

As Reported by the House Health Provider Services Committee

135th General Assembly

Regular Session

2023-2024

Sub. H. B. No. 102

Representatives Young, T., John

Cosponsors: Representatives Click, Seitz

A BILL

To amend sections 2305.234, 2925.01, 2925.23, 1
2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 2
3715.872, 3719.121, 3719.13, 3719.81, 4729.01, 3
4729.51, 4731.22, 4731.25, 4743.09, 4755.48, 4
4761.01, 4761.03, 4761.032, 4761.06, 4761.061, 5
4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 6
4761.30, 4761.99, 4765.51, 4769.01, 5123.47, 7
5164.95, and 5903.12; to amend, for the purpose 8
of adopting a new section number as indicated in 9
parentheses, section 4761.30 (4761.25); and to 10
enact new section 4761.30 and sections 4761.033, 11
4761.20, 4761.21, 4761.301, 4761.31, 4761.32, 12
4761.33, 4761.34, 4761.35, 4761.36, 4761.37, 13
4761.38, 4761.381, 4761.39, 4761.40, 4761.41, 14
4761.43, 4761.44, 4761.45, and 4761.48 of the 15
Revised Code to license advanced practice 16
respiratory therapists. 17

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

Section 1. That sections 2305.234, 2925.01, 2925.23, 18
2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3715.872, 19

3719.121, 3719.13, 3719.81, 4729.01, 4729.51, 4731.22, 4731.25, 20
4743.09, 4755.48, 4761.01, 4761.03, 4761.032, 4761.06, 4761.061, 21
4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 4761.30, 4761.99, 22
4765.51, 4769.01, 5123.47, 5164.95, and 5903.12 be amended; 23
section 4761.30 (4761.25) be amended for the purpose of adopting 24
a new section number as indicated in parentheses; and new 25
section 4761.30 and sections 4761.033, 4761.20, 4761.21, 26
4761.301, 4761.31, 4761.32, 4761.33, 4761.34, 4761.35, 4761.36, 27
4761.37, 4761.38, 4761.381, 4761.39, 4761.40, 4761.41, 4761.43, 28
4761.44, 4761.45, and 4761.48 of the Revised Code be enacted to 29
read as follows: 30

Sec. 2305.234. (A) As used in this section: 31

(1) "Chiropractic claim," "medical claim," and "optometric 32
claim" have the same meanings as in section 2305.113 of the 33
Revised Code. 34

(2) "Dental claim" has the same meaning as in section 35
2305.113 of the Revised Code, except that it does not include 36
any claim arising out of a dental operation or any derivative 37
claim for relief that arises out of a dental operation. 38

(3) "Governmental health care program" has the same 39
meaning as in section 4731.65 of the Revised Code. 40

(4) "Health care facility or location" means a hospital, 41
clinic, ambulatory surgical facility, office of a health care 42
professional or associated group of health care professionals, 43
training institution for health care professionals, a free 44
clinic or other nonprofit shelter or health care facility as 45
those terms are defined in section 3701.071 of the Revised Code, 46
or any other place where medical, dental, or other health- 47
related diagnosis, care, or treatment is provided to a person. 48

(5) "Health care professional" means any of the following	49
who provide medical, dental, or other health-related diagnosis,	50
care, or treatment:	51
(a) Physicians authorized under Chapter 4731. of the	52
Revised Code to practice medicine and surgery or osteopathic	53
medicine and surgery;	54
(b) Advanced practice registered nurses, registered	55
nurses, and licensed practical nurses licensed under Chapter	56
4723. of the Revised Code;	57
(c) Physician assistants authorized to practice under	58
Chapter 4730. of the Revised Code;	59
(d) Dentists and dental hygienists licensed under Chapter	60
4715. of the Revised Code;	61
(e) Physical therapists, physical therapist assistants,	62
occupational therapists, occupational therapy assistants, and	63
athletic trainers licensed under Chapter 4755. of the Revised	64
Code;	65
(f) Chiropractors licensed under Chapter 4734. of the	66
Revised Code;	67
(g) Optometrists licensed under Chapter 4725. of the	68
Revised Code;	69
(h) Podiatrists authorized under Chapter 4731. of the	70
Revised Code to practice podiatry;	71
(i) Dietitians licensed under Chapter 4759. of the Revised	72
Code;	73
(j) Pharmacists licensed under Chapter 4729. of the	74
Revised Code;	75

(k) Emergency medical technicians-basic, emergency medical	76
technicians-intermediate, and emergency medical technicians-	77
paramedic, certified under Chapter 4765. of the Revised Code;	78
(l) Respiratory care professionals <u>and advanced practice</u>	79
<u>respiratory therapists</u> licensed under Chapter 4761. of the	80
Revised Code;	81
(m) Speech-language pathologists and audiologists licensed	82
under Chapter 4753. of the Revised Code;	83
(n) Licensed professional clinical counselors, licensed	84
professional counselors, independent social workers, social	85
workers, independent marriage and family therapists, and	86
marriage and family therapists, licensed under Chapter 4757. of	87
the Revised Code;	88
(o) Psychologists licensed under Chapter 4732. of the	89
Revised Code;	90
(p) Independent chemical dependency counselors-clinical	91
supervisors, independent chemical dependency counselors,	92
chemical dependency counselors III, and chemical dependency	93
counselors II, licensed under Chapter 4758. of the Revised Code,	94
and chemical dependency counselor assistants, prevention	95
consultants, prevention specialists, prevention specialist	96
assistants, and registered applicants, certified under that	97
chapter.	98
(6) "Health care worker" means a person other than a	99
health care professional who provides medical, dental, or other	100
health-related care or treatment under the direction of a health	101
care professional with the authority to direct that individual's	102
activities, including medical technicians, medical assistants,	103
dental assistants, orderlies, aides, and individuals acting in	104

similar capacities.	105
(7) "Indigent and uninsured person" means a person who	106
meets both of the following requirements:	107
(a) Relative to being indigent, the person's income is not	108
greater than two hundred per cent of the federal poverty line,	109
as defined by the United States office of management and budget	110
and revised in accordance with section 673(2) of the "Omnibus	111
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.	112
9902, as amended, except in any case in which division (A) (7) (b)	113
(iii) of this section includes a person whose income is greater	114
than two hundred per cent of the federal poverty line.	115
(b) Relative to being uninsured, one of the following	116
applies:	117
(i) The person is not a policyholder, certificate holder,	118
insured, contract holder, subscriber, enrollee, member,	119
beneficiary, or other covered individual under a health	120
insurance or health care policy, contract, or plan.	121
(ii) The person is a policyholder, certificate holder,	122
insured, contract holder, subscriber, enrollee, member,	123
beneficiary, or other covered individual under a health	124
insurance or health care policy, contract, or plan, but the	125
insurer, policy, contract, or plan denies coverage or is the	126
subject of insolvency or bankruptcy proceedings in any	127
jurisdiction.	128
(iii) Until June 30, 2019, the person is eligible for the	129
medicaid program or is a medicaid recipient.	130
(iv) Except as provided in division (A) (7) (b) (iii) of this	131
section, the person is not eligible for or a recipient,	132
enrollee, or beneficiary of any governmental health care	133

program.	134
(8) "Nonprofit health care referral organization" means an	135
entity that is not operated for profit and refers patients to,	136
or arranges for the provision of, health-related diagnosis,	137
care, or treatment by a health care professional or health care	138
worker.	139
(9) "Operation" means any procedure that involves cutting	140
or otherwise infiltrating human tissue by mechanical means,	141
including surgery, laser surgery, ionizing radiation,	142
therapeutic ultrasound, or the removal of intraocular foreign	143
bodies. "Operation" does not include the administration of	144
medication by injection, unless the injection is administered in	145
conjunction with a procedure infiltrating human tissue by	146
mechanical means other than the administration of medicine by	147
injection. "Operation" does not include routine dental	148
restorative procedures, the scaling of teeth, or extractions of	149
teeth that are not impacted.	150
(10) "Tort action" means a civil action for damages for	151
injury, death, or loss to person or property other than a civil	152
action for damages for a breach of contract or another agreement	153
between persons or government entities.	154
(11) "Volunteer" means an individual who provides any	155
medical, dental, or other health-care related diagnosis, care,	156
or treatment without the expectation of receiving and without	157
receipt of any compensation or other form of remuneration from	158
an indigent and uninsured person, another person on behalf of an	159
indigent and uninsured person, any health care facility or	160
location, any nonprofit health care referral organization, or	161
any other person or government entity.	162

