that the person may have 2035
that appears to show a violation of any provision of this 2036
chapter or any rule adopted under it. In the absence of bad 2037
faith, any person who reports information of that nature or who 2038
testifies before the board in any adjudication conducted under 2039
Chapter 119. of the Revised Code shall not be liable in damages 2040
in a civil action as a result of the report or testimony. Each 2041
complaint or allegation of a violation received by the board 2042
shall be assigned a case number and shall be recorded by the 2043
board. 2044

(2) Investigations of alleged violations of this chapter 2045
or any rule adopted under it shall be supervised by the 2046
supervising member elected by the board in accordance with 2047
section 4731.02 of the Revised Code and by the secretary as 2048
provided in section 4731.39 of the Revised Code. The president 2049
may designate another member of the board to supervise the 2050
investigation in place of the supervising member. No member of 2051
the board who supervises the investigation of a case shall 2052
participate in further adjudication of the case. 2053

(3) In investigating a possible violation of this chapter 2054
or any rule adopted under this chapter, or in conducting an 2055
inspection under division (E) of section 4731.054 of the Revised 2056
Code, the board may question witnesses, conduct interviews, 2057
administer oaths, order the taking of depositions, inspect and 2058
copy any books, accounts, papers, records, or documents, issue 2059
subpoenas, and compel the attendance of witnesses and production 2060
of books, accounts, papers, records, documents, and testimony, 2061
except that a subpoena for patient record information shall not 2062

be issued without consultation with the attorney general's 2063
office and approval of the secretary and supervising member of 2064
the board. 2065

(a) Before issuance of a subpoena for patient record 2066
information, the secretary and supervising member shall 2067
determine whether there is probable cause to believe that the 2068
complaint filed alleges a violation of this chapter or any rule 2069
adopted under it and that the records sought are relevant to the 2070
alleged violation and material to the investigation. The 2071
subpoena may apply only to records that cover a reasonable 2072
period of time surrounding the alleged violation. 2073

(b) On failure to comply with any subpoena issued by the 2074
board and after reasonable notice to the person being 2075
subpoenaed, the board may move for an order compelling the 2076
production of persons or records pursuant to the Rules of Civil 2077
Procedure. 2078

(c) A subpoena issued by the board may be served by a 2079
sheriff, the sheriff's deputy, or a board employee or agent 2080
designated by the board. Service of a subpoena issued by the 2081
board may be made by delivering a copy of the subpoena to the 2082
person named therein, reading it to the person, or leaving it at 2083
the person's usual place of residence, usual place of business, 2084
or address on file with the board. When serving a subpoena to an 2085
applicant for or the holder of a license or certificate issued 2086
under this chapter, service of the subpoena may be made by 2087
certified mail, return receipt requested, and the subpoena shall 2088
be deemed served on the date delivery is made or the date the 2089
person refuses to accept delivery. If the person being served 2090
refuses to accept the subpoena or is not located, service may be 2091
made to an attorney who notifies the board that the attorney is 2092

representing the person. 2093

(d) A sheriff's deputy who serves a subpoena shall receive 2094
the same fees as a sheriff. Each witness who appears before the 2095
board in obedience to a subpoena shall receive the fees and 2096
mileage provided for under section 119.094 of the Revised Code. 2097

(4) All hearings, investigations, and inspections of the 2098
board shall be considered civil actions for the purposes of 2099
section 2305.252 of the Revised Code. 2100

(5) A report required to be submitted to the board under 2101
this chapter, a complaint, or information received by the board 2102
pursuant to an investigation or pursuant to an inspection under 2103
division (E) of section 4731.054 of the Revised Code is 2104
confidential and not subject to discovery in any civil action. 2105

