

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 402

Representatives Boyd, Hicks-Hudson

**Cosponsors: Representatives Galonski, Brent, Smith, M., Lepore-Hagan, Howse,
Weinstein, Robinson, Skindell, Miller, A., Jarrells, Smith, K., Upchurch**

A BILL

To amend sections 1739.05, 4723.01, 4729.01, and 1
4729.541; to enact sections 1751.671, 3923.631, 2
3923.641, 4754.01, 4754.02, 4754.03, 4754.04, 3
4754.05, 4754.06, 4754.07, 4754.08, 4754.09, 4
4754.10, 4754.11, 4754.12, 4754.13, 4754.14, 5
4754.141, 4754.142, 4754.15, 4754.16, 4754.17, 6
4754.99, and 5164.072; and to repeal section 7
4723.45 of the Revised Code to regulate the 8
practice of certified professional midwives and 9
to name this act the Ohio Midwife Practice Act. 10

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

Section 1. That sections 1739.05, 4723.01, 4729.01, and 11
4729.541 be amended and sections 1751.671, 3923.631, 3923.641, 12
4754.01, 4754.02, 4754.03, 4754.04, 4754.05, 4754.06, 4754.07, 13
4754.08, 4754.09, 4754.10, 4754.11, 4754.12, 4754.13, 4754.14, 14
4754.141, 4754.142, 4754.15, 4754.16, 4754.17, 4754.99, and 15
5164.072 of the Revised Code be enacted to read as follows: 16

Sec. 1739.05. (A) A multiple employer welfare arrangement 17
that is created pursuant to sections 1739.01 to 1739.22 of the 18

Revised Code and that operates a group self-insurance program 19
may be established only if any of the following applies: 20

(1) The arrangement has and maintains a minimum enrollment 21
of three hundred employees of two or more employers. 22

(2) The arrangement has and maintains a minimum enrollment 23
of three hundred self-employed individuals. 24

(3) The arrangement has and maintains a minimum enrollment 25
of three hundred employees or self-employed individuals in any 26
combination of divisions (A) (1) and (2) of this section. 27

(B) A multiple employer welfare arrangement that is 28
created pursuant to sections 1739.01 to 1739.22 of the Revised 29
Code and that operates a group self-insurance program shall 30
comply with all laws applicable to self-funded programs in this 31
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 32
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 33
3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 34
3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 35
3923.631, 3923.80, 3923.84, 3923.85, 3923.851, 3923.86, 3923.87, 36
3923.89, 3923.90, 3924.031, 3924.032, and 3924.27 of the Revised 37
Code. 38

(C) A multiple employer welfare arrangement created 39
pursuant to sections 1739.01 to 1739.22 of the Revised Code 40
shall solicit enrollments only through agents or solicitors 41
licensed pursuant to Chapter 3905. of the Revised Code to sell 42
or solicit sickness and accident insurance. 43

(D) A multiple employer welfare arrangement created 44
pursuant to sections 1739.01 to 1739.22 of the Revised Code 45
shall provide benefits only to individuals who are members, 46
employees of members, or the dependents of members or employees, 47

or are eligible for continuation of coverage under section 48
1751.53 or 3923.38 of the Revised Code or under Title X of the 49
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 50
Stat. 227, 29 U.S.C.A. 1161, as amended. 51

(E) A multiple employer welfare arrangement created 52
pursuant to sections 1739.01 to 1739.22 of the Revised Code is 53
subject to, and shall comply with, sections 3903.81 to 3903.93 54
of the Revised Code in the same manner as other life or health 55
insurers, as defined in section 3903.81 of the Revised Code. 56

Sec. 1751.671. Notwithstanding section 3901.71 of the 57
Revised Code, each individual or group health insuring 58
corporation policy, contract, or agreement delivered, issued for 59
delivery, or renewed in this state shall cover midwifery 60
services provided in accordance with section 4754.07 of the 61
Revised Code by a certified professional midwife licensed under 62
Chapter 4754. of the Revised Code. 63

Sec. 3923.631. Notwithstanding section 3901.71 of the 64
Revised Code, each individual or group policy of sickness and 65
accident insurance delivered, issued for delivery, or renewed in 66
this state shall cover midwifery services provided in accordance 67
with section 4754.07 of the Revised Code by a certified 68
professional midwife licensed under Chapter 4754. of the Revised 69
Code. 70

Sec. 3923.641. Notwithstanding section 3901.71 of the 71
Revised Code, each public employee benefit plan established or 72
modified in this state shall cover midwifery services provided 73
in accordance with section 4754.07 of the Revised Code by a 74
certified professional midwife licensed under Chapter 4754. of 75
the Revised Code. 76

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| Sec. 4723.01. As used in this chapter: | 77 |
| (A) "Registered nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a registered nurse. | 78 79 80 |
| (B) "Practice of nursing as a registered nurse" means providing to individuals and groups nursing care requiring specialized knowledge, judgment, and skill derived from the principles of biological, physical, behavioral, social, and nursing sciences. Such nursing care includes: | 81 82 83 84 85 |
| (1) Identifying patterns of human responses to actual or potential health problems amenable to a nursing regimen; | 86 87 |
| (2) Executing a nursing regimen through the selection, performance, management, and evaluation of nursing actions; | 88 89 |
| (3) Assessing health status for the purpose of providing nursing care; | 90 91 |
| (4) Providing health counseling and health teaching; | 92 |
| (5) Administering medications, treatments, and executing regimens authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice; | 93 94 95 96 |
| (6) Teaching, administering, supervising, delegating, and evaluating nursing practice. | 97 98 |
| (C) "Nursing regimen" may include preventative, restorative, and health-promotion activities. | 99 100 |
| (D) "Assessing health status" means the collection of data through nursing assessment techniques, which may include interviews, observation, and physical evaluations for the | 101 102 103 |

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| purpose of providing nursing care. | 104 |
| (E) "Licensed practical nurse" means an individual who | 105 |
| holds a current, valid license issued under this chapter that | 106 |
| authorizes the practice of nursing as a licensed practical | 107 |
| nurse. | 108 |
| (F) "The practice of nursing as a licensed practical | 109 |
| nurse" means providing to individuals and groups nursing care | 110 |
| requiring the application of basic knowledge of the biological, | 111 |
| physical, behavioral, social, and nursing sciences at the | 112 |
| direction of a registered nurse or any of the following who is | 113 |
| authorized to practice in this state: a physician, physician | 114 |
| assistant, dentist, podiatrist, optometrist, or chiropractor. | 115 |
| Such nursing care includes: | 116 |
| (1) Observation, patient teaching, and care in a diversity | 117 |
| of health care settings; | 118 |
| (2) Contributions to the planning, implementation, and | 119 |
| evaluation of nursing; | 120 |
| (3) Administration of medications and treatments | 121 |
| authorized by an individual who is authorized to practice in | 122 |
| this state and is acting within the course of the individual's | 123 |
| professional practice on the condition that the licensed | 124 |
| practical nurse is authorized under section 4723.17 of the | 125 |
| Revised Code to administer medications; | 126 |
| (4) Administration to an adult of intravenous therapy | 127 |
| authorized by an individual who is authorized to practice in | 128 |
| this state and is acting within the course of the individual's | 129 |
| professional practice, on the condition that the licensed | 130 |
| practical nurse is authorized under section 4723.18 or 4723.181 | 131 |
| of the Revised Code to perform intravenous therapy and performs | 132 |

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| intravenous therapy only in accordance with those sections; | 133 |
| (5) Delegation of nursing tasks as directed by a registered nurse; | 134 135 |
| (6) Teaching nursing tasks to licensed practical nurses and individuals to whom the licensed practical nurse is authorized to delegate nursing tasks as directed by a registered nurse. | 136 137 138 139 |
| (G) "Certified registered nurse anesthetist" means an advanced practice registered nurse who holds a current, valid license issued under this chapter and is designated as a certified registered nurse anesthetist in accordance with section 4723.42 of the Revised Code and rules adopted by the board of nursing. | 140 141 142 143 144 145 |
| (H) "Clinical nurse specialist" means an advanced practice registered nurse who holds a current, valid license issued under this chapter and is designated as a clinical nurse specialist in accordance with section 4723.42 of the Revised Code and rules adopted by the board of nursing. | 146 147 148 149 150 |
| (I) "Certified nurse-midwife" means an advanced practice registered nurse who holds a current, valid license issued under this chapter and is designated as a certified nurse-midwife in accordance with section 4723.42 of the Revised Code and rules adopted by the board of nursing. <u>A certified nurse-midwife does not include a certified professional midwife authorized to practice under Chapter 4754. of the Revised Code.</u> | 151 152 153 154 155 156 157 |
| (J) "Certified nurse practitioner" means an advanced practice registered nurse who holds a current, valid license issued under this chapter and is designated as a certified nurse practitioner in accordance with section 4723.42 of the Revised | 158 159 160 161 |

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| Code and rules adopted by the board of nursing. | 162 |
| (K) "Physician" means an individual authorized under | 163 |
| Chapter 4731. of the Revised Code to practice medicine and | 164 |
| surgery or osteopathic medicine and surgery. | 165 |
| (L) "Collaboration" or "collaborating" means the | 166 |
| following: | 167 |
| (1) In the case of a clinical nurse specialist or a | 168 |
| certified nurse practitioner, that one or more podiatrists | 169 |
| acting within the scope of practice of podiatry in accordance | 170 |
| with section 4731.51 of the Revised Code and with whom the nurse | 171 |
| has entered into a standard care arrangement or one or more | 172 |
| physicians with whom the nurse has entered into a standard care | 173 |
| arrangement are continuously available to communicate with the | 174 |
| clinical nurse specialist or certified nurse practitioner either | 175 |
| in person or by electronic communication; | 176 |
| (2) In the case of a certified nurse-midwife, that one or | 177 |
| more physicians with whom the certified nurse-midwife has | 178 |
| entered into a standard care arrangement are continuously | 179 |
| available to communicate with the certified nurse-midwife either | 180 |
| in person or by electronic communication. | 181 |
| (M) "Supervision," as it pertains to a certified | 182 |
| registered nurse anesthetist, means that the certified | 183 |
| registered nurse anesthetist is under the direction of a | 184 |
| podiatrist acting within the podiatrist's scope of practice in | 185 |
| accordance with section 4731.51 of the Revised Code, a dentist | 186 |
| acting within the dentist's scope of practice in accordance with | 187 |
| Chapter 4715. of the Revised Code, or a physician, and, when | 188 |
| administering anesthesia, the certified registered nurse | 189 |
| anesthetist is in the immediate presence of the podiatrist, | 190 |