(12) "Community control sanction" has the same meaning as 163
in section 2929.01 of the Revised Code. 164

(13) "Deep sedation" means a drug-induced depression of 165
consciousness during which a patient cannot be easily aroused 166
but responds purposefully following repeated or painful 167
stimulation, a patient's ability to independently maintain 168
ventilatory function may be impaired, a patient may require 169
assistance in maintaining a patent airway and spontaneous 170
ventilation may be inadequate, and cardiovascular function is 171
usually maintained. 172

(14) "General anesthesia" means a drug-induced loss of 173
consciousness during which a patient is not arousable, even by 174
painful stimulation, the ability to independently maintain 175
ventilatory function is often impaired, a patient often requires 176
assistance in maintaining a patent airway, positive pressure 177
ventilation may be required because of depressed spontaneous 178
ventilation or drug-induced depression of neuromuscular 179
function, and cardiovascular function may be impaired. 180

(B) (1) Subject to divisions (F) and (G) (3) of this 181
section, a health care professional who is a volunteer and 182
complies with division (B) (2) of this section is not liable in 183
damages to any person or government entity in a tort or other 184
civil action, including an action on a medical, dental, 185
chiropractic, optometric, or other health-related claim, for 186
injury, death, or loss to person or property that allegedly 187
arises from an action or omission of the volunteer in the 188
provision to an indigent and uninsured person of medical, 189
dental, or other health-related diagnosis, care, or treatment, 190
including the provision of samples of medicine and other medical 191
products, unless the action or omission constitutes willful or 192

wanton misconduct. 193

(2) To qualify for the immunity described in division (B) 194
(1) of this section, a health care professional shall do all of 195
the following prior to providing diagnosis, care, or treatment: 196

(a) Determine, in good faith, that the indigent and 197
uninsured person is mentally capable of giving informed consent 198
to the provision of the diagnosis, care, or treatment and is not 199
subject to duress or under undue influence; 200

(b) Inform the person of the provisions of this section, 201
including notifying the person that, by giving informed consent 202
to the provision of the diagnosis, care, or treatment, the 203
person cannot hold the health care professional liable for 204
damages in a tort or other civil action, including an action on 205
a medical, dental, chiropractic, optometric, or other health- 206
related claim, unless the action or omission of the health care 207
professional constitutes willful or wanton misconduct; 208

(c) Obtain the informed consent of the person and a 209
written waiver, signed by the person or by another individual on 210
behalf of and in the presence of the person, that states that 211
the person is mentally competent to give informed consent and, 212
without being subject to duress or under undue influence, gives 213
informed consent to the provision of the diagnosis, care, or 214
treatment subject to the provisions of this section. A written 215
waiver under division (B) (2) (c) of this section shall state 216
clearly and in conspicuous type that the person or other 217
individual who signs the waiver is signing it with full 218
knowledge that, by giving informed consent to the provision of 219
the diagnosis, care, or treatment, the person cannot bring a 220
tort or other civil action, including an action on a medical, 221
dental, chiropractic, optometric, or other health-related claim, 222

against the health care professional unless the action or 223
omission of the health care professional constitutes willful or 224
wanton misconduct. 225

(3) A physician or podiatrist who is not covered by 226
medical malpractice insurance, but complies with division (B) (2) 227
of this section, is not required to comply with division (A) of 228
section 4731.143 of the Revised Code. 229

(C) Subject to divisions (F) and (G) (3) of this section, 230
health care workers who are volunteers are not liable in damages 231
to any person or government entity in a tort or other civil 232
action, including an action upon a medical, dental, 233
chiropractic, optometric, or other health-related claim, for 234
injury, death, or loss to person or property that allegedly 235
arises from an action or omission of the health care worker in 236
the provision to an indigent and uninsured person of medical, 237
dental, or other health-related diagnosis, care, or treatment, 238
unless the action or omission constitutes willful or wanton 239
misconduct. 240

(D) Subject to divisions (F) and (G) (3) of this section, a 241
nonprofit health care referral organization is not liable in 242
damages to any person or government entity in a tort or other 243
civil action, including an action on a medical, dental, 244
chiropractic, optometric, or other health-related claim, for 245
injury, death, or loss to person or property that allegedly 246
arises from an action or omission of the nonprofit health care 247
referral organization in referring indigent and uninsured 248
persons to, or arranging for the provision of, medical, dental, 249
or other health-related diagnosis, care, or treatment by a 250
health care professional described in division (B) (1) of this 251
section or a health care worker described in division (C) of 252

this section, unless the action or omission constitutes willful 253
or wanton misconduct. 254

(E) Subject to divisions (F) and (G) (3) of this section 255
and to the extent that the registration requirements of section 256
3701.071 of the Revised Code apply, a health care facility or 257
location associated with a health care professional described in 258
division (B) (1) of this section, a health care worker described 259
in division (C) of this section, or a nonprofit health care 260
referral organization described in division (D) of this section 261
is not liable in damages to any person or government entity in a 262
tort or other civil action, including an action on a medical, 263
dental, chiropractic, optometric, or other health-related claim, 264
for injury, death, or loss to person or property that allegedly 265
arises from an action or omission of the health care 266
professional or worker or nonprofit health care referral 267
organization relative to the medical, dental, or other health- 268
related diagnosis, care, or treatment provided to an indigent 269
and uninsured person on behalf of or at the health care facility 270
or location, unless the action or omission constitutes willful 271
or wanton misconduct. 272

(F) (1) Except as provided in division (F) (2) of this 273
section, the immunities provided by divisions (B), (C), (D), and 274
(E) of this section are not available to a health care 275
professional, health care worker, nonprofit health care referral 276
organization, or health care facility or location if, at the 277
time of an alleged injury, death, or loss to person or property, 278
the health care professionals or health care workers involved 279
are providing one of the following: 280

(a) Any medical, dental, or other health-related 281
diagnosis, care, or treatment pursuant to a community service 282

work order entered by a court under division (B) of section	283
2951.02 of the Revised Code or imposed by a court as a community	284
control sanction;	285
(b) Performance of an operation to which any one of the	286
following applies:	287
(i) The operation requires the administration of deep	288
sedation or general anesthesia.	289
(ii) The operation is a procedure that is not typically	290
performed in an office.	291
(iii) The individual involved is a health care	292
professional, and the operation is beyond the scope of practice	293
or the education, training, and competence, as applicable, of	294
the health care professional.	295
(c) Delivery of a baby or any other purposeful termination	296
of a human pregnancy.	297
(2) Division (F)(1) of this section does not apply when a	298
health care professional or health care worker provides medical,	299
dental, or other health-related diagnosis, care, or treatment	300
that is necessary to preserve the life of a person in a medical	301
emergency.	302
(G)(1) This section does not create a new cause of action	303
or substantive legal right against a health care professional,	304
health care worker, nonprofit health care referral organization,	305
or health care facility or location.	306
(2) This section does not affect any immunities from civil	307
liability or defenses established by another section of the	308
Revised Code or available at common law to which a health care	309
professional, health care worker, nonprofit health care referral	310

organization, or health care facility or location may be 311
entitled in connection with the provision of emergency or other 312
medical, dental, or other health-related diagnosis, care, or 313
treatment. 314

(3) This section does not grant an immunity from tort or 315
other civil liability to a health care professional, health care 316
worker, nonprofit health care referral organization, or health 317
care facility or location for actions that are outside the scope 318
of authority of health care professionals or health care 319
workers. 320

In the case of the diagnosis, care, or treatment of an 321
indigent and uninsured person who is eligible for the medicaid 322
program or is a medicaid recipient, this section grants an 323
immunity from tort or other civil liability only if the person's 324
diagnosis, care, or treatment is provided in a free clinic, as 325
defined in section 3701.071 of the Revised Code. 326

(4) This section does not affect any legal responsibility 327
of a health care professional, health care worker, or nonprofit 328
health care referral organization to comply with any applicable 329
law of this state or rule of an agency of this state. 330

(5) This section does not affect any legal responsibility 331
of a health care facility or location to comply with any 332
applicable law of this state, rule of an agency of this state, 333
or local code, ordinance, or regulation that pertains to or 334
regulates building, housing, air pollution, water pollution, 335
sanitation, health, fire, zoning, or safety. 336

Sec. 2925.01. As used in this chapter: 337

(A) "Administer," "controlled substance," "controlled 338
substance analog," "dispense," "distribute," "hypodermic," 339