The board shall conduct all investigations or inspections 2106
and proceedings in a manner that protects the confidentiality of 2107
patients and persons who file complaints with the board. The 2108
board shall not make public the names or any other identifying 2109
information about patients or complainants unless proper consent 2110
is given or, in the case of a patient, a waiver of the patient 2111
privilege exists under division (B) of section 2317.02 of the 2112
Revised Code, except that consent or a waiver of that nature is 2113
not required if the board possesses reliable and substantial 2114
evidence that no bona fide physician-patient relationship 2115
exists. 2116

The board may share any information it receives pursuant 2117
to an investigation or inspection, including patient records and 2118
patient record information, with law enforcement agencies, other 2119
licensing boards, and other governmental agencies that are 2120
prosecuting, adjudicating, or investigating alleged violations 2121

of statutes or administrative rules. An agency or board that 2122
receives the information shall comply with the same requirements 2123
regarding confidentiality as those with which the state medical 2124
board must comply, notwithstanding any conflicting provision of 2125
the Revised Code or procedure of the agency or board that 2126
applies when it is dealing with other information in its 2127
possession. In a judicial proceeding, the information may be 2128
admitted into evidence only in accordance with the Rules of 2129
Evidence, but the court shall require that appropriate measures 2130
are taken to ensure that confidentiality is maintained with 2131
respect to any part of the information that contains names or 2132
other identifying information about patients or complainants 2133
whose confidentiality was protected by the state medical board 2134
when the information was in the board's possession. Measures to 2135
ensure confidentiality that may be taken by the court include 2136
sealing its records or deleting specific information from its 2137
records. 2138

(6) On a quarterly basis, the board shall prepare a report 2139
that documents the disposition of all cases during the preceding 2140
three months. The report shall contain the following information 2141
for each case with which the board has completed its activities: 2142

(a) The case number assigned to the complaint or alleged 2143
violation; 2144

(b) The type of license or certificate to practice, if 2145
any, held by the individual against whom the complaint is 2146
directed; 2147

(c) A description of the allegations contained in the 2148
complaint; 2149

(d) The disposition of the case. 2150

The report shall state how many cases are still pending 2151
and shall be prepared in a manner that protects the identity of 2152
each person involved in each case. The report shall be a public 2153
record under section 149.43 of the Revised Code. 2154

(G) If the secretary and supervising member determine both 2155
of the following, they may recommend that the board suspend an 2156
individual's license or certificate to practice or certificate 2157
to recommend without a prior hearing: 2158

(1) That there is clear and convincing evidence that an 2159
individual has violated division (B) of this section; 2160

(2) That the individual's continued practice presents a 2161
danger of immediate and serious harm to the public. 2162

Written allegations shall be prepared for consideration by 2163
the board. The board, upon review of those allegations and by an 2164
affirmative vote of not fewer than six of its members, excluding 2165
the secretary and supervising member, may suspend a license or 2166
certificate without a prior hearing. A telephone conference call 2167
may be utilized for reviewing the allegations and taking the 2168
vote on the summary suspension. 2169

The board shall issue a written order of suspension by 2170
certified mail or in person in accordance with section 119.07 of 2171
the Revised Code. The order shall not be subject to suspension 2172
by the court during pendency of any appeal filed under section 2173
119.12 of the Revised Code. If the individual subject to the 2174
summary suspension requests an adjudicatory hearing by the 2175
board, the date set for the hearing shall be within fifteen 2176
days, but not earlier than seven days, after the individual 2177
requests the hearing, unless otherwise agreed to by both the 2178
board and the individual. 2179

Any summary suspension imposed under this division shall 2180
remain in effect, unless reversed on appeal, until a final 2181
adjudicative order issued by the board pursuant to this section 2182
and Chapter 119. of the Revised Code becomes effective. The 2183
board shall issue its final adjudicative order within seventy- 2184
five days after completion of its hearing. A failure to issue 2185
the order within seventy-five days shall result in dissolution 2186
of the summary suspension order but shall not invalidate any 2187
subsequent, final adjudicative order. 2188