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| dentist, or physician. | 191 |
| (N) "Standard care arrangement" means a written, formal | 192 |
| guide for planning and evaluating a patient's health care that | 193 |
| is developed by one or more collaborating physicians or | 194 |
| podiatrists and a clinical nurse specialist, certified nurse- | 195 |
| midwife, or certified nurse practitioner and meets the | 196 |
| requirements of section 4723.431 of the Revised Code. | 197 |
| (O) "Advanced practice registered nurse" means an | 198 |
| individual who holds a current, valid license issued under this | 199 |
| chapter that authorizes the practice of nursing as an advanced | 200 |
| practice registered nurse and is designated as any of the | 201 |
| following: | 202 |
| (1) A certified registered nurse anesthetist; | 203 |
| (2) A clinical nurse specialist; | 204 |
| (3) A certified nurse-midwife; | 205 |
| (4) A certified nurse practitioner. | 206 |
| (P) "Practice of nursing as an advanced practice | 207 |
| registered nurse" means providing to individuals and groups | 208 |
| nursing care that requires knowledge and skill obtained from | 209 |
| advanced formal education, training, and clinical experience. | 210 |
| Such nursing care includes <u>the care described in</u> section 4723.43 | 211 |
| of the Revised Code. | 212 |
| (Q) "Dialysis care" means the care and procedures that a | 213 |
| dialysis technician or dialysis technician intern is authorized | 214 |
| to provide and perform, as specified in section 4723.72 of the | 215 |
| Revised Code. | 216 |
| (R) "Dialysis technician" means an individual who holds a | 217 |
| current, valid certificate to practice as a dialysis technician | 218 |

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| issued under section 4723.75 of the Revised Code. | 219 |
| (S) "Dialysis technician intern" means an individual who holds a current, valid certificate to practice as a dialysis technician intern issued under section 4723.75 of the Revised Code. | 220 221 222 223 |
| (T) "Certified community health worker" means an individual who holds a current, valid certificate as a community health worker issued under section 4723.85 of the Revised Code. | 224 225 226 |
| (U) "Medication aide" means an individual who holds a current, valid certificate issued under this chapter that authorizes the individual to administer medication in accordance with section 4723.67 of the Revised Code; | 227 228 229 230 |
| (V) "Nursing specialty" means a specialty in practice as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. | 231 232 233 234 |
| Sec. 4729.01. As used in this chapter: | 235 |
| (A) "Pharmacy," except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing where the practice of pharmacy is conducted. | 236 237 238 239 |
| (B) "Practice of pharmacy" means providing pharmacist care requiring specialized knowledge, judgment, and skill derived from the principles of biological, chemical, behavioral, social, pharmaceutical, and clinical sciences. As used in this division, "pharmacist care" includes the following: | 240 241 242 243 244 |
| (1) Interpreting prescriptions; | 245 |
| (2) Dispensing drugs and drug therapy related devices; | 246 |

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| (3) Compounding drugs; | 247 |
| (4) Counseling individuals with regard to their drug therapy, recommending drug therapy related devices, and assisting in the selection of drugs and appliances for treatment of common diseases and injuries and providing instruction in the proper use of the drugs and appliances; | 248 249 250 251 252 |
| (5) Performing drug regimen reviews with individuals by discussing all of the drugs that the individual is taking and explaining the interactions of the drugs; | 253 254 255 |
| (6) Performing drug utilization reviews with licensed health professionals authorized to prescribe drugs when the pharmacist determines that an individual with a prescription has a drug regimen that warrants additional discussion with the prescriber; | 256 257 258 259 260 |
| (7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy; | 261 262 263 |
| (8) Acting pursuant to a consult agreement, if an agreement has been established; | 264 265 |
| (9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code; | 266 267 |
| (10) Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code. | 268 269 |
| (C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances: | 270 271 272 |
| (1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs; | 273 274 |

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| (2) Pursuant to the modification of a prescription made in accordance with a consult agreement; | 275 276 |
| (3) As an incident to research, teaching activities, or chemical analysis; | 277 278 |
| (4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns; | 279 280 281 |
| (5) Pursuant to a request made by a licensed health professional authorized to prescribe drugs for a drug that is to be used by the professional for the purpose of direct administration to patients in the course of the professional's practice, if all of the following apply: | 282 283 284 285 286 |
| (a) At the time the request is made, the drug is not commercially available regardless of the reason that the drug is not available, including the absence of a manufacturer for the drug or the lack of a readily available supply of the drug from a manufacturer. | 287 288 289 290 291 |
| (b) A limited quantity of the drug is compounded and provided to the professional. | 292 293 |
| (c) The drug is compounded and provided to the professional as an occasional exception to the normal practice of dispensing drugs pursuant to patient-specific prescriptions. | 294 295 296 |
| (D) "Consult agreement" means an agreement that has been entered into under section 4729.39 of the Revised Code. | 297 298 |
| (E) "Drug" means: | 299 |
| (1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, | 300 301 302 |

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| or prevention of disease in humans or animals; | 303 |
| (2) Any other article intended for use in the diagnosis, | 304 |
| cure, mitigation, treatment, or prevention of disease in humans | 305 |
| or animals; | 306 |
| (3) Any article, other than food, intended to affect the | 307 |
| structure or any function of the body of humans or animals; | 308 |
| (4) Any article intended for use as a component of any | 309 |
| article specified in division (E) (1), (2), or (3) of this | 310 |
| section; but does not include devices or their components, | 311 |
| parts, or accessories. | 312 |
| "Drug" does not include "hemp" or a "hemp product" as | 313 |
| those terms are defined in section 928.01 of the Revised Code. | 314 |
| (F) "Dangerous drug" means any of the following: | 315 |
| (1) Any drug to which either of the following applies: | 316 |
| (a) Under the "Federal Food, Drug, and Cosmetic Act," 52 | 317 |
| Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is | 318 |
| required to bear a label containing the legend "Caution: Federal | 319 |
| law prohibits dispensing without prescription" or "Caution: | 320 |
| Federal law restricts this drug to use by or on the order of a | 321 |
| licensed veterinarian" or any similar restrictive statement, or | 322 |
| the drug may be dispensed only upon a prescription; | 323 |
| (b) Under Chapter 3715. or 3719. of the Revised Code, the | 324 |
| drug may be dispensed only upon a prescription. | 325 |
| (2) Any drug that contains a schedule V controlled | 326 |
| substance and that is exempt from Chapter 3719. of the Revised | 327 |
| Code or to which that chapter does not apply; | 328 |
| (3) Any drug intended for administration by injection into | 329 |

the human body other than through a natural orifice of the human body; 330
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(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code. 332
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(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code. 334
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(H) "Prescription" means all of the following: 336

(1) A written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs; 337
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(2) For purposes of sections 2925.61, 4723.484, 4730.434, and 4731.94 of the Revised Code, a written, electronic, or oral order for naloxone issued to and in the name of a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose. 341
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(3) For purposes of section 4729.44 of the Revised Code, a written, electronic, or oral order for naloxone issued to and in the name of either of the following: 347
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(a) An individual who there is reason to believe is at risk of experiencing an opioid-related overdose; 350
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(b) A family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose. 352
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(4) For purposes of sections 4723.4810, 4729.282, 4730.432, and 4731.93 of the Revised Code, a written, electronic, or oral order for a drug to treat chlamydia, 355
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gonorrhoea, or trichomoniasis issued to and in the name of a 358
patient who is not the intended user of the drug but is the 359
sexual partner of the intended user; 360

(5) For purposes of sections 3313.7110, 3313.7111, 361
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 362
4731.96, and 5101.76 of the Revised Code, a written, electronic, 363
or oral order for an epinephrine autoinjector issued to and in 364
the name of a school, school district, or camp; 365

(6) For purposes of Chapter 3728. and sections 4723.483, 366
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 367
electronic, or oral order for an epinephrine autoinjector issued 368
to and in the name of a qualified entity, as defined in section 369
3728.01 of the Revised Code; 370

(7) For purposes of sections 3313.7115, 3313.7116, 371
3314.147, 3326.60, 3328.38, 4723.484, 4730.434, 4731.92, and 372
5101.78 of the Revised Code, a written, electronic, or oral 373
order for injectable or nasally administered glucagon in the 374
name of a school, school district, or camp. 375

(I) "Licensed health professional authorized to prescribe 376
drugs" or "prescriber" means an individual who is authorized by 377
law to prescribe drugs or dangerous drugs or drug therapy 378
related devices in the course of the individual's professional 379
practice, including only the following: 380

(1) A dentist licensed under Chapter 4715. of the Revised 381
Code; 382

(2) A clinical nurse specialist, certified nurse-midwife, 383
or certified nurse practitioner who holds a current, valid 384
license issued under Chapter 4723. of the Revised Code to 385
practice nursing as an advanced practice registered nurse; 386

(3) A certified registered nurse anesthetist who holds a 387
current, valid license issued under Chapter 4723. of the Revised 388
Code to practice nursing as an advanced practice registered 389
nurse, but only to the extent of the nurse's authority under 390
sections 4723.43 and 4723.434 of the Revised Code; 391

(4) An optometrist licensed under Chapter 4725. of the 392
Revised Code to practice optometry under a therapeutic 393
pharmaceutical agents certificate; 394