"manufacturer," "official written order," "person," 340
"pharmacist," "pharmacy," "sale," "schedule I," "schedule II," 341
"schedule III," "schedule IV," "schedule V," and "wholesaler" 342
have the same meanings as in section 3719.01 of the Revised 343
Code. 344

(B) "Drug of abuse" and "person with a drug dependency" 345
have the same meanings as in section 3719.011 of the Revised 346
Code. 347

(C) "Drug," "dangerous drug," "licensed health 348
professional authorized to prescribe drugs," and "prescription" 349
have the same meanings as in section 4729.01 of the Revised 350
Code. 351

(D) "Bulk amount" of a controlled substance means any of 352
the following: 353

(1) For any compound, mixture, preparation, or substance 354
included in schedule I, schedule II, or schedule III, with the 355
exception of any controlled substance analog, marihuana, 356
cocaine, L.S.D., heroin, any fentanyl-related compound, and 357
hashish and except as provided in division (D) (2), (5), or (6) 358
of this section, whichever of the following is applicable: 359

(a) An amount equal to or exceeding ten grams or twenty- 360
five unit doses of a compound, mixture, preparation, or 361
substance that is or contains any amount of a schedule I opiate 362
or opium derivative; 363

(b) An amount equal to or exceeding ten grams of a 364
compound, mixture, preparation, or substance that is or contains 365
any amount of raw or gum opium; 366

(c) An amount equal to or exceeding thirty grams or ten 367
unit doses of a compound, mixture, preparation, or substance 368

that is or contains any amount of a schedule I hallucinogen 369
other than tetrahydrocannabinol or lysergic acid amide, or a 370
schedule I stimulant or depressant; 371

(d) An amount equal to or exceeding twenty grams or five 372
times the maximum daily dose in the usual dose range specified 373
in a standard pharmaceutical reference manual of a compound, 374
mixture, preparation, or substance that is or contains any 375
amount of a schedule II opiate or opium derivative; 376

(e) An amount equal to or exceeding five grams or ten unit 377
doses of a compound, mixture, preparation, or substance that is 378
or contains any amount of phencyclidine; 379

(f) An amount equal to or exceeding one hundred twenty 380
grams or thirty times the maximum daily dose in the usual dose 381
range specified in a standard pharmaceutical reference manual of 382
a compound, mixture, preparation, or substance that is or 383
contains any amount of a schedule II stimulant that is in a 384
final dosage form manufactured by a person authorized by the 385
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 386
U.S.C.A. 301, as amended, and the federal drug abuse control 387
laws, as defined in section 3719.01 of the Revised Code, that is 388
or contains any amount of a schedule II depressant substance or 389
a schedule II hallucinogenic substance; 390

(g) An amount equal to or exceeding three grams of a 391
compound, mixture, preparation, or substance that is or contains 392
any amount of a schedule II stimulant, or any of its salts or 393
isomers, that is not in a final dosage form manufactured by a 394
person authorized by the Federal Food, Drug, and Cosmetic Act 395
and the federal drug abuse control laws. 396

(2) An amount equal to or exceeding one hundred twenty 397

grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III or IV substance other than an anabolic steroid or a schedule III opiate or opium derivative;

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III opiate or opium derivative;

(4) An amount equal to or exceeding two hundred fifty milliliters or two hundred fifty grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule V substance;

(5) An amount equal to or exceeding two hundred solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III anabolic steroid;

(6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of section 2925.11 of the Revised Code and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (D)(1), (2), (3), (4), or (5) of this section for the other schedule III, IV, or V controlled substance that is

combined with the fentanyl-related compound. 428

(E) "Unit dose" means an amount or unit of a compound, 429
mixture, or preparation containing a controlled substance that 430
is separately identifiable and in a form that indicates that it 431
is the amount or unit by which the controlled substance is 432
separately administered to or taken by an individual. 433

(F) "Cultivate" includes planting, watering, fertilizing, 434
or tilling. 435

(G) "Drug abuse offense" means any of the following: 436

(1) A violation of division (A) of section 2913.02 that 437
constitutes theft of drugs, or a violation of section 2925.02, 438
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 439
2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, 440
or 2925.37 of the Revised Code; 441

(2) A violation of an existing or former law of this or 442
any other state or of the United States that is substantially 443
equivalent to any section listed in division (G)(1) of this 444
section; 445

(3) An offense under an existing or former law of this or 446
any other state, or of the United States, of which planting, 447
cultivating, harvesting, processing, making, manufacturing, 448
producing, shipping, transporting, delivering, acquiring, 449
possessing, storing, distributing, dispensing, selling, inducing 450
another to use, administering to another, using, or otherwise 451
dealing with a controlled substance is an element; 452

(4) A conspiracy to commit, attempt to commit, or 453
complicity in committing or attempting to commit any offense 454
under division (G)(1), (2), or (3) of this section. 455

(H) "Felony drug abuse offense" means any drug abuse 456
offense that would constitute a felony under the laws of this 457
state, any other state, or the United States. 458

(I) "Harmful intoxicant" does not include beer or 459
intoxicating liquor but means any of the following: 460

(1) Any compound, mixture, preparation, or substance the 461
gas, fumes, or vapor of which when inhaled can induce 462
intoxication, excitement, giddiness, irrational behavior, 463
depression, stupefaction, paralysis, unconsciousness, 464
asphyxiation, or other harmful physiological effects, and 465
includes, but is not limited to, any of the following: 466

(a) Any volatile organic solvent, plastic cement, model 467
cement, fingernail polish remover, lacquer thinner, cleaning 468
fluid, gasoline, or other preparation containing a volatile 469
organic solvent; 470

(b) Any aerosol propellant; 471

(c) Any fluorocarbon refrigerant; 472

(d) Any anesthetic gas. 473

(2) Gamma Butyrolactone; 474

(3) 1,4 Butanediol. 475

(J) "Manufacture" means to plant, cultivate, harvest, 476
process, make, prepare, or otherwise engage in any part of the 477
production of a drug, by propagation, extraction, chemical 478
synthesis, or compounding, or any combination of the same, and 479
includes packaging, repackaging, labeling, and other activities 480
incident to production. 481

(K) "Possess" or "possession" means having control over a 482

thing or substance, but may not be inferred solely from mere 483
access to the thing or substance through ownership or occupation 484
of the premises upon which the thing or substance is found. 485

(L) "Sample drug" means a drug or pharmaceutical 486
preparation that would be hazardous to health or safety if used 487
without the supervision of a licensed health professional 488
authorized to prescribe drugs, or a drug of abuse, and that, at 489
one time, had been placed in a container plainly marked as a 490
sample by a manufacturer. 491

(M) "Standard pharmaceutical reference manual" means the 492
current edition, with cumulative changes if any, of references 493
that are approved by the state board of pharmacy. 494

(N) "Juvenile" means a person under eighteen years of age. 495

(O) "Counterfeit controlled substance" means any of the 496
following: 497

(1) Any drug that bears, or whose container or label 498
bears, a trademark, trade name, or other identifying mark used 499
without authorization of the owner of rights to that trademark, 500
trade name, or identifying mark; 501

(2) Any unmarked or unlabeled substance that is 502
represented to be a controlled substance manufactured, 503
processed, packed, or distributed by a person other than the 504
person that manufactured, processed, packed, or distributed it; 505

(3) Any substance that is represented to be a controlled 506
substance but is not a controlled substance or is a different 507
controlled substance; 508

(4) Any substance other than a controlled substance that a 509
reasonable person would believe to be a controlled substance 510

because of its similarity in shape, size, and color, or its 511
markings, labeling, packaging, distribution, or the price for 512
which it is sold or offered for sale. 513

(P) An offense is "committed in the vicinity of a school" 514
if the offender commits the offense on school premises, in a 515
school building, or within one thousand feet of the boundaries 516
of any school premises, regardless of whether the offender knows 517
the offense is being committed on school premises, in a school 518
building, or within one thousand feet of the boundaries of any 519
school premises. 520

(Q) "School" means any school operated by a board of 521
education, any community school established under Chapter 3314. 522
of the Revised Code, or any nonpublic school for which the 523
director of education and workforce prescribes minimum standards 524
under section 3301.07 of the Revised Code, whether or not any 525
instruction, extracurricular activities, or training provided by 526
the school is being conducted at the time a criminal offense is 527
committed. 528