(H) If the board takes action under division (B) (9), (11), 2189
or (13) of this section and the judicial finding of guilt, 2190
guilty plea, or judicial finding of eligibility for intervention 2191
in lieu of conviction is overturned on appeal, upon exhaustion 2192
of the criminal appeal, a petition for reconsideration of the 2193
order may be filed with the board along with appropriate court 2194
documents. Upon receipt of a petition of that nature and 2195
supporting court documents, the board shall reinstate the 2196
individual's license or certificate to practice. The board may 2197
then hold an adjudication under Chapter 119. of the Revised Code 2198
to determine whether the individual committed the act in 2199
question. Notice of an opportunity for a hearing shall be given 2200
in accordance with Chapter 119. of the Revised Code. If the 2201
board finds, pursuant to an adjudication held under this 2202
division, that the individual committed the act or if no hearing 2203
is requested, the board may order any of the sanctions 2204
identified under division (B) of this section. 2205

(I) The license or certificate to practice issued to an 2206
individual under this chapter and the individual's practice in 2207
this state are automatically suspended as of the date of the 2208
individual's second or subsequent plea of guilty to, or judicial 2209
finding of guilt of, a violation of section 2919.123 of the 2210

Revised Code. In addition, the license or certificate to 2211
practice or certificate to recommend issued to an individual 2212
under this chapter and the individual's practice in this state 2213
are automatically suspended as of the date the individual pleads 2214
guilty to, is found by a judge or jury to be guilty of, or is 2215
subject to a judicial finding of eligibility for intervention in 2216
lieu of conviction in this state or treatment or intervention in 2217
lieu of conviction in another jurisdiction for any of the 2218
following criminal offenses in this state or a substantially 2219
equivalent criminal offense in another jurisdiction: aggravated 2220
murder, murder, voluntary manslaughter, felonious assault, 2221
kidnapping, rape, sexual battery, gross sexual imposition, 2222
aggravated arson, aggravated robbery, or aggravated burglary. 2223
Continued practice after suspension shall be considered 2224
practicing without a license or certificate. 2225

The board shall notify the individual subject to the 2226
suspension by certified mail or in person in accordance with 2227
section 119.07 of the Revised Code. If an individual whose 2228
license or certificate is automatically suspended under this 2229
division fails to make a timely request for an adjudication 2230
under Chapter 119. of the Revised Code, the board shall do 2231
whichever of the following is applicable: 2232

(1) If the automatic suspension under this division is for 2233
a second or subsequent plea of guilty to, or judicial finding of 2234
guilt of, a violation of section 2919.123 of the Revised Code, 2235
the board shall enter an order suspending the individual's 2236
license or certificate to practice for a period of at least one 2237
year or, if determined appropriate by the board, imposing a more 2238
serious sanction involving the individual's license or 2239
certificate to practice. 2240

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

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

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

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

reinstatement of the license or certificate or for issuance of a new license or certificate. 2271
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(M) Notwithstanding any other provision of the Revised Code, all of the following apply: 2273
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(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. 2275
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(2) An application for a license or certificate made under the provisions of this chapter may not be withdrawn without approval of the board. 2284
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(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 shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual. 2287
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(4) At the request of the board, a license or certificate holder shall immediately surrender to the board a license or certificate that the board has suspended, revoked, or permanently revoked. 2293
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(N) Sanctions shall not be imposed under division (B) (28) of this section against any person who waives deductibles and copayments as follows: 2297
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(1) In compliance with the health benefit plan that 2300
expressly allows such a practice. Waiver of the deductibles or 2301
copayments shall be made only with the full knowledge and 2302
consent of the plan purchaser, payer, and third-party 2303
administrator. Documentation of the consent shall be made 2304
available to the board upon request. 2305

(2) For professional services rendered to any other person 2306
authorized to practice pursuant to this chapter, to the extent 2307
allowed by this chapter and rules adopted by the board. 2308