(5) A physician authorized under Chapter 4731. of the 395
Revised Code to practice medicine and surgery, osteopathic 396
medicine and surgery, or podiatric medicine and surgery; 397

(6) A physician assistant who holds a license to practice 398
as a physician assistant issued under Chapter 4730. of the 399
Revised Code, holds a valid prescriber number issued by the 400
state medical board, and has been granted physician-delegated 401
prescriptive authority; 402

(7) A veterinarian licensed under Chapter 4741. of the 403
Revised Code; 404

(8) A certified professional midwife who holds a current, 405
valid license issued under Chapter 4754. of the Revised Code to 406
practice as a certified professional midwife, but only to the 407
extent of the certified professional midwife's authority under 408
sections 4754.07 and 4754.09 of the Revised Code. 409

(J) "Sale" or "sell" includes any transaction made by any 410
person, whether as principal proprietor, agent, or employee, to 411
do or offer to do any of the following: deliver, distribute, 412
broker, exchange, gift or otherwise give away, or transfer, 413
whether the transfer is by passage of title, physical movement, 414
or both. 415

(K) "Wholesale sale" and "sale at wholesale" mean any sale 416
in which the purpose of the purchaser is to resell the article 417
purchased or received by the purchaser. 418

(L) "Retail sale" and "sale at retail" mean any sale other 419
than a wholesale sale or sale at wholesale. 420

(M) "Retail seller" means any person that sells any 421
dangerous drug to consumers without assuming control over and 422
responsibility for its administration. Mere advice or 423
instructions regarding administration do not constitute control 424
or establish responsibility. 425

(N) "Price information" means the price charged for a 426
prescription for a particular drug product and, in an easily 427
understandable manner, all of the following: 428

(1) The proprietary name of the drug product; 429

(2) The established (generic) name of the drug product; 430

(3) The strength of the drug product if the product 431
contains a single active ingredient or if the drug product 432
contains more than one active ingredient and a relevant strength 433
can be associated with the product without indicating each 434
active ingredient. The established name and quantity of each 435
active ingredient are required if such a relevant strength 436
cannot be so associated with a drug product containing more than 437
one ingredient. 438

(4) The dosage form; 439

(5) The price charged for a specific quantity of the drug 440
product. The stated price shall include all charges to the 441
consumer, including, but not limited to, the cost of the drug 442
product, professional fees, handling fees, if any, and a 443

statement identifying professional services routinely furnished 444
by the pharmacy. Any mailing fees and delivery fees may be 445
stated separately without repetition. The information shall not 446
be false or misleading. 447

(O) "Wholesale distributor of dangerous drugs" or 448
"wholesale distributor" means a person engaged in the sale of 449
dangerous drugs at wholesale and includes any agent or employee 450
of such a person authorized by the person to engage in the sale 451
of dangerous drugs at wholesale. 452

(P) "Manufacturer of dangerous drugs" or "manufacturer" 453
means a person, other than a pharmacist or prescriber, who 454
manufactures dangerous drugs and who is engaged in the sale of 455
those dangerous drugs. 456

(Q) "Terminal distributor of dangerous drugs" or "terminal 457
distributor" means a person who is engaged in the sale of 458
dangerous drugs at retail, or any person, other than a 459
manufacturer, repackager, outsourcing facility, third-party 460
logistics provider, wholesale distributor, or pharmacist, who 461
has possession, custody, or control of dangerous drugs for any 462
purpose other than for that person's own use and consumption. 463
"Terminal distributor" includes pharmacies, hospitals, nursing 464
homes, and laboratories and all other persons who procure 465
dangerous drugs for sale or other distribution by or under the 466
supervision of a pharmacist, licensed health professional 467
authorized to prescribe drugs, or other person authorized by the 468
state board of pharmacy. 469

(R) "Promote to the public" means disseminating a 470
representation to the public in any manner or by any means, 471
other than by labeling, for the purpose of inducing, or that is 472
likely to induce, directly or indirectly, the purchase of a 473

dangerous drug at retail. 474

(S) "Person" includes any individual, partnership, 475
association, limited liability company, or corporation, the 476
state, any political subdivision of the state, and any district, 477
department, or agency of the state or its political 478
subdivisions. 479

(T) (1) "Animal shelter" means a facility operated by a 480
humane society or any society organized under Chapter 1717. of 481
the Revised Code or a dog pound operated pursuant to Chapter 482
955. of the Revised Code. 483

(2) "County dog warden" means a dog warden or deputy dog 484
warden appointed or employed under section 955.12 of the Revised 485
Code. 486

(U) "Food" has the same meaning as in section 3715.01 of 487
the Revised Code. 488

(V) "Pain management clinic" has the same meaning as in 489
section 4731.054 of the Revised Code. 490

(W) "Investigational drug or product" means a drug or 491
product that has successfully completed phase one of the United 492
States food and drug administration clinical trials and remains 493
under clinical trial, but has not been approved for general use 494
by the United States food and drug administration. 495
"Investigational drug or product" does not include controlled 496
substances in schedule I, as defined in section 3719.01 of the 497
Revised Code. 498

(X) "Product," when used in reference to an 499
investigational drug or product, means a biological product, 500
other than a drug, that is made from a natural human, animal, or 501
microorganism source and is intended to treat a disease or 502

medical condition. 503

(Y) "Third-party logistics provider" means a person that 504
provides or coordinates warehousing or other logistics services 505
pertaining to dangerous drugs including distribution, on behalf 506
of a manufacturer, wholesale distributor, or terminal 507
distributor of dangerous drugs, but does not take ownership of 508
the drugs or have responsibility to direct the sale or 509
disposition of the drugs. 510

(Z) "Repackager of dangerous drugs" or "repackager" means 511
a person that repacks and relabels dangerous drugs for sale or 512
distribution. 513

(AA) "Outsourcing facility" means a facility that is 514
engaged in the compounding and sale of sterile drugs and is 515
registered as an outsourcing facility with the United States 516
food and drug administration. 517

(BB) "Laboratory" means a laboratory licensed under this 518
chapter as a terminal distributor of dangerous drugs and 519
entrusted to have custody of any of the following drugs and to 520
use the drugs for scientific and clinical purposes and for 521
purposes of instruction: dangerous drugs that are not controlled 522
substances, as defined in section 3719.01 of the Revised Code; 523
dangerous drugs that are controlled substances, as defined in 524
that section; and controlled substances in schedule I, as 525
defined in that section. 526

Sec. 4729.541. (A) Except as provided in divisions (B) to 527
(D) of this section, all of the following are exempt from 528
licensure as a terminal distributor of dangerous drugs: 529

(1) A licensed health professional authorized to prescribe 530
drugs; 531

(2) A business entity that is a corporation formed under 532
division (B) of section 1701.03 of the Revised Code, a limited 533
liability company formed under Chapter 1705. of the Revised 534
Code, or a professional association formed under Chapter 1785. 535
of the Revised Code if the entity has a sole shareholder who is 536
a prescriber and is authorized to provide the professional 537
services being offered by the entity; 538

(3) A business entity that is a corporation formed under 539
division (B) of section 1701.03 of the Revised Code, a limited 540
liability company formed under Chapter 1705. of the Revised 541
Code, a partnership or a limited liability partnership formed 542
under Chapter 1775. of the Revised Code, or a professional 543
association formed under Chapter 1785. of the Revised Code, if, 544
to be a shareholder, member, or partner, an individual is 545
required to be licensed, certified, or otherwise legally 546
authorized under Title XLVII of the Revised Code to perform the 547
professional service provided by the entity and each such 548
individual is a prescriber; 549

(4) An individual who holds a current license, 550
certificate, or registration issued under Title XLVII of the 551
Revised Code and has been certified to conduct diabetes 552
education by a national certifying body specified in rules 553
adopted by the state board of pharmacy under section 4729.68 of 554
the Revised Code, but only with respect to insulin that will be 555
used for the purpose of diabetes education and only if diabetes 556
education is within the individual's scope of practice under 557
statutes and rules regulating the individual's profession; 558

(5) An individual who holds a valid certificate issued by 559
a nationally recognized S.C.U.B.A. diving certifying 560
organization approved by the state board of pharmacy under rules 561

adopted by the board, but only with respect to medical oxygen 562
that will be used for the purpose of emergency care or treatment 563
at the scene of a diving emergency; 564

(6) With respect to epinephrine autoinjectors that may be 565
possessed under section 3313.7110, 3313.7111, 3314.143, 3326.28, 566
or 3328.29 of the Revised Code, any of the following: the board 567
of education of a city, local, exempted village, or joint 568
vocational school district; a chartered or nonchartered 569
nonpublic school; a community school established under Chapter 570
3314. of the Revised Code; a STEM school established under 571
Chapter 3326. of the Revised Code; or a college-preparatory 572
boarding school established under Chapter 3328. of the Revised 573
Code; 574

(7) With respect to epinephrine autoinjectors that may be 575
possessed under section 5101.76 of the Revised Code, any of the 576
following: a residential camp, as defined in section 2151.011 of 577
the Revised Code; a child day camp, as defined in section 578
5104.01 of the Revised Code; or a child day camp operated by any 579
county, township, municipal corporation, township park district 580
created under section 511.18 of the Revised Code, park district 581
created under section 1545.04 of the Revised Code, or joint 582
recreation district established under section 755.14 of the 583
Revised Code; 584

(8) With respect to epinephrine autoinjectors that may be 585
possessed under Chapter 3728. of the Revised Code, a qualified 586
entity, as defined in section 3728.01 of the Revised Code; 587

(9) With respect to inhalers that may be possessed under 588
section 3313.7113, 3313.7114, 3314.144, 3326.30, or 3328.30 of 589
the Revised Code, any of the following: the board of education 590
of a city, local, exempted village, or joint vocational school 591

district; a chartered or nonchartered nonpublic school; a 592
community school established under Chapter 3314. of the Revised 593
Code; a STEM school established under Chapter 3326. of the 594
Revised Code; or a college-preparatory boarding school 595
established under Chapter 3328. of the Revised Code; 596