(R) "School premises" means either of the following: 529

(1) The parcel of real property on which any school is 530
situated, whether or not any instruction, extracurricular 531
activities, or training provided by the school is being 532
conducted on the premises at the time a criminal offense is 533
committed; 534

(2) Any other parcel of real property that is owned or 535
leased by a board of education of a school, the governing 536
authority of a community school established under Chapter 3314. 537
of the Revised Code, or the governing body of a nonpublic school 538
for which the director of education and workforce prescribes 539

minimum standards under section 3301.07 of the Revised Code and 540
on which some of the instruction, extracurricular activities, or 541
training of the school is conducted, whether or not any 542
instruction, extracurricular activities, or training provided by 543
the school is being conducted on the parcel of real property at 544
the time a criminal offense is committed. 545

(S) "School building" means any building in which any of 546
the instruction, extracurricular activities, or training 547
provided by a school is conducted, whether or not any 548
instruction, extracurricular activities, or training provided by 549
the school is being conducted in the school building at the time 550
a criminal offense is committed. 551

(T) "Disciplinary counsel" means the disciplinary counsel 552
appointed by the board of commissioners on grievances and 553
discipline of the supreme court under the Rules for the 554
Government of the Bar of Ohio. 555

(U) "Certified grievance committee" means a duly 556
constituted and organized committee of the Ohio state bar 557
association or of one or more local bar associations of the 558
state of Ohio that complies with the criteria set forth in Rule 559
V, section 6 of the Rules for the Government of the Bar of Ohio. 560

(V) "Professional license" means any license, permit, 561
certificate, registration, qualification, admission, temporary 562
license, temporary permit, temporary certificate, or temporary 563
registration that is described in divisions (W) (1) to (37) of 564
this section and that qualifies a person as a professionally 565
licensed person. 566

(W) "Professionally licensed person" means any of the 567
following: 568

(1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Chapter 4701. of the Revised Code and who holds an Ohio permit issued under that chapter;	569 570 571 572 573
(2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Chapter 4703. of the Revised Code;	574 575 576
(3) A person who is registered as a landscape architect under Chapter 4703. of the Revised Code or who holds a permit as a landscape architect issued under that chapter;	577 578 579
(4) A person licensed under Chapter 4707. of the Revised Code;	580 581
(5) A person who has been issued a certificate of registration as a registered barber under Chapter 4709. of the Revised Code;	582 583 584
(6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter 4710. of the Revised Code;	585 586 587
(7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Chapter	588 589 590 591 592 593 594 595 596 597

4713. of the Revised Code;	598
(8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under Chapter 4715. of the Revised Code;	599 600 601 602 603
(9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Chapter 4717. of the Revised Code;	604 605 606 607 608
(10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Chapter 4723. of the Revised Code;	609 610 611 612
(11) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;	613 614 615
(12) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;	616 617
(13) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;	618 619
(14) A person licensed under Chapter 4729. of the Revised Code as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;	620 621 622 623
(15) A person licensed under Chapter 4729. of the Revised Code as a manufacturer of dangerous drugs, outsourcing facility,	624 625

third-party logistics provider, repackager of dangerous drugs,	626
wholesale distributor of dangerous drugs, or terminal	627
distributor of dangerous drugs;	628
(16) A person who is authorized to practice as a physician	629
assistant under Chapter 4730. of the Revised Code;	630
(17) A person who has been issued a license to practice	631
medicine and surgery, osteopathic medicine and surgery, or	632
podiatric medicine and surgery under Chapter 4731. of the	633
Revised Code or has been issued a certificate to practice a	634
limited branch of medicine under that chapter;	635
(18) A person licensed as a psychologist, independent	636
school psychologist, or school psychologist under Chapter 4732.	637
of the Revised Code;	638
(19) A person registered to practice the profession of	639
engineering or surveying under Chapter 4733. of the Revised	640
Code;	641
(20) A person who has been issued a license to practice	642
chiropractic under Chapter 4734. of the Revised Code;	643
(21) A person licensed to act as a real estate broker or	644
real estate salesperson under Chapter 4735. of the Revised Code;	645
(22) A person registered as a registered environmental	646
health specialist under Chapter 3776. of the Revised Code;	647
(23) A person licensed to operate or maintain a junkyard	648
under Chapter 4737. of the Revised Code;	649
(24) A person who has been issued a motor vehicle salvage	650
dealer's license under Chapter 4738. of the Revised Code;	651
(25) A person who has been licensed to act as a steam	652

engineer under Chapter 4739. of the Revised Code;	653
(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code;	654 655 656 657
(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;	658 659 660
(28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Chapter 4749. of the Revised Code;	661 662 663
(29) A person licensed to practice as a nursing home administrator under Chapter 4751. of the Revised Code;	664 665
(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;	666 667 668
(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;	669 670 671
(32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Chapter 4757. of the Revised Code;	672 673 674 675 676 677
(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;	678 679
(34) A person who has been issued a license or limited	680

permit to practice respiratory therapy or a license to practice 681
as an advanced practice respiratory therapist under Chapter 682
4761. of the Revised Code; 683

(35) A person who has been issued a real estate appraiser 684
certificate under Chapter 4763. of the Revised Code; 685

(36) A person who has been issued a home inspector license 686
under Chapter 4764. of the Revised Code; 687

(37) A person who has been admitted to the bar by order of 688
the supreme court in compliance with its prescribed and 689
published rules. 690

(X) "Cocaine" means any of the following: 691

(1) A cocaine salt, isomer, or derivative, a salt of a 692
cocaine isomer or derivative, or the base form of cocaine; 693

(2) Coca leaves or a salt, compound, derivative, or 694
preparation of coca leaves, including ecgonine, a salt, isomer, 695
or derivative of ecgonine, or a salt of an isomer or derivative 696
of ecgonine; 697

(3) A salt, compound, derivative, or preparation of a 698
substance identified in division (X) (1) or (2) of this section 699
that is chemically equivalent to or identical with any of those 700
substances, except that the substances shall not include 701
decocainized coca leaves or extraction of coca leaves if the 702
extractions do not contain cocaine or ecgonine. 703

(Y) "L.S.D." means lysergic acid diethylamide. 704

(Z) "Hashish" means a resin or a preparation of a resin to 705
which both of the following apply: 706

(1) It is contained in or derived from any part of the 707

plant of the genus cannabis, whether in solid form or in a 708
liquid concentrate, liquid extract, or liquid distillate form. 709

(2) It has a delta-9 tetrahydrocannabinol concentration of 710
more than three-tenths per cent. 711

"Hashish" does not include a hemp byproduct in the 712
possession of a licensed hemp processor under Chapter 928. of 713
the Revised Code, provided that the hemp byproduct is being 714
produced, stored, and disposed of in accordance with rules 715
adopted under section 928.03 of the Revised Code. 716

(AA) "Marihuana" has the same meaning as in section 717
3719.01 of the Revised Code, except that it does not include 718
hashish. 719

(BB) An offense is "committed in the vicinity of a 720
juvenile" if the offender commits the offense within one hundred 721
feet of a juvenile or within the view of a juvenile, regardless 722
of whether the offender knows the age of the juvenile, whether 723
the offender knows the offense is being committed within one 724
hundred feet of or within view of the juvenile, or whether the 725
juvenile actually views the commission of the offense. 726

(CC) "Presumption for a prison term" or "presumption that 727
a prison term shall be imposed" means a presumption, as 728
described in division (D) of section 2929.13 of the Revised 729
Code, that a prison term is a necessary sanction for a felony in 730
order to comply with the purposes and principles of sentencing 731
under section 2929.11 of the Revised Code. 732

(DD) "Major drug offender" has the same meaning as in 733
section 2929.01 of the Revised Code. 734

(EE) "Minor drug possession offense" means either of the 735
following: 736

(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;	737 738
(2) A violation of section 2925.11 of the Revised Code as it exists on and after July 1, 1996, that is a misdemeanor or a felony of the fifth degree.	739 740 741
(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.	742 743
(GG) "Adulterate" means to cause a drug to be adulterated as described in section 3715.63 of the Revised Code.	744 745
(HH) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.	746 747 748
(II) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.	749 750 751 752 753
(JJ) "Deception" has the same meaning as in section 2913.01 of the Revised Code.	754 755
(KK) "Fentanyl-related compound" means any of the following:	756 757
(1) Fentanyl;	758
(2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4- piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);	759 760 761
(3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4- piperidinyl]-N-phenylpropanamide);	762 763

- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl)-N-phenylpropanamide); 764
765
- (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide); 766
767
768
- (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide); 769
770
- (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide); 771
772
- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide; 773
774
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide; 775
776
- (10) Alfentanil; 777
- (11) Carfentanil; 778
- (12) Remifentanil; 779
- (13) Sufentanil; 780
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide); and 781
782
- (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl: 783
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789
- (a) A chemical scaffold consisting of both of the 790

following:	791
(i) A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;	792 793
(ii) An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.	794 795 796
(b) A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;	797 798 799
(c) An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and	800 801
(d) The compound has not been approved for medical use by the United States food and drug administration.	802 803
(LL) "First degree felony mandatory prison term" means one of the definite prison terms prescribed in division (A) (1) (b) of section 2929.14 of the Revised Code for a felony of the first degree, except that if the violation for which sentence is being imposed is committed on or after March 22, 2019, it means one of the minimum prison terms prescribed in division (A) (1) (a) of that section for a felony of the first degree.	804 805 806 807 808 809 810
(MM) "Second degree felony mandatory prison term" means one of the definite prison terms prescribed in division (A) (2) (b) of section 2929.14 of the Revised Code for a felony of the second degree, except that if the violation for which sentence is being imposed is committed on or after March 22, 2019, it means one of the minimum prison terms prescribed in division (A) (2) (a) of that section for a felony of the second degree.	811 812 813 814 815 816 817
(NN) "Maximum first degree felony mandatory prison term"	818

means the maximum definite prison term prescribed in division 819
(A) (1) (b) of section 2929.14 of the Revised Code for a felony of 820
the first degree, except that if the violation for which 821
sentence is being imposed is committed on or after March 22, 822
2019, it means the longest minimum prison term prescribed in 823
division (A) (1) (a) of that section for a felony of the first 824
degree. 825

(OO) "Maximum second degree felony mandatory prison term" 826
means the maximum definite prison term prescribed in division 827
(A) (2) (b) of section 2929.14 of the Revised Code for a felony of 828
the second degree, except that if the violation for which 829
sentence is being imposed is committed on or after March 22, 830
2019, it means the longest minimum prison term prescribed in 831
division (A) (2) (a) of that section for a felony of the second 832
degree. 833

(PP) "Delta-9 tetrahydrocannabinol" has the same meaning 834
as in section 928.01 of the Revised Code. 835

(QQ) An offense is "committed in the vicinity of a 836
substance addiction services provider or a recovering addict" if 837
either of the following apply: 838

(1) The offender commits the offense on the premises of a 839
substance addiction services provider's facility, including a 840
facility licensed prior to June 29, 2019, under section 5119.391 841
of the Revised Code to provide methadone treatment or an opioid 842
treatment program licensed on or after that date under section 843
5119.37 of the Revised Code, or within five hundred feet of the 844
premises of a substance addiction services provider's facility 845
and the offender knows or should know that the offense is being 846
committed within the vicinity of the substance addiction 847
services provider's facility. 848

(2) The offender sells, offers to sell, delivers, or 849
distributes the controlled substance or controlled substance 850
analog to a person who is receiving treatment at the time of the 851
commission of the offense, or received treatment within thirty 852
days prior to the commission of the offense, from a substance 853
addiction services provider and the offender knows that the 854
person is receiving or received that treatment. 855

(RR) "Substance addiction services provider" means an 856
agency, association, corporation or other legal entity, 857
individual, or program that provides one or more of the 858
following at a facility: 859

(1) Either alcohol addiction services, or drug addiction 860
services, or both such services that are certified by the 861
director of mental health and addiction services under section 862
5119.36 of the Revised Code; 863

(2) Recovery supports that are related to either alcohol 864
addiction services, or drug addiction services, or both such 865
services and paid for with federal, state, or local funds 866
administered by the department of mental health and addiction 867
services or a board of alcohol, drug addiction, and mental 868
health services. 869

(SS) "Premises of a substance addiction services 870
provider's facility" means the parcel of real property on which 871
any substance addiction service provider's facility is situated. 872

(TT) "Alcohol and drug addiction services" has the same 873
meaning as in section 5119.01 of the Revised Code. 874

Sec. 2925.23. (A) No person shall knowingly make a false 875
statement in any prescription, order, report, or record required 876
by Chapter 3719. or 4729. of the Revised Code. 877

(B) No person shall intentionally make, utter, or sell, or knowingly possess any of the following that is a false or forged:	878
	879
	880
(1) Prescription;	881
(2) Uncompleted preprinted prescription blank used for writing a prescription;	882
	883
(3) Official written order;	884
(4) License for a terminal distributor of dangerous drugs, as defined in section 4729.01 of the Revised Code;	885
	886
(5) License for a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, or wholesale distributor of dangerous drugs, as defined in section 4729.01 of the Revised Code.	887
	888
	889
	890
(C) No person, by theft as defined in section 2913.02 of the Revised Code, shall acquire any of the following:	891
	892
(1) A prescription;	893
(2) An uncompleted preprinted prescription blank used for writing a prescription;	894
	895
(3) An official written order;	896
(4) A blank official written order;	897
(5) A license or blank license for a terminal distributor of dangerous drugs, as defined in section 4729.01 of the Revised Code;	898
	899
	900
(6) A license or blank license for a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, or wholesale distributor of dangerous drugs, as defined in section 4729.01 of	901
	902
	903
	904

the Revised Code. 905

(D) No person shall knowingly make or affix any false or 906
forged label to a package or receptacle containing any dangerous 907
drugs. 908

(E) Divisions (A) and (D) of this section do not apply to 909
licensed health professionals authorized to prescribe drugs, 910
pharmacists, owners of pharmacies, and other persons whose 911
conduct is in accordance with Chapters 3719., 4715., 4723., 912
4725., 4729., 4730., 4731., ~~and 4741.~~ and 4761. of the Revised 913
Code. 914

(F) Whoever violates this section is guilty of illegal 915
processing of drug documents. If the offender violates division 916
(B) (2), (4), or (5) or division (C) (2), (4), (5), or (6) of this 917
section, illegal processing of drug documents is a felony of the 918
fifth degree. If the offender violates division (A), division 919
(B) (1) or (3), division (C) (1) or (3), or division (D) of this 920
section, the penalty for illegal processing of drug documents 921
shall be determined as follows: 922

(1) If the drug involved is a compound, mixture, 923
preparation, or substance included in schedule I or II, with the 924
exception of marihuana, illegal processing of drug documents is 925
a felony of the fourth degree, and division (C) of section 926
2929.13 of the Revised Code applies in determining whether to 927
impose a prison term on the offender. 928

(2) If the drug involved is a dangerous drug or a 929
compound, mixture, preparation, or substance included in 930
schedule III, IV, or V or is marihuana, illegal processing of 931
drug documents is a felony of the fifth degree, and division (C) 932
of section 2929.13 of the Revised Code applies in determining 933

whether to impose a prison term on the offender. 934

(G) (1) In addition to any prison term authorized or 935
required by division (F) of this section and sections 2929.13 936
and 2929.14 of the Revised Code and in addition to any other 937
sanction imposed for the offense under this section or sections 938
2929.11 to 2929.18 of the Revised Code, the court that sentences 939
an offender who is convicted of or pleads guilty to any 940
violation of divisions (A) to (D) of this section may suspend 941
for not more than five years the offender's driver's or 942
commercial driver's license or permit. However, if the offender 943
pleaded guilty to or was convicted of a violation of section 944
4511.19 of the Revised Code or a substantially similar municipal 945
ordinance or the law of another state or the United States 946
arising out of the same set of circumstances as the violation, 947
the court shall suspend the offender's driver's or commercial 948
driver's license or permit for not more than five years. 949

If the offender is a professionally licensed person, in 950
addition to any other sanction imposed for a violation of this 951
section, the court immediately shall comply with section 2925.38 952
of the Revised Code. 953

(2) Any offender who received a mandatory suspension of 954
the offender's driver's or commercial driver's license or permit 955
under this section prior to September 13, 2016, may file a 956
motion with the sentencing court requesting the termination of 957
the suspension. However, an offender who pleaded guilty to or 958
was convicted of a violation of section 4511.19 of the Revised 959
Code or a substantially similar municipal ordinance or law of 960
another state or the United States that arose out of the same 961
set of circumstances as the violation for which the offender's 962
license or permit was suspended under this section shall not 963

file such a motion. 964

Upon the filing of a motion under division (G) (2) of this 965
section, the sentencing court, in its discretion, may terminate 966
the suspension. 967