(0) Under the board's investigative duties described in 2309
this section and subject to division (F) of this section, the 2310
board shall develop and implement a quality intervention program 2311
designed to improve through remedial education the clinical and 2312
communication skills of individuals authorized under this 2313
chapter to practice medicine and surgery, osteopathic medicine 2314
and surgery, and podiatric medicine and surgery. In developing 2315
and implementing the quality intervention program, the board may 2316
do all of the following: 2317

(1) Offer in appropriate cases as determined by the board 2318
an educational and assessment program pursuant to an 2319
investigation the board conducts under this section; 2320

(2) Select providers of educational and assessment 2321
services, including a quality intervention program panel of case 2322
reviewers; 2323

(3) Make referrals to educational and assessment service 2324
providers and approve individual educational programs 2325
recommended by those providers. The board shall monitor the 2326
progress of each individual undertaking a recommended individual 2327
educational program. 2328

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

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

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

(P) The board may impose a fine against a physician who fails to comply with division (C) of section 3702.411 of the Revised Code.

Sec. 4731.84. (A) As used in this section:

(1) "Acute pain" means pain that normally fades with healing, is related to tissue damage, significantly alters a patient's typical function, and is expected to be time limited.

(2) "Chronic pain" has the same meaning as in section 4731.052 of the Revised Code.

(3) "Opioid analgesic" has the same meaning as in section 3719.01 of the Revised Code.

(4) "Physician" means an individual authorized by this chapter to practice medicine and surgery or osteopathic medicine and surgery.

(5) "Podiatrist" means an individual authorized by this chapter to practice podiatric medicine and surgery.

(B) (1) A physician shall comply with section 3719.065 of

the Revised Code before initiating a plan of treatment that 2356
includes the use of an opioid analgesic for acute pain or 2357
chronic pain. 2358

A podiatrist shall comply with section 3719.065 of the 2359
Revised Code before initiating a plan of treatment that includes 2360
the use of an opioid analgesic for acute pain. 2361

(C) Division (B) (1) of this section is in addition to any 2362
requirement that applies to a physician under section 4731.052 2363
of the Revised Code or the rules adopted under it with respect 2364
to the diagnosis and treatment of chronic pain. 2365

Section 2. That existing sections 1739.05, 4715.30, 2366
4723.28, 4723.481, 4730.25, 4730.41, 4731.052, and 4731.22 of 2367
the Revised Code are hereby repealed. 2368

Section 3. Sections 1739.05 and 1751.76 of the Revised 2369
Code, as amended or enacted by this act, apply only to multiple 2370
employer welfare arrangements and health insuring corporation 2371
policies, contracts, and agreements that are created, delivered, 2372
issued for delivery, or renewed in this state on or after July 2373
1, 2020. Section 3923.91 of the Revised Code, as enacted by this 2374
act, applies only to policies of sickness and accident insurance 2375
delivered, issued for delivery, or renewed in this state on or 2376
after July 1, 2020, and only to public employee benefit plans 2377
that are established or modified in this state on or after July 2378
1, 2020. 2379

Section 4. The General Assembly, applying the principle 2380
stated in division (B) of section 1.52 of the Revised Code that 2381
amendments are to be harmonized if reasonably capable of 2382
simultaneous operation, finds that the following sections, 2383
presented in this act as composites of the sections as amended 2384

by the acts indicated, are the resulting versions of the 2385
sections in effect prior to the effective date of the sections 2386
as presented in this act: 2387

Section 1739.05 of the Revised Code as amended by Sub. 2388
H.B. 156, Sub. S.B. 259, and Sub. S.B. 265, all of the 132nd 2389
General Assembly. 2390

Section 4730.25 of the Revised Code as amended by both Am. 2391
Sub. H.B. 64 and Sub. S.B. 110 of the 131st General Assembly and 2392
both Am. Sub. H.B. 394 and Am. Sub. S.B. 276 of the 130th 2393
General Assembly. 2394

Section 4731.22 of the Revised Code as amended by both Am. 2395
Sub. H.B. 111 and Sub. H.B. 156 of the 132nd General Assembly. 2396