(10) With respect to inhalers that may be possessed under 597
section 5101.77 of the Revised Code, any of the following: a 598
residential camp, as defined in section 2151.011 of the Revised 599
Code; a child day camp, as defined in section 5104.01 of the 600
Revised Code; or a child day camp operated by any county, 601
township, municipal corporation, township park district created 602
under section 511.18 of the Revised Code, park district created 603
under section 1545.04 of the Revised Code, or joint recreation 604
district established under section 755.14 of the Revised Code; 605

(11) With respect to naloxone that may be possessed under 606
section 2925.61 of the Revised Code, a law enforcement agency 607
and its peace officers; 608

(12) With respect to naloxone that may be possessed under 609
section 4729.514 of the Revised Code for use in emergency 610
situations or for personally furnishing supplies of naloxone, a 611
service entity, as defined in that section; 612

(13) A facility that is owned and operated by the United 613
States department of defense, the United States department of 614
veterans affairs, or any other federal agency; 615

(14) An individual who holds a current, valid license to 616
practice as a certified professional midwife issued under 617
Chapter 4754. of the Revised Code, but only with respect to a 618
drug described in section 4754.09 of the Revised Code. 619

(B) If a person described in division (A) of this section 620

is a pain management clinic or is operating a pain management 621
clinic, the person shall hold a license as a terminal 622
distributor of dangerous drugs with a pain management clinic 623
classification issued under section 4729.552 of the Revised 624
Code. 625

(C) If a person described in division (A) of this section 626
is operating a facility, clinic, or other location described in 627
division (B) of section 4729.553 of the Revised Code that must 628
hold a category III terminal distributor of dangerous drugs 629
license with an office-based opioid treatment classification, 630
the person shall hold a license with that classification. 631

(D) Any of the persons described in divisions (A) (1) to 632
(12) of this section shall hold a license as a terminal 633
distributor of dangerous drugs in order to possess, have custody 634
or control of, and distribute any of the following: 635

(1) Dangerous drugs that are compounded or used for the 636
purpose of compounding; 637

(2) A schedule I, II, III, IV, or V controlled substance, 638
as defined in section 3719.01 of the Revised Code. 639

Sec. 4754.01. As used in this chapter: 640

(A) "Midwifery education accreditation council" means the 641
organization known by that name or its successor organization. 642

(B) "Midwives alliance of North America" means the 643
organization known by that name or its successor organization. 644

(C) "National association of certified professional 645
midwives" means the organization known by that name or its 646
successor organization. 647

(D) "North American registry of midwives" means the 648

organization known by that name or its successor organization. 649

Sec. 4754.02. (A) There is hereby created in the 650
department of health the council of certified professional 651
midwives, consisting of the following seven members to be 652
appointed by the governor with the advice and consent of the 653
senate: 654

(1) Four members who are certified professional midwives 655
in good standing with the national association of certified 656
professional midwives and the north American registry of 657
midwives and with significant midwifery experience gained 658
outside of hospital settings; 659

(2) Two members who are physicians authorized to practice 660
medicine and surgery or osteopathic medicine and surgery under 661
Chapter 4731. of the Revised Code and have hospital admitting 662
privileges, one of whom is board-certified in pediatrics by the 663
American board of pediatrics and one of whom is board-certified 664
in obstetrics by the American board of obstetrics and gynecology 665
and a member of the American congress of obstetricians and 666
gynecologists; 667

(3) One member of the public who represents the diversity, 668
interests, and perspectives of childbearing women. 669

The governor shall appoint members in a manner that 670
ensures that all geographic areas of the state and its ethnic 671
groups are represented. 672

Other than the public member, each member, during the 673
member's term of office, shall maintain the member's licensure 674
and certification as conditions of retaining membership on the 675
council. 676

Of the members described in division (A) (1) of this 677

section, each shall obtain licensure as a certified professional 678
midwife under this chapter not later than January 1 of the year 679
following the year in which this section becomes effective. 680

(B) The governor shall make initial appointments to the 681
council within ninety days after the effective date of this 682
section. Of the initial appointments, four, including two of the 683
certified professional midwives, shall be for terms of two years 684
and three shall be for terms of three years. Thereafter, terms 685
of office shall be for three years, with each term ending on the 686
same day of the same month as did the term that it succeeds. 687
Each member shall hold office from the date of the member's 688
appointment until the end of the term for which the member was 689
appointed. Members may be reappointed for one additional term. 690

Vacancies shall be filled in the manner provided for 691
original appointments. Any member appointed to fill a vacancy 692
occurring prior to the expiration date of the term for which the 693
member's predecessor was appointed shall hold office as a member 694
for the remainder of that term. On the conclusion of that 695
remainder, the member appointed to fill a vacancy may serve only 696
one additional term. A member shall continue in office 697
subsequent to the expiration date of the member's term until the 698
member's successor takes office or until a period of sixty days 699
has elapsed, whichever occurs first. 700

A member who has been twice appointed to the council or 701
has served for a total of six years in any nine-year period may 702
not be appointed again until a period of at least one year has 703
passed since the former member last served. 704

(C) Members shall serve without compensation, but may be 705
reimbursed for their actual and necessary expenses incurred in 706
the performance of their duties. 707

(D) The governor may, after a hearing conducted under Chapter 119. of the Revised Code, remove any member from the council for the neglect of any duty required by law, for incompetency, or for unprofessional or dishonorable conduct. 708
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(E) The council shall organize by electing a chairperson from its members described in division (A)(1) of this section. The chairperson shall hold office for two years and until the chairperson's successor is elected and takes office. Elections for chairperson shall be held at every other annual September meeting of the council. 712
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The chairperson, subject to the council's approval, may designate another member of the council to serve as vice-chairperson to fulfill the chairperson's duties in the event that the chairperson is absent or incapacitated. The vice-chairperson may perform any action that the chairperson is authorized to perform. 718
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(F) The chairperson may make decisions on behalf of the council as follows: 724
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(1) A decision regarding council activities may be made by the chairperson if the chairperson considers the decision to be minor and determines that making the decision will facilitate the responsiveness and effectiveness of the council. 726
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(2) A decision involving a situation that requires immediate council attention may be made by the chairperson if the circumstances surrounding the situation make holding a council meeting impractical. At the earliest time possible, the chairperson shall report the decision to the members of the council and the council shall meet to ratify or nullify the decision. 730
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Sec. 4754.03. (A) The council of certified professional 737
midwives shall hold its annual meeting in this state in 738
September of each year and shall hold other meetings at the 739
times and places that a majority of the council decides. A 740
special meeting shall be held at the call of the chairperson or 741
at the request of two or more council members. 742

A majority of the council constitutes a quorum for the 743
transaction of business. Except when action is taken on behalf 744
of the council by the chairperson under division (F) of section 745
4754.02 of the Revised Code, the council may not take any action 746
without the concurrence of at least six members. The council 747
shall adopt rules as necessary to govern its internal 748
management. 749

(B) The council shall keep a record of its meetings and 750
other official actions, including a register of all applicants 751
for licensure to practice as certified professional midwives. 752
The register shall show whether an applicant for licensure was 753
rejected or was granted a license. The council's records and 754
register shall be prima facie evidence of all matters recorded 755
in them. The council shall adopt a common seal, which may be 756
used to authenticate its official documents. 757

(C) The council may hold meetings at any place in this 758
state that a majority of the council determines appropriate. 759

Sec. 4754.04. (A) Except as provided in division (B) of 760
this section, no individual shall knowingly practice as a 761
certified professional midwife unless the individual holds a 762
current, valid license to practice as a certified professional 763
midwife issued under section 4754.05 of the Revised Code. 764

(B) Division (A) of this section does not apply to any of 765

the following: 766

(1) An individual authorized under Chapter 4731. of the 767
Revised Code to practice medicine and surgery or osteopathic 768
medicine and surgery; 769

(2) A physician assistant authorized under Chapter 4730. 770
of the Revised Code to practice as a physician assistant; 771

(3) A registered nurse, advanced practice registered 772
nurse, or licensed practical nurse authorized under Chapter 773
4723. of the Revised Code to practice nursing as a registered 774
nurse, advanced practice registered nurse, or licensed practical 775
nurse; 776

(4) A person who provides midwifery services without a 777
license while engaging in good faith in the practice of the 778
religious tenets of any church or in any religious act if the 779
person does not contemplate, charge, or receive a fee; 780

(5) A person who is a member of a Native American 781
community and provides midwifery services without a license to 782
another member of the community. 783

Sec. 4754.05. (A) An individual seeking a license to 784
practice as a certified professional midwife shall file with the 785
council of certified professional midwives an application in a 786
manner prescribed by the council. The application shall include 787
all the information the council considers necessary to process 788
the application, including evidence satisfactory to the council 789
that the applicant meets the requirements specified in division 790
(B) of this section. 791

(B) (1) Except as provided in division (B) (2) of this 792
section, to be eligible to receive a license to practice as a 793
certified professional midwife, an applicant shall demonstrate 794

to the council that the applicant meets all of the following 795
requirements: 796

(a) Is at least eighteen years of age; 797

(b) Has attained a high school degree or equivalent; 798

(c) Has graduated from a midwifery education program 799
accredited by the midwifery education accreditation council; 800

(d) Is certified by the north American registry of 801
midwives; 802

(e) Is certified in neonatal and adult cardiopulmonary 803
resuscitation; 804

(f) Has submitted an application fee of forty-five 805
dollars. 806

(2) In lieu of meeting the requirements described in 807
division (B) (1) (c) or (d) of this section, an applicant may 808
demonstrate either of the following: 809

(a) That the applicant holds a current, valid license to 810
practice as a certified professional midwife issued by another 811
state and remains in good standing with the entity responsible 812
for issuing that license; 813