(H) Notwithstanding any contrary provision of section 968
3719.21 of the Revised Code, the clerk of court shall pay a fine 969
imposed for a violation of this section pursuant to division (A) 970
of section 2929.18 of the Revised Code in accordance with and 971
subject to the requirements of division (F) of section 2925.03 972
of the Revised Code. The agency that receives the fine shall use 973
the fine as specified in division (F) of section 2925.03 of the 974
Revised Code. 975

Sec. 2925.55. (A) As used in sections 2925.55 to 2925.58 976
of the Revised Code: 977

(1) "Consumer product" means any food or drink that is 978
consumed or used by humans and any drug, including a drug that 979
may be provided legally only pursuant to a prescription, that is 980
intended to be consumed or used by humans. 981

(2) "Terminal distributor of dangerous drugs" has the same 982
meaning as in section 4729.01 of the Revised Code. 983

(3) "Pseudoephedrine" means any material, compound, 984
mixture, or preparation that contains any quantity of 985
pseudoephedrine, any of its salts, optical isomers, or salts of 986
optical isomers. 987

(4) "Pseudoephedrine product" means a consumer product 988
that contains pseudoephedrine. 989

(5) "Retailer" means a place of business that offers 990
consumer products for sale to the general public. 991

(6) "Single-ingredient preparation" means a compound, 992
mixture, preparation, or substance that contains a single active 993
ingredient. 994

(7) "Ephedrine" means any material, compound, mixture, or 995
preparation that contains any quantity of ephedrine, any of its 996
salts, optical isomers, or salts of optical isomers. 997

(8) "Ephedrine product" means a consumer product that 998
contains ephedrine. 999

(B) (1) No individual shall knowingly purchase, receive, or 1000
otherwise acquire an amount of pseudoephedrine product or 1001
ephedrine product that is greater than either of the following 1002
unless the pseudoephedrine product or ephedrine product is 1003
dispensed by a pharmacist pursuant to a valid prescription 1004
issued by a licensed health professional authorized to prescribe 1005
drugs and the conduct of the pharmacist and the licensed health 1006
professional authorized to prescribe drugs is in accordance with 1007
Chapter 3719., 4715., 4723., 4729., 4730., 4731., ~~or~~ 4741., or 1008
4761. of the Revised Code: 1009

(a) Three and six tenths grams within a period of a single 1010
day; 1011

(b) Nine grams within a period of thirty consecutive days. 1012

The limits specified in divisions (B) (1) (a) and (b) of 1013
this section apply to the total amount of base pseudoephedrine 1014
or base ephedrine in the pseudoephedrine product or ephedrine 1015
product, respectively. The limits do not apply to the product's 1016
overall weight. 1017

(2) It is not a violation of division (B) (1) of this 1018
section for an individual to receive or accept more than an 1019
amount of pseudoephedrine product or ephedrine product specified 1020

in division (B) (1) (a) or (b) of this section if the individual 1021
is an employee of a retailer or terminal distributor of 1022
dangerous drugs, and the employee receives or accepts from the 1023
retailer or terminal distributor of dangerous drugs the 1024
pseudoephedrine product or ephedrine product in a sealed 1025
container in connection with manufacturing, warehousing, 1026
placement, stocking, bagging, loading, or unloading of the 1027
product. 1028

(C) (1) No individual under eighteen years of age shall 1029
knowingly purchase, receive, or otherwise acquire a 1030
pseudoephedrine product or ephedrine product unless the 1031
pseudoephedrine product or ephedrine product is dispensed by a 1032
pharmacist pursuant to a valid prescription issued by a licensed 1033
health professional authorized to prescribe drugs and the 1034
conduct of the pharmacist and the licensed health professional 1035
authorized to prescribe drugs is in accordance with Chapter 1036
3719., 4715., 4723., 4729., 4730., 4731., ~~or 4741.~~, or 4761. of 1037
the Revised Code. 1038

(2) Division (C) (1) of this section does not apply to an 1039
individual under eighteen years of age who purchases, receives, 1040
or otherwise acquires a pseudoephedrine product or ephedrine 1041
product from any of the following: 1042

(a) A licensed health professional authorized to prescribe 1043
drugs or pharmacist who dispenses, sells, or otherwise provides 1044
the pseudoephedrine product or ephedrine product to that 1045
individual and whose conduct is in accordance with Chapter 1046
3719., 4715., 4723., 4729., 4730., 4731., ~~or 4741.~~, or 4761. of 1047
the Revised Code; 1048

(b) A parent or guardian of that individual who provides 1049
the pseudoephedrine product or ephedrine product to the 1050

individual; 1051

(c) A person, as authorized by that individual's parent or 1052
guardian, who dispenses, sells, or otherwise provides the 1053
pseudoephedrine product or ephedrine product to the individual; 1054

(d) A retailer or terminal distributor of dangerous drugs 1055
who provides the pseudoephedrine product or ephedrine product to 1056
that individual if the individual is an employee of the retailer 1057
or terminal distributor of dangerous drugs and the individual 1058
receives or accepts from the retailer or terminal distributor of 1059
dangerous drugs the pseudoephedrine product or ephedrine product 1060
in a sealed container in connection with manufacturing, 1061
warehousing, placement, stocking, bagging, loading, or unloading 1062
of the product. 1063

(D) No individual under eighteen years of age shall 1064
knowingly show or give false information concerning the 1065
individual's name, age, or other identification for the purpose 1066
of purchasing, receiving, or otherwise acquiring a 1067
pseudoephedrine product or ephedrine product. 1068

(E) No individual shall knowingly fail to comply with the 1069
requirements of division (B) of section 3715.051 of the Revised 1070
Code. 1071

(F) Whoever violates division (B) (1) of this section is 1072
guilty of unlawful purchase of a pseudoephedrine product or 1073
ephedrine product, a misdemeanor of the first degree. 1074

(G) Whoever violates division (C) (1) of this section is 1075
guilty of underage purchase of a pseudoephedrine product or 1076
ephedrine product, a delinquent act that would be a misdemeanor 1077
of the fourth degree if it could be committed by an adult. 1078

(H) Whoever violates division (D) of this section is 1079

guilty of using false information to purchase a pseudoephedrine product or ephedrine product, a delinquent act that would be a misdemeanor of the first degree if it could be committed by an adult.

(I) Whoever violates division (E) of this section is guilty of improper purchase of a pseudoephedrine product or ephedrine product, a misdemeanor of the fourth degree.

Sec. 2925.56. (A) (1) Except as provided in division (A) (2) of this section, no retailer or terminal distributor of dangerous drugs or an employee of a retailer or terminal distributor of dangerous drugs shall knowingly sell, offer to sell, hold for sale, deliver, or otherwise provide to any individual an amount of pseudoephedrine product or ephedrine product that is greater than either of the following:

(a) Three and six-tenths grams within a period of a single day;

(b) Nine grams within a period of thirty consecutive days.

The maximum amounts specified in divisions (A) (1) (a) and (b) of this section apply to the total amount of base pseudoephedrine or base ephedrine in the pseudoephedrine product or ephedrine product, respectively. The maximum amounts do not apply to the product's overall weight.