(b) That the applicant holds a midwifery bridge 814
certificate issued by the north American registry of midwives 815
and is scheduled by January 1, 2024, to graduate from a 816
midwifery education program accredited by the midwifery 817
education accreditation council and be certified by the north 818
American registry of midwives. 819

(C) The council shall review all applications received 820
under this section. After receiving an application it considers 821

complete, the council shall determine whether the applicant 822
meets the requirements for a license to practice as a certified 823
professional midwife. If the council so determines, the council 824
shall issue the license to the applicant. 825

Sec. 4754.06. (A) Each license issued under section 826
4754.05 of the Revised Code shall be valid for a two-year period 827
unless revoked or suspended, shall expire on the date that is 828
two years after the date of issuance, and may be renewed for 829
additional two-year periods in accordance with rules adopted 830
under section 4754.15 of the Revised Code. 831

(B) To be eligible for renewal, an applicant must meet all 832
of the following requirements: 833

(1) Demonstrate to the council of certified professional 834
midwives that the applicant has maintained certification in 835
neonatal and adult cardiopulmonary resuscitation; 836

(2) Submit to the council a renewal fee of twenty dollars; 837

(3) Satisfy the continuing education requirements 838
described in division (C) of this section. 839

(C) (1) Each applicant for renewal shall certify and attest 840
to the council that the individual has complied with the 841
continuing education requirements of the North American registry 842
of midwives. 843

(2) If an applicant does not comply with the continuing 844
education requirements described in division (C) (1) of this 845
section or falsely attests to completing them, the applicant may 846
be subject to disciplinary action as described in section 847
4754.14 of the Revised Code. If such discipline includes 848
completion of continuing education credits, hours, or units, 849
those credits, hours, or units shall not count toward the 850

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| <u>continuing education required for renewal.</u> | 851 |
| <u>Sec. 4754.07. (A) (1) Subject to sections 4754.08 and</u> | 852 |
| <u>4754.09 of the Revised Code, an individual who holds a current,</u> | 853 |
| <u>valid license to practice as a certified professional midwife</u> | 854 |
| <u>may engage in one or more of the following activities:</u> | 855 |
| <u>(a) Providing the necessary care and advice to clients</u> | 856 |
| <u>during pregnancy, labor, and the postpartum period;</u> | 857 |
| <u>(b) Conducting normal deliveries on the midwife's own</u> | 858 |
| <u>responsibility;</u> | 859 |
| <u>(c) Providing care for newly born infants;</u> | 860 |
| <u>(d) Recognizing the warning signs of abnormal conditions</u> | 861 |
| <u>requiring referral to and collaboration with physicians;</u> | 862 |
| <u>(e) Attending to low-risk clients during pregnancy, labor,</u> | 863 |
| <u>and the postpartum period with the clients' informed consent;</u> | 864 |
| <u>(f) Providing comprehensive care of pregnant clients</u> | 865 |
| <u>during all phases of pregnancy and applying emergency care when</u> | 866 |
| <u>necessary.</u> | 867 |
| <u>(2) An individual who holds a current, valid license to</u> | 868 |
| <u>practice as a certified professional midwife shall not engage in</u> | 869 |
| <u>any of the following activities:</u> | 870 |
| <u>(a) Administering cytotec or oxytocics, including pitocin</u> | 871 |
| <u>and methergine, except when indicated during the postpartum</u> | 872 |
| <u>period;</u> | 873 |
| <u>(b) Using forceps or vacuum extraction to assist with</u> | 874 |
| <u>birth;</u> | 875 |
| <u>(c) Performing any operative procedures or surgical</u> | 876 |
| <u>repairs other than the following: artificial rupture of</u> | 877 |

membranes; episiotomies; perineal, vaginal, or labial repairs; 878
clamping or cutting the umbilical cord. 879

(B) Before engaging in any of the activities permitted 880
under this section for a client, a certified professional 881
midwife must first obtain the client's informed consent. In 882
doing so, the following information shall be exchanged in 883
writing between the certified professional midwife and client: 884

(1) The name and license number of the certified 885
professional midwife; 886

(2) The client's name, address, telephone number, and 887
primary care provider, if the client has one; 888

(3) A description of the certified professional midwife's 889
education, training, and experience in midwifery; 890

(4) A description of the certified professional midwife's 891
peer review process; 892

(5) The certified professional midwife's practice 893
philosophy; 894

(6) A promise to provide the client, upon request, with 895
separate documents describing the rules governing the practice 896
of certified professional midwifery, including a list of 897
conditions indicating the need for consultation, collaboration, 898
referral, transfer, or mandatory transfer and the certified 899
professional midwife's personal written practice guidelines; 900

(7) A written plan for medical consultation and transfer 901
of care; 902

(8) A description of the services provided to the client 903
by the certified professional midwife; 904

(9) That the certified professional midwife holds a 905
current, valid license to practice as a certified professional 906
midwife; 907

(10) The availability of a grievance process; 908

(11) Whether the certified professional midwife is covered 909
by professional liability insurance. 910

Once the certified professional midwife and client have 911
exchanged the required information and if the client consents to 912
treatment, each shall sign a written document to indicate as 913
such. The certified professional midwife shall retain a copy of 914
the document for at least four years from the date on which the 915
document was signed. 916

(C) When engaging in any of the activities permitted under 917
this section, a certified professional midwife shall maintain 918
appropriate medical records regarding treatment and client 919
outcomes. 920

Sec. 4754.08. (A) In the case of a pregnancy that is 921
determined to be high risk, a certified professional midwife 922
must obtain the client's consent to be eligible to provide care 923
during the pregnancy and childbirth, attend the birth, or 924
provide care to the newborn. 925

(B) For any pregnancy or childbirth in which a certified 926
professional midwife provides care, the certified professional 927
midwife and a hospital that is capable of providing emergency 928
obstetric care shall enter into a written transfer of care 929
agreement that meets the requirements of section 4754.12 of the 930
Revised Code, except if a hospital birth is planned. When a home 931
birth is planned, the certified professional midwife must 932
register the client before the birth with a hospital that is 933

capable of providing emergency obstetric care. 934

Sec. 4754.09. (A) For the purpose of engaging in one or 935
more of the activities permitted under section 4754.07 of the 936
Revised Code, a certified professional midwife may obtain and 937
administer the following: 938

(1) Subject to division (A)(2) of section 4754.07 of the 939
Revised Code, an antihemorrhagic agent, including pitocin, 940
oxytocin, misoprostol, and methergine; 941

(2) Intravenous fluids to stabilize the laboring client; 942

(3) Neonatal injectable vitamin K; 943

(4) Newborn antibiotic eye prophylaxis; 944

(5) Oxygen; 945

(6) Intravenous antibiotics for group B streptococcal 946
prophylaxis; 947

(7) Rho (D) immune globulin; 948

(8) Local anesthesia; 949

(9) Epinephrine; 950

(10) A drug prescribed for the client by a physician; 951

(11) Any other drug consistent with a certified 952
professional midwife's scope of practice as described in section 953
4754.07 of the Revised Code. 954

(B) This section does not authorize a certified 955
professional midwife to prescribe, personally furnish, obtain, 956
or administer any controlled substance as defined in section 957
3719.01 of the Revised Code. 958

Sec. 4754.10. (A) As used in this section, "adverse 959

incident" means an incident over which a certified professional 960
midwife could exercise control, that is associated with an 961
attempted or completed out-of-hospital birth, and that results 962
in one or more of the following injuries or conditions: 963

(1) A maternal death that occurs during delivery or within 964
forty-two days after delivery; 965

(2) The transfer of a maternal client to a hospital 966
intensive care unit; 967

(3) A maternal client experiencing hemorrhagic shock or 968
requiring a transfusion of more than four units of blood or 969
blood products; 970

(4) A fetal or newborn death, including a stillbirth, 971
associated with an obstetrical delivery; 972

(5) A transfer of a newborn to a neonatal intensive care 973
unit due to a traumatic physical or neurological birth injury, 974
including any degree of a brachial plexus injury; 975

(6) A transfer of a newborn to a neonatal intensive care 976
unit within the first seventy-two hours after birth if the 977
newborn remains in such unit for more than seventy-two hours; 978

(7) Any other injury as determined by council of certified 979
professional midwives rule. 980

(B) Beginning July 1, 2023, a certified professional 981
midwife who attends a birth planned for a facility or setting 982
other than a hospital must report any adverse incident, along 983
with a medical summary of events, to the following within 15 984
days after the adverse incident occurs: 985

(1) The council of certified professional midwives; 986

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| <u>(2) The Ohio perinatal quality collaborative.</u> | 987 |
| <u>(C) The council shall review each incident report and determine whether to impose sanctions under section 4754.14 of the Revised Code.</u> | 988 989 990 |
| <u>(D) The council shall adopt rules implementing this section and shall develop a form to be used in the reporting of adverse incidents.</u> | 991 992 993 |
| <u>Sec. 4754.11. Each certified professional midwife shall report annually to the council of certified professional midwives the following information regarding cases in which the certified professional midwife provided services when the intended place of birth at the onset of care was in a facility or setting other than a hospital:</u> | 994 995 996 997 998 999 |
| <u>(A) The total number of clients;</u> | 1000 |
| <u>(B) The number of live births attended as a certified professional midwife;</u> | 1001 1002 |
| <u>(C) The number of cases of fetal demise, newborn deaths, and maternal deaths attended as a certified professional midwife at the discovery of the demise or death;</u> | 1003 1004 1005 |
| <u>(D) The number, reason for, and outcome of each transport of a client in the antepartum or intrapartum period or in the period that is approximately three to four hours after birth;</u> | 1006 1007 1008 |
| <u>(E) A brief description of any complications resulting in the morbidity or mortality of a mother or a newborn;</u> | 1009 1010 |
| <u>(F) The planned delivery setting and the actual setting;</u> | 1011 |
| <u>(G) Any other information the council finds necessary.</u> | 1012 |
| <u>Sec. 4754.12. (A) As used in this section and section</u> | 1013 |

4754.13 of the Revised Code, "emergency medical service," 1014
"emergency medical service personnel," and "emergency medical 1015
service organization" have the same meanings as in section 1016
4765.01 of the Revised Code. 1017

(B) The written transfer of care agreement required by 1018
section 4754.08 of the Revised Code shall contain all of the 1019
following: 1020

(1) The name and location of geographically adjacent 1021
hospitals and other facilities providing emergency care, 1022
obstetrical care, and newborn care; 1023

(2) The level of obstetrical or newborn care available; 1024

(3) The approximate travel time to each hospital or 1025
facility; 1026

(4) A list of the modes of transport services available, 1027
including an emergency medical service organization available by 1028
calling 911; 1029

(5) The requirements for activating each mode of 1030
transportation; 1031

(6) The mechanism by which medical records and other 1032
information concerning the client may be rapidly transmitted to 1033
each hospital or facility, including fax numbers and electronic 1034
health record portals; 1035

(7) Each hospital's or facility's preferences regarding 1036
patient preregistration; 1037

(8) Contact information for either a health care provider 1038
or practice group who has agreed in advance to accept clients in 1039
transfer, or a hospital's or facility's preferred method of 1040
accessing care by the hospital's or facility's designated 1041

provider on call. 1042

(C) When it becomes necessary to transfer a client, a certified professional midwife shall notify the receiving provider, hospital, or facility of all of the following: 1043
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(1) The incoming transfer; 1046

(2) The reason for the transfer; 1047

(3) A brief relevant clinical history; 1048

(4) The planned mode of transport; 1049

(5) The expected time of arrival. 1050

The certified professional midwife shall continue to provide routine or urgent care en route in coordination with any emergency medical services personnel or emergency medical service organization and shall address the psychosocial needs of the client during the change of birth setting. 1051
1052
1053
1054
1055

(D) On arrival at the hospital or facility, the certified professional midwife shall do all of the following: 1056
1057

(1) Provide a verbal report that includes details on the client's current health status and the need for urgent care; 1058
1059

(2) Provide a legible copy of relevant prenatal and labor medical records; 1060
1061

(3) Transfer clinical responsibility to the receiving provider, hospital, or facility. 1062
1063

If the client chooses, the certified professional midwife may remain to provide continuous support. Whenever possible, the client and her newborn shall be together during the transfer and after admission to the hospital or facility. 1064
1065
1066
1067

Sec. 4754.13. Emergency medical service personnel or an 1068
emergency medical service organization, hospital, facility, or 1069
physician that provides services or care following an adverse 1070
incident as defined in section 4754.10 of the Revised Code or 1071
during and after a transfer of care as described in section 1072
4754.12 of the Revised Code is not liable in damages in a tort 1073
or other civil action for injury or loss to person or property 1074
allegedly arising from the services or care, unless the services 1075
or care are provided in a manner that constitutes willful or 1076
wanton misconduct. 1077

Sec. 4754.14. (A) (1) Upon a finding by the council of 1078
certified professional midwives that an individual who holds a 1079
current, valid license to practice as a certified professional 1080
midwife has violated any provision of this chapter or the rules 1081
adopted under section 4754.15 of the Revised Code, the council 1082
may take any of the following actions separately or in any 1083
combination which is deemed appropriate to the offense: 1084

(a) Warning Letter - This is a written action issued for 1085
minor or near infractions. It is informal and advisory in nature 1086
and does not constitute a formal disciplinary action. 1087

(b) Reprimand - This is a written action issued for one 1088
time and less severe violations. It is a formal disciplinary 1089
action. 1090

(c) Probation - This is a formal disciplinary action which 1091
places a license holder on close scrutiny for a fixed period of 1092
time. This action may be combined with conditions that must be 1093
met before probation will be lifted or which restrict the 1094
holder's activities during the probationary period. 1095

(d) License suspension - This is a formal disciplinary 1096

action that suspends the right to practice for a fixed period of 1097
time. It contemplates return to practice under the license 1098
previously issued. 1099

(e) Revocation for cause - This is the most severe form of 1100
disciplinary action which removes an individual from the 1101
practice of the profession and terminates the license previously 1102
issued. The council, in its discretion, may allow reinstatement 1103
of a revoked license upon conditions and after a period of time 1104
which it deems appropriate. No petition for reinstatement and no 1105
new application for licensure from an individual whose 1106
certificate was revoked for cause shall be considered prior to 1107
the expiration of at least six months from the effective date of 1108
the revocation order. 1109

(f) Conditions - Any action deemed appropriate by the 1110
council to be required of a disciplined license holder during 1111
any period of probation or suspension or as a prerequisite to 1112
the lifting of probation or suspension or the reinstatement of a 1113
revoked license. 1114

(g) Civil penalty - A monetary disciplinary action 1115
assessed by the council pursuant to division (D) of this 1116
section. 1117

(2) Once ordered, the probation, suspension, revocation, 1118
assessment of a civil penalty, or any other condition of any 1119
type of disciplinary action may not be lifted unless and until 1120
the license holder petitions, pursuant to division (B) of this 1121
section, and appears before the council after the period of 1122
initial probation, suspension, revocation, or other conditioning 1123
has run and all conditions placed on the probation, suspension, 1124
revocation, have been met, and after any civil penalties 1125
assessed have been paid. 1126

(B) Order of Compliance - This procedure is a necessary 1127
adjunct to previously issued disciplinary orders and is 1128
available only when a petitioner has completely complied with 1129
the provisions of a previously issued disciplinary order, 1130
including an uncertified practice civil penalty order, and 1131
wishes or is required to obtain an order reflecting that 1132
compliance. 1133

(1) The council will entertain petitions for an order of 1134
compliance as a supplement to a previously issued order upon 1135
strict compliance with the procedures set forth in division (B) 1136
(2) of this section in only the following three circumstances: 1137

(a) When the petitioner can prove compliance with all the 1138
terms of the previously issued order and is seeking to have an 1139
order issued reflecting that compliance; 1140

(b) When the petitioner can prove compliance with all the 1141
terms of the previously issued order and is seeking to have an 1142
order issued lifting a previously ordered suspension or 1143
probation; 1144

(c) When the petitioner can prove compliance with all the 1145
terms of the previously issued order and is seeking to have an 1146
order issued reinstating a certificate previously revoked. 1147

(2) (a) The petitioner shall submit to the council a 1148
petition for order of compliance, as described in section 1149
4754.141 of the Revised Code, that contains all of the 1150
following: 1151

(i) A copy of the previously issued order; 1152

(ii) A statement of which provision of division (B) (1) of 1153
this section the petitioner is relying upon as a basis for the 1154
requested order; and 1155

(iii) A copy of all documents that prove compliance with 1156
all the terms or conditions of the previously issued order. If 1157
proof of compliance requires testimony of an individual, 1158
including that of the petitioner, the petitioner must submit 1159
signed statements from every individual the petitioner intends 1160
to rely upon attesting, under oath, to the compliance. The 1161
council, in its discretion, may require such signed statements 1162
to be notarized. No documentation or testimony other than that 1163
submitted will be considered in making an initial determination 1164
on, or a final order in response to, the petition. 1165

(b) The council's staff may make an initial determination 1166
on the petition and take one of the following actions: 1167

(i) Certify compliance and have the matter scheduled for 1168
presentation to the council as an uncontested matter; 1169

(ii) Deny the petition, after consultation with legal 1170
staff, if compliance with all of the provisions of the previous 1171
order is not proven and notify the petitioner of what provisions 1172
remain to be fulfilled or what proof of compliance was either 1173
not sufficient or not submitted. 1174

(c) If the petition is presented to the council, the 1175
petitioner may not submit any additional documentation or 1176
testimony other than that contained in the petition as 1177
originally submitted. 1178

(d) If the council finds that the petitioner has complied 1179
with all the terms of the previous order an order of compliance 1180
shall be issued. 1181

(e) If the petition is denied either initially or after 1182
presentation to the council and the petitioner believes 1183
compliance with the order has been sufficiently proven the 1184

petitioner may seek an appeal under Chapter 119. of the Revised 1185
Code. 1186

(C) Order Modifications - This procedure is not intended 1187
to allow anyone under a previously issued disciplinary order, 1188
including an unlicensed practice civil penalty order, to modify 1189
any findings of fact, conclusions of law, or the reasons for the 1190
decision contained in the order. It is also not intended to 1191
allow a petition for a lesser disciplinary action, or civil 1192
penalty other than the one previously ordered. All such 1193
provisions of council orders were subject to appeal under 1194
Chapter 119. of the Revised Code. This procedure is not 1195
available as a substitute for appeal and is only available after 1196
all appeal rights have been either exhausted or not timely 1197
pursued. It is also not available for those who have accepted 1198
and been issued a reprimand. 1199

(1) The council will entertain petitions for modification 1200
of the disciplinary portion of previously issued orders upon 1201
strict compliance with the procedures set forth in division (C) 1202
(2) of this section only when the petitioner can prove that 1203
compliance with any one or more of the conditions or terms of 1204
the discipline previously ordered is impossible. For purposes of 1205
this rule the term "impossible" does not mean that compliance is 1206
inconvenient or impractical for personal, financial, scheduling 1207
or other reasons. 1208

(2) Procedures 1209

(a) The petitioner shall submit a written and signed 1210
petition for order modification, as described in section 1211
4754.142 of the Revised Code, that shall contain all of the 1212
following: 1213

- (i) A copy of the previously issued order; 1214
- (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; 1215
1216
- (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual, including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition. 1217
1218
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- (b) The council authorizes its staff to make an initial determination on the petition and take one of the following actions: 1226
1227
1228
- (i) Certify impossibility of compliance and forward the petition to legal staff for presentation to the council as an uncontested matter; 1229
1230
1231
- (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted. 1232
1233
1234
1235
1236
- (c) If the petition is presented to the council, the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted. 1237
1238
1239
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- (d) If the petition is granted a new order shall be issued reflecting the modifications authorized by the council that the 1241
1242

council deemed appropriate and necessary in relation to the 1243
violations found in the previous order. 1244