(2) (a) Division (A) (1) of this section does not apply to any quantity of pseudoephedrine product or ephedrine product dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs if the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with Chapter 3719., 4715., 4723., 4729., 4730., 4731., ~~or~~ 4741., or

4761. of the Revised Code. 1109

(b) It is not a violation of division (A)(1) of this 1110
section for a retailer, terminal distributor of dangerous drugs, 1111
or employee of either to provide to an individual more than an 1112
amount of pseudoephedrine product or ephedrine product specified 1113
in division (A)(1)(a) or (b) of this section under either of the 1114
following circumstances: 1115

(i) The individual is an employee of the retailer or 1116
terminal distributor of dangerous drugs, and the employee 1117
receives or accepts from the retailer, terminal distributor of 1118
dangerous drugs, or employee the pseudoephedrine product or 1119
ephedrine product in a sealed container in connection with 1120
manufacturing, warehousing, placement, stocking, bagging, 1121
loading, or unloading of the product; 1122

(ii) A stop-sale alert is generated after the submission 1123
of information to the national precursor log exchange under the 1124
conditions described in division (A)(2) of section 3715.052 of 1125
the Revised Code. 1126

(B)(1) Except as provided in division (B)(2) of this 1127
section, no retailer or terminal distributor of dangerous drugs 1128
or an employee of a retailer or terminal distributor of 1129
dangerous drugs shall sell, offer to sell, hold for sale, 1130
deliver, or otherwise provide a pseudoephedrine product or 1131
ephedrine product to an individual who is under eighteen years 1132
of age. 1133

(2) Division (B)(1) of this section does not apply to any 1134
of the following: 1135

(a) A licensed health professional authorized to prescribe 1136
drugs or pharmacist who dispenses, sells, or otherwise provides 1137

a pseudoephedrine product or ephedrine product to an individual 1138
under eighteen years of age and whose conduct is in accordance 1139
with Chapter 3719., 4715., 4723., 4729., 4730., 4731., ~~or 4741.~~ 1140
or 4761. of the Revised Code; 1141

(b) A parent or guardian of an individual under eighteen 1142
years of age who provides a pseudoephedrine product or ephedrine 1143
product to the individual; 1144

(c) A person who, as authorized by the individual's parent 1145
or guardian, dispenses, sells, or otherwise provides a 1146
pseudoephedrine product or ephedrine product to an individual 1147
under eighteen years of age; 1148

(d) The provision by a retailer, terminal distributor of 1149
dangerous drugs, or employee of either of a pseudoephedrine 1150
product or ephedrine product in a sealed container to an 1151
employee of the retailer or terminal distributor of dangerous 1152
drugs who is under eighteen years of age in connection with 1153
manufacturing, warehousing, placement, stocking, bagging, 1154
loading, or unloading of the product. 1155

(C) No retailer or terminal distributor of dangerous drugs 1156
shall fail to comply with the requirements of division (A) of 1157
section 3715.051 or division (A) (2) of section 3715.052 of the 1158
Revised Code. 1159

(D) No retailer or terminal distributor of dangerous drugs 1160
shall fail to comply with the requirements of division (A) (1) of 1161
section 3715.052 of the Revised Code. 1162

(E) Whoever violates division (A) (1) of this section is 1163
guilty of unlawfully selling a pseudoephedrine product or 1164
ephedrine product, a misdemeanor of the first degree. 1165

(F) Whoever violates division (B) (1) of this section is 1166

guilty of unlawfully selling a pseudoephedrine product or 1167
ephedrine product to a minor, a misdemeanor of the fourth 1168
degree. 1169

(G) Whoever violates division (C) of this section is 1170
guilty of improper sale of a pseudoephedrine product or 1171
ephedrine product, a misdemeanor of the second degree. 1172

(H) Whoever violates division (D) of this section is 1173
guilty of failing to submit information to the national 1174
precursor log exchange, a misdemeanor for which the offender 1175
shall be fined not more than one thousand dollars per violation. 1176

Sec. 2929.42. (A) The prosecutor in any case against any 1177
person licensed, certified, registered, or otherwise authorized 1178
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1179
4731., 4734., ~~or 4741.~~ or 4761. of the Revised Code shall 1180
notify the appropriate licensing board, on forms provided by the 1181
board, of any of the following regarding the person: 1182

(1) A plea of guilty to, or a conviction of, a felony, or 1183
a court order dismissing a felony charge on technical or 1184
procedural grounds; 1185

(2) A plea of guilty to, or a conviction of, a misdemeanor 1186
committed in the course of practice or in the course of 1187
business, or a court order dismissing such a misdemeanor charge 1188
on technical or procedural grounds; 1189

(3) A plea of guilty to, or a conviction of, a misdemeanor 1190
involving moral turpitude, or a court order dismissing such a 1191
charge on technical or procedural grounds. 1192

(B) The report required by division (A) of this section 1193
shall include the name and address of the person, the nature of 1194
the offense, and certified copies of court entries in the 1195

action. 1196

Sec. 3701.048. (A) As used in this section: 1197

(1) "Board of health" means the board of health of a city 1198
or general health district or the authority having the duties of 1199
a board of health under section 3709.05 of the Revised Code. 1200

(2) "Controlled substance" has the same meaning as in 1201
section 3719.01 of the Revised Code. 1202

(3) "Drug," "dangerous drug," and "licensed health 1203
professional authorized to prescribe drugs" have the same 1204
meanings as in section 4729.01 of the Revised Code. 1205

(4) "Registered volunteer" has the same meaning as in 1206
section 5502.281 of the Revised Code. 1207

(B) In consultation with the appropriate professional 1208
regulatory boards of this state, the director of health shall 1209
develop one or more protocols that authorize the following 1210
individuals to administer, deliver, or distribute drugs, other 1211
than schedule II and III controlled substances, during a period 1212
of time described in division (E) of this section, 1213
notwithstanding any statute or rule that otherwise prohibits or 1214
restricts the administration, delivery, or distribution of drugs 1215
by those individuals: 1216

(1) A physician authorized under Chapter 4731. of the 1217
Revised Code to practice medicine and surgery, osteopathic 1218
medicine and surgery, or podiatric medicine and surgery; 1219

(2) A physician assistant licensed under Chapter 4730. of 1220
the Revised Code; 1221

(3) A dentist or dental hygienist licensed under Chapter 1222
4715. of the Revised Code; 1223

(4) A registered nurse licensed under Chapter 4723. of the Revised Code, including an advanced practice registered nurse, as defined in section 4723.01 of the Revised Code;	1224 1225 1226
(5) A licensed practical nurse licensed under Chapter 4723. of the Revised Code;	1227 1228
(6) An optometrist licensed under Chapter 4725. of the Revised Code;	1229 1230
(7) A pharmacist or pharmacy intern licensed under Chapter 4729. of the Revised Code;	1231 1232
(8) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	1233 1234 1235
(9) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic who holds a certificate to practice issued under Chapter 4765. of the Revised Code;	1236 1237 1238 1239
(10) A veterinarian licensed under Chapter 4741. of the Revised Code.	1240 1241
(C) In consultation with the executive director of the emergency management agency, the director of health shall develop one or more protocols that authorize employees of boards of health and registered volunteers to deliver or distribute drugs, other than schedule II and III controlled substances, during a period of time described in division (E) of this section, notwithstanding any statute or rule that otherwise prohibits or restricts the delivery or distribution of drugs by those individuals.	1242 1243 1244 1245 1246 1247 1248 1249 1250
(D) In consultation with the state board of pharmacy, the	1251

director of health shall develop one or more protocols that 1252
authorize pharmacists and pharmacy interns to dispense, during a 1253
period of time described in division (E) of this section, 1254
limited quantities of dangerous drugs, other than schedule II 1255
and III controlled substances, without a written, oral, or 1256
electronic prescription from a licensed health professional 1257
authorized to prescribe drugs or without a record of a 1258
prescription, notwithstanding any statute or rule that otherwise 1259
prohibits or restricts the dispensing of drugs without a 1260
prescription or record of a prescription. 1261

(E) On the governor's declaration of an emergency that 1262
affects the public health, the director of health may issue an 1263
order to implement one or more of the protocols developed 1264
pursuant to division (B), (C), or (D) of this section. At a 1265
minimum, the director's order shall identify the one or more 1266
protocols to be implemented and the period of time during which 1267
the one or more protocols are to be effective. 1268

(F)(1) An individual who administers, delivers, 1269
distributes, or dispenses a drug or dangerous drug in accordance 1270
with one or more of the protocols implemented under division (E) 1271
of this section is not liable for damages in any civil action 1272
unless the individual's acts or omissions in performing those 1273
activities constitute willful or wanton misconduct. 1274

(2) An individual who administers, delivers, distributes, 1275
or dispenses a drug or dangerous drug in accordance with one or 1276
more of the protocols implemented under division (E) of this 1277
section is not subject to criminal prosecution or professional 1278
disciplinary action under any chapter in Title XLVII of the 1279
Revised Code. 1280