(e) If the petition is denied either initially by staff or 1245
after presentation to the council and the petitioner believes 1246
impossibility of compliance with the order has been sufficiently 1247
proven, the petitioner may seek an appeal under Chapter 119. of 1248
the Revised Code. 1249

(D) Civil Penalties 1250

(1) Purpose - The purpose of this rule is to set out a 1251
schedule designating the minimum and maximum civil penalties 1252
which may be assessed under this chapter. 1253

(2) Schedule of Civil Penalties. 1254

(a) A "type A" civil penalty may be imposed whenever the 1255
council finds a person who is required to be licensed guilty of 1256
a knowing violation of this chapter or rules adopted under it to 1257
such an extent that there is, or is likely to be, an imminent, 1258
substantial threat to the health, safety, and welfare of an 1259
individual client or the public. For purposes of this section, 1260
knowingly practicing without a license is one of the violations 1261
for which a "type A" civil penalty is assessable. 1262

(b) A "type B" civil penalty may be imposed whenever the 1263
council finds the person required to be licensed guilty of a 1264
violation of this chapter or rules adopted under it in such 1265
manner as to impact directly on the care of clients or the 1266
public. 1267

(c) A "type C" civil penalty may be imposed whenever the 1268
council finds the person required to be licensed guilty of a 1269
violation of this chapter or rules adopted under it, which are 1270
neither directly detrimental to the clients or public, nor 1271

| | |
|---|------|
| <u>directly impact their care, but have only an indirect</u> | 1272 |
| <u>relationship to client care or the public.</u> | 1273 |
| <u>(3) Amount of Civil Penalties.</u> | 1274 |
| <u>(a) "Type A" civil penalties shall be assessed in the</u> | 1275 |
| <u>amount of not less than five hundred and not more than one</u> | 1276 |
| <u>thousand dollars.</u> | 1277 |
| <u>(b) "Type B" civil penalties shall be assessed in the</u> | 1278 |
| <u>amount of not less than one hundred and not more than five</u> | 1279 |
| <u>hundred dollars.</u> | 1280 |
| <u>(c) "Type C" civil penalties shall be assessed in the</u> | 1281 |
| <u>amount of not less than fifty and not more than one hundred</u> | 1282 |
| <u>dollars.</u> | 1283 |
| <u>(4) Procedures for Assessing Civil Penalties.</u> | 1284 |
| <u>(a) The council may initiate a civil penalty assessment by</u> | 1285 |
| <u>filing a memorandum of assessment of civil penalty. The council</u> | 1286 |
| <u>shall state in the memorandum the facts and law upon which it</u> | 1287 |
| <u>relies in alleging a violation, the proposed amount of the civil</u> | 1288 |
| <u>penalty, and the basis for such penalty. The council may</u> | 1289 |
| <u>incorporate the memorandum of assessment of civil penalty with a</u> | 1290 |
| <u>notice of charges which may be issued attendant thereto.</u> | 1291 |
| <u>(b) In assessing the civil penalties, the council may</u> | 1292 |
| <u>consider the following factors:</u> | 1293 |
| <u>(i) Whether the amount imposed will be a substantial</u> | 1294 |
| <u>economic deterrent to the violator;</u> | 1295 |
| <u>(ii) The circumstances leading to the violation;</u> | 1296 |
| <u>(iii) The severity of the violation and the risk of harm</u> | 1297 |
| <u>to the public;</u> | 1298 |

(iv) The economic benefits gained by the violator as a 1299
result of noncompliance; and 1300

(v) The interest of the public. 1301

(c) All proceedings for the assessment of civil penalties 1302
shall be governed by Chapter 119. of the Revised Code. 1303
1304

Sec. 4754.141. For purposes of submitting a petition for 1305
order of compliance under division (B) of section 4754.14 of the 1306
Revised Code, a petitioner shall submit the following form: 1307

"Petition for Order of Compliance 1308

Council of Certified Professional Midwives 1309

1310

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| | | |
|---|-------------------------------------|-------|
| A | <u>Petitioner's name</u> | ===== |
| B | <u>Petitioner's mailing address</u> | ===== |
| C | <u>Petitioner's e-mail address</u> | ===== |
| D | <u>Telephone number</u> | ===== |
| E | <u>Attorney for petitioner</u> | ===== |
| F | <u>Attorney's mailing address</u> | ===== |
| G | <u>Attorney's e-mail address</u> | ===== |
| H | <u>Telephone number</u> | ===== |

The petitioner respectfully represents, as substantiated 1311
by the attached documentation, that all provisions of the 1312
attached disciplinary order have been complied with and I am 1313
respectfully requesting (circle one): 1314

1. An order issued reflecting that compliance; 1315

2. An order issued reflecting that compliance and lifting 1316
a previously-ordered suspension or probation; or 1317

3. An order issued reflecting that compliance and 1318
reinstating a certificate previously revoked. 1319

Note: You must enclose all documents necessary to prove 1320
your request, including a copy of the original order. If any of 1321
the proof you are relying upon to show compliance is the 1322
testimony of any individual, including yourself, you must 1323
enclose signed statements from every individual you intend to 1324
rely upon attesting, under oath, to the compliance. The council, 1325
in its discretion, may require such signed statements to be 1326
notarized. No documentation or testimony other than that 1327
submitted will be considered in making an initial determination 1328
on, or a final order in response to, this petition. 1329

Respectfully submitted this the ____ day of ____, 20__. 1330

_____ 1331

Petitioner's signature" 1332

Sec. 4754.142. For purposes of submitting a petition for 1333
order modification under division (C) of section 4754.14 of the 1334
Revised Code, the petitioner shall submit the following form: 1335

"Petition for Order Modification 1336

Council of Certified Professional Midwives 1337

The petitioner respectfully represents for the following 1338
reasons, as substantiated by the attached documentation, the 1339
identified provisions of the attached disciplinary order are 1340
impossible for me to comply with: 1341

1342

1

2

- A Petitioner's name _____
- B Petitioner's mailing address _____
- C Petitioner's e-mail address _____
- D Telephone number _____
- E Attorney for petitioner _____
- F Attorney's mailing address _____
- G Attorney's e-mail address _____
- H Telephone number _____

Note: You must enclose all documents necessary to prove 1343
your request, including a copy of the original order. If any of 1344
the proof you are relying upon to show impossibility is the 1345
testimony of any individual, including yourself, you must 1346
enclose signed statements from every individual you intend to 1347
rely upon attesting, under oath, to the reasons why compliance 1348
is impossible. No documentation or testimony other than that 1349
submitted will be considered in making an initial determination 1350
on, or a final order in response to, this petition. 1351

Respectfully submitted this the _____ day of _____, 20_____. 1352

_____ 1353

Petitioner's signature" 1354

Sec. 4754.15. (A) The council of certified professional 1355
midwives shall adopt rules establishing standards and procedures 1356
for the licensure and regulation of certified professional 1357
midwives, including rules that establish all of the following: 1358

(1) Procedures for applying for and renewing licenses; 1359

(2) Standards for approving education programs leading to 1360
eligibility for certification in professional midwifery, 1361
including programs accredited or approved by the midwifery 1362
education accreditation council or a national accrediting 1363
organization acceptable to the council. When determining if a 1364
national accrediting organization is acceptable, the council 1365
shall consider whether the organization is recognized by the 1366
United States department of education. 1367

(3) Standards for approving professional education 1368
programs; 1369

(4) Standards and procedures for the hospital 1370
registrations and written transfer of care agreements required 1371
by section 4754.08 of the Revised Code; 1372

(5) Standards of practice for certified professional 1373
midwives, including those which promote safe and competent care; 1374

(6) Standards and procedures for physician consults and 1375
referrals for each stage of pregnancy and for every pregnancy 1376
risk status. 1377

(B) The council also may adopt any other rules it 1378

considers necessary to implement and administer this chapter. 1379
The rules may require the completion of a criminal records 1380
check. 1381

(C) When adopting rules under this section, all of the 1382
following apply: 1383

(1) The council shall adopt rules in accordance with 1384
Chapter 119. of the Revised Code. 1385

(2) The rules shall be consistent with the standards of 1386
practice and ethical conduct established by the north American 1387
registry of midwives and the national association of certified 1388
professional midwives. 1389

Sec. 4754.16. (A) As used in this section: 1390

(1) "Advertisement" means informational communication to 1391
the public in any manner designed to attract public attention to 1392
the practice of an individual who holds a current, valid license 1393
to practice as a certified professional midwife. 1394

(2) "Material fact" means any fact which an ordinary 1395
reasonable and prudent person would need to know or rely upon in 1396
order to make an informed decision concerning the choice of 1397
practitioners to serve the person's particular needs. 1398

(3) "Bait and switch advertising" means an alluring but 1399
insincere offer to sell a product or service which the 1400
advertiser in truth does not intend or want to sell. Its purpose 1401
is to switch consumers from buying the advertised service or 1402
merchandise, in order to sell something else, usually for a 1403
higher fee or on a basis more advantageous to the advertiser. 1404

(4) "Discounted fee" means a fee offered or charged by a 1405
person or organization for any product or service that is less 1406

than the fee the person or organization usually offers or 1407
charges for the product or service. Products or services 1408
expressly offered free of charge shall not be deemed to be 1409
offered at a "discounted fee." 1410

(B) (1) An individual who holds a current, valid license to 1411
practice as a certified professional midwife may advertise fixed 1412
fees for any service. It is presumed, unless otherwise stated in 1413
the advertisement, that a fixed fee for a service shall include 1414
the cost of all professional recognized components within 1415
generally accepted standards that are required to complete the 1416
service. 1417

(2) An individual who holds a current, valid license to 1418
practice as a certified professional midwife may advertise a 1419
range of fees for services and the advertisement must disclose 1420
the factors used in determining the actual fee, necessary to 1421
prevent deception of the public. 1422

(3) An individual who holds a current, valid license to 1423
practice as a certified professional midwife may advertise 1424
discount fees if both of the following apply: 1425

(a) The discount fee is in fact lower than the customary 1426
or usual fee charged by a certified professional midwife for the 1427
service. 1428

(b) The certified professional midwife provides the same 1429
quality and components of service and material at the discounted 1430
fee that are normally provided at the regular, nondiscounted fee 1431
for that service. 1432

(4) An individual who holds a current, valid license to 1433
practice as a certified professional midwife must identify in an 1434
advertisement any related services which may be required in 1435

conjunction with the advertised services for which additional 1436
fees will be charged. 1437

(5) An individual who holds a current, valid license to 1438
practice as a certified professional midwife shall honor 1439
advertised fees for those seeking the advertised services during 1440
the entire time period stated in the advertisement whether or 1441
not the services are actually rendered or completed within that 1442
time. If no time period is stated in the advertisement of fees, 1443
the advertised fee shall be honored for thirty days from the 1444
last date of publication or until the next scheduled 1445
publication, whichever is later, whether or not the services are 1446
actually rendered or completed within that time. 1447

(C) The following acts or omissions in the content of 1448
advertisement by any individual who holds a current, valid 1449
license to practice as a certified professional midwife shall 1450
constitute unprofessional conduct and shall subject the 1451
individual to disciplinary action: 1452

(1) Making claims that the services performed, personnel 1453
employed, materials, or office equipment used are professionally 1454
superior to that which is ordinarily performed, employed, or 1455
used, or that convey the message that one certified professional 1456
midwife is better than another when superiority of services, 1457
personnel, materials, or equipment cannot be substantiated; 1458

(2) Using an unearned or non-health degree in any 1459
advertisement; 1460

(3) Promoting professional services that the certified 1461
professional midwife knows or should know are beyond the 1462
midwife's ability to perform; 1463

(4) Communicating in a manner that intimidates or exerts 1464

| | |
|--|------|
| <u>undue pressure or undue influence over a prospective client;</u> | 1465 |
| <u>(5) Appealing to an individual's anxiety in an excessive or unfair manner;</u> | 1466 |
| <u>(6) Using personal testimonials attesting to quality of competency of a service or treatment offered by a certified professional midwife that are not reasonably verifiable;</u> | 1468 |
| <u>(7) Using statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the certified professional midwife can achieve;</u> | 1471 |
| <u>(8) Communicating personal identifiable facts, data, or information about a patient without first obtaining patient consent;</u> | 1472 |
| <u>(9) Misrepresenting any material fact;</u> | 1473 |
| <u>(10) Knowingly suppressing, omitting, or concealing any materials, fact, or law without which the advertisement would be deceptive or misleading;</u> | 1474 |
| <u>(11) Making statements concerning the benefits or other attributes of procedures or products that involve significant risks without including any of the following:</u> | 1475 |
| <u>(a) A realistic assessment of the safety and efficiency of those procedures or products;</u> | 1476 |
| <u>(b) The availability of alternatives;</u> | 1477 |
| <u>(c) Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.</u> | 1478 |
| <u>(12) Communicating in a manner that creates an unjustified</u> | 1479 |

| | |
|--|------|
| <u>expectation concerning the potential results of any treatment;</u> | 1492 |
| <u>(13) Failing to comply with the rules governing</u> | 1493 |
| <u>advertisement of fees and services or advertising records;</u> | 1494 |
| <u>(14) Using bait and switch advertisements without</u> | 1495 |
| <u>furnishing data or other evidence pertaining to those sales at</u> | 1496 |
| <u>the advertised fee as well as other sales;</u> | 1497 |
| <u>(15) Misrepresenting a certified professional midwife's</u> | 1498 |
| <u>credentials, training, experience, or ability;</u> | 1499 |
| <u>(16) Failing to include the certified professional</u> | 1500 |
| <u>midwife's or midwife's group practice name, address, and</u> | 1501 |
| <u>telephone number in any advertisement, including the names of</u> | 1502 |
| <u>all the midwives practicing with the group;</u> | 1503 |
| <u>(17) Failing to disclose the fact of giving compensation</u> | 1504 |
| <u>or anything of value to representatives of the press, radio,</u> | 1505 |
| <u>television, or other communicative medium in anticipation of or</u> | 1506 |
| <u>in return for any advertisement, unless the nature, format, or</u> | 1507 |
| <u>medium of such advertisement makes the fact of compensation</u> | 1508 |
| <u>apparent;</u> | 1509 |
| <u>(18) Using the name of any certified professional midwife</u> | 1510 |
| <u>more than thirty days after the midwife departed from a group</u> | 1511 |
| <u>practice, including in advertisements or on office signs or</u> | 1512 |
| <u>buildings, except if the midwife's status is disclosed in any</u> | 1513 |
| <u>advertisement or sign;</u> | 1514 |
| <u>(19) Stating or implying that a certain certified</u> | 1515 |
| <u>professional midwife provides all services when any such</u> | 1516 |
| <u>services are performed by another certified professional</u> | 1517 |
| <u>midwife;</u> | 1518 |
| <u>(20) Directly or indirectly offering, giving, receiving,</u> | 1519 |

or agreeing to receive any fee or other consideration to or from 1520
a third party for the referral of a patient in connection with 1521
the performance of professional services. 1522

(D) (1) An individual who holds a current, valid license to 1523
practice as a certified professional midwife and is a principal 1524
partner or officer of a practice identified in any advertisement 1525
is jointly and severally responsible for the form and content of 1526
any advertisement. This provision also shall apply to any 1527
individual who holds a current, valid license to practice as a 1528
certified professional midwife acting as an agent of such 1529
practice. 1530

(2) Any and all advertisements are presumed to have been 1531
approved by the licensed certified professional midwife named 1532
therein. 1533

(3) A recording of every advertisement communicated by 1534
electronic media, and a copy of every advertisement communicated 1535
by print media, and a copy of any other form of advertisement 1536
shall be retained by the certified professional midwife for a 1537
period of two years from the last date of broadcast or 1538
publication and be made available for review upon request by the 1539
council of certified professional midwives. 1540

(4) At the time any type of advertisement is placed, the 1541
certified professional midwife must possess and rely upon 1542
information which, when produced, would substantiate the 1543
truthfulness of any assertion, omission, or representation of 1544
material fact set forth in the advertisement or public 1545
information. 1546

(E) It is hereby declared that the provisions of this 1547
section are severable, are not matters of mutual essential 1548

inducement, and any of them shall be rescinded if this section 1549
would otherwise be unconstitutional or ineffective. If any one 1550
or more provisions shall for any reason be questioned in court, 1551
and shall be adjudged unconstitutional or invalid, such judgment 1552
shall not affect, impair, or invalidate the remaining provisions 1553
thereof, but shall be confined in its operation to the specific 1554
provision or provisions so held unconstitutional or invalid, and 1555
the inapplicability or invalidity of any provision in any one or 1556
more instance shall not be taken to affect or prejudice in any 1557
way its applicability or validity in any other instance. 1558

Sec. 4754.17. An individual who holds a current, valid 1559
license to practice as a certified professional midwife shall 1560
comply with the code of ethics adopted by the midwives alliance 1561
of North America, except to the extent that the code of ethics 1562
conflicts with the laws of this state, including this chapter 1563
and the rules adopted under section 4754.15 of the Revised Code. 1564
In the event of a conflict, state law governs. A violation of 1565
the code of ethics or state law may result in disciplinary 1566
action as described in section 4754.14 of the Revised Code. 1567

Sec. 4754.99. (A) Except as provided in division (B) of 1568
this section, whoever violates section 4754.04 of the Revised 1569
Code is guilty of a felony of the fifth degree on a first 1570
offense and a felony of the fourth degree on each subsequent 1571
offense. 1572

(B) A certified professional midwife who violates division 1573
(A) of section 4754.04 of the Revised Code by reason of a 1574
license to practice as a certified professional midwife that has 1575
lapsed for failure to renew or by practicing professional 1576
midwifery after a license has been classified as inactive is 1577
guilty of a minor misdemeanor. 1578

Sec. 5164.072. The medicaid program shall cover midwifery services provided in accordance with section 4754.06 of the Revised Code by a certified professional midwife licensed under Chapter 4754. of the Revised Code. 1579
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Any certified professional midwife may enter into a provider agreement with the department of medicaid to provide services under the medicaid program. 1583
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Section 2. That existing sections 1739.05, 4723.01, 4729.01, and 4729.541 of the Revised Code are hereby repealed. 1586
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Section 3. That section 4723.45 of the Revised Code is hereby repealed. 1588
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Section 4. Sections 1739.05 and 1751.671 of the Revised Code, as amended or enacted by this act, apply only to arrangements, policies, contracts, and agreements that are created, delivered, issued for delivery, or renewed in this state on or after January 1, 2023. Sections 3923.631 and 3923.641 of the Revised Code, as enacted by this act, apply only to policies of sickness and accident insurance delivered, issued for delivery, or renewed in this state on or after January 1, 2023, and only to public employee benefit plans that are established or modified in this state on or after January 1, 2023. Section 5164.072 of the Revised Code, as enacted by this act, applies to the Medicaid program and health insuring corporations under contract with the Department of Medicaid on or after January 1, 2023. 1590
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Section 5. Section 4729.01 of the Revised Code is presented in this act as a composite of the section as amended by H.B. 24, H.B. 197, H.B. 203, H.B. 231, H.B. 341, and S.B. 57, all of the 133rd General Assembly. The General Assembly, 1604
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applying the principle stated in division (B) of section 1.52 of 1608
the Revised Code that amendments are to be harmonized if 1609
reasonably capable of simultaneous operation, finds that the 1610
composite is the resulting version of the section in effect 1611
prior to the effective date of the section as presented in this 1612
act. 1613

Section 6. This act shall be known as the Ohio Midwife 1614
Practice Act. 1615