Sec. 3701.74. (A) As used in this section and section 1281

3701.741 of the Revised Code:	1282
(1) "Ambulatory care facility" means a facility that	1283
provides medical, diagnostic, or surgical treatment to patients	1284
who do not require hospitalization, including a dialysis center,	1285
ambulatory surgical facility, cardiac catheterization facility,	1286
diagnostic imaging center, extracorporeal shock wave lithotripsy	1287
center, home health agency, inpatient hospice, birthing center,	1288
radiation therapy center, emergency facility, and an urgent care	1289
center. "Ambulatory care facility" does not include the private	1290
office of a physician or dentist, whether the office is for an	1291
individual or group practice.	1292
(2) "Chiropractor" means an individual licensed under	1293
Chapter 4734. of the Revised Code to practice chiropractic.	1294
(3) "Emergency facility" means a hospital emergency	1295
department or any other facility that provides emergency medical	1296
services.	1297
(4) "Health care practitioner" means all of the following:	1298
(a) A dentist or dental hygienist licensed under Chapter	1299
4715. of the Revised Code;	1300
(b) A registered or licensed practical nurse licensed	1301
under Chapter 4723. of the Revised Code;	1302
(c) An optometrist licensed under Chapter 4725. of the	1303
Revised Code;	1304
(d) A dispensing optician, spectacle dispensing optician,	1305
or spectacle-contact lens dispensing optician licensed under	1306
Chapter 4725. of the Revised Code;	1307
(e) A pharmacist licensed under Chapter 4729. of the	1308
Revised Code;	1309

(f) A physician;	1310
(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	1311 1312
(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;	1313 1314
(i) A psychologist licensed under Chapter 4732. of the Revised Code;	1315 1316
(j) A chiropractor;	1317
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	1318 1319
(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	1320 1321
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	1322 1323
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	1324 1325
(o) A licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	1326 1327 1328 1329 1330
(p) A dietitian licensed under Chapter 4759. of the Revised Code;	1331 1332
(q) A respiratory care professional <u>or advanced practice</u> <u>respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	1333 1334 1335
(r) An emergency medical technician-basic, emergency	1336

medical technician-intermediate, or emergency medical 1337
technician-paramedic certified under Chapter 4765. of the 1338
Revised Code. 1339

(5) "Health care provider" means a hospital, ambulatory 1340
care facility, long-term care facility, pharmacy, emergency 1341
facility, or health care practitioner. 1342

(6) "Hospital" has the same meaning as in section 3727.01 1343
of the Revised Code. 1344

(7) "Long-term care facility" means a nursing home, 1345
residential care facility, or home for the aging, as those terms 1346
are defined in section 3721.01 of the Revised Code; a 1347
residential facility licensed under section 5119.34 of the 1348
Revised Code that provides accommodations, supervision, and 1349
personal care services for three to sixteen unrelated adults; a 1350
nursing facility, as defined in section 5165.01 of the Revised 1351
Code; a skilled nursing facility, as defined in section 5165.01 1352
of the Revised Code; and an intermediate care facility for 1353
individuals with intellectual disabilities, as defined in 1354
section 5124.01 of the Revised Code. 1355

(8) "Medical record" means data in any form that pertains 1356
to a patient's medical history, diagnosis, prognosis, or medical 1357
condition and that is generated and maintained by a health care 1358
provider in the process of the patient's health care treatment. 1359

(9) "Medical records company" means a person who stores, 1360
locates, or copies medical records for a health care provider, 1361
or is compensated for doing so by a health care provider, and 1362
charges a fee for providing medical records to a patient or 1363
patient's representative. 1364

(10) "Patient" means either of the following: 1365

(a) An individual who received health care treatment from a health care provider;	1366 1367
(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.	1368 1369 1370
(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division.	1371 1372 1373 1374 1375 1376 1377 1378 1379 1380 1381 1382
(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.	1383 1384
(13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.	1385 1386 1387 1388
(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.	1389 1390 1391
(B) A patient, a patient's personal representative, or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care	1392 1393 1394

provider a written request signed by the patient, personal 1395
representative, or authorized person dated not more than one 1396
year before the date on which it is submitted. The request shall 1397
indicate whether the copy is to be sent to the requestor, 1398
physician or chiropractor, or held for the requestor at the 1399
office of the health care provider. Within a reasonable time 1400
after receiving a request that meets the requirements of this 1401
division and includes sufficient information to identify the 1402
record requested, a health care provider that has the patient's 1403
medical records shall permit the patient to examine the record 1404
during regular business hours without charge or, on request, 1405
shall provide a copy of the record in accordance with section 1406
3701.741 of the Revised Code, except that if a physician, 1407
psychologist, licensed professional clinical counselor, licensed 1408
professional counselor, independent social worker, social 1409
worker, independent marriage and family therapist, marriage and 1410
family therapist, or chiropractor who has treated the patient 1411
determines for clearly stated treatment reasons that disclosure 1412
of the requested record is likely to have an adverse effect on 1413
the patient, the health care provider shall provide the record 1414
to a physician, psychologist, licensed professional clinical 1415
counselor, licensed professional counselor, independent social 1416
worker, social worker, independent marriage and family 1417
therapist, marriage and family therapist, or chiropractor 1418
designated by the patient. The health care provider shall take 1419
reasonable steps to establish the identity of the person making 1420
the request to examine or obtain a copy of the patient's record. 1421

(C) If a health care provider fails to furnish a medical 1422
record as required by division (B) of this section, the patient, 1423
personal representative, or authorized person who requested the 1424
record may bring a civil action to enforce the patient's right 1425

of access to the record.	1426
(D) (1) This section does not apply to medical records	1427
whose release is covered by section 173.20 or 3721.13 of the	1428
Revised Code, by Chapter 1347., 5119., or 5122. of the Revised	1429
Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug	1430
Abuse Patient Records," or by 42 C.F.R. 483.10.	1431
(2) Nothing in this section is intended to supersede the	1432
confidentiality provisions of sections 2305.24, 2305.25,	1433
2305.251, and 2305.252 of the Revised Code.	1434
Sec. 3715.872. (A) As used in this section, "health care	1435
professional" means any of the following who provide medical,	1436
dental, or other health-related diagnosis, care, or treatment:	1437
(1) Individuals authorized under Chapter 4731. of the	1438
Revised Code to practice medicine and surgery, osteopathic	1439
medicine and surgery, or podiatric medicine and surgery;	1440
(2) Registered nurses and licensed practical nurses	1441
licensed under Chapter 4723. of the Revised Code;	1442
(3) Physician assistants licensed under Chapter 4730. of	1443
the Revised Code;	1444
(4) Dentists and dental hygienists licensed under Chapter	1445
4715. of the Revised Code;	1446
(5) Optometrists licensed under Chapter 4725. of the	1447
Revised Code;	1448
(6) Pharmacists licensed under Chapter 4729. of the	1449
Revised Code;	1450
<u>(7) Advanced practice respiratory therapists licensed</u>	1451
<u>under Chapter 4761. of the Revised Code.</u>	1452

- (B) For matters related to activities conducted under the drug repository program, all of the following apply:
- (1) A pharmacy, drug manufacturer, health care facility, or other person or government entity that donates or gives drugs to the program, and any person or government entity that facilitates the donation or gift, shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property.
- (2) A pharmacy, hospital, or nonprofit clinic that accepts or distributes drugs under the program shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the pharmacy, hospital, or nonprofit clinic constitutes willful and wanton misconduct.
- (3) A health care professional who accepts, dispenses, or personally furnishes drugs under the program on behalf of a pharmacy, hospital, or nonprofit clinic participating in the program, and the pharmacy, hospital, or nonprofit clinic that employs or otherwise uses the services of the health care professional, shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the health care professional, pharmacy, hospital, or nonprofit clinic constitutes willful and wanton misconduct.
- (4) The state board of pharmacy shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the board constitutes willful and wanton misconduct.
- (5) In addition to the civil immunity granted under

division (B) (1) of this section, a pharmacy, drug manufacturer, 1482
health care facility, or other person or government entity that 1483
donates or gives drugs to the program, and any person or 1484
government entity that facilitates the donation or gift, shall 1485
not be subject to criminal prosecution for matters related to 1486
activities that it conducts or another party conducts under the 1487
program, unless an action or omission of the party that donates, 1488
gives, or facilitates the donation or gift of the drugs does not 1489
comply with the provisions of this chapter or the rules adopted 1490
under it. 1491

(6) In the case of a drug manufacturer, the immunities 1492
from civil liability and criminal prosecution granted to another 1493
party under divisions (B) (1) and (5) of this section extend to 1494
the manufacturer when any drug it manufactures is the subject of 1495
an activity conducted under the program. This extension of 1496
immunities includes, but is not limited to, immunity from 1497
liability or prosecution for failure to transfer or communicate 1498
product or consumer information or the expiration date of a drug 1499
that is donated or given. 1500

Sec. 3719.121. (A) Except as otherwise provided in section 1501
4723.28, 4723.35, 4730.25, 4731.22, 4734.39, ~~or 4734.41, or~~ 1502
4761.09 of the Revised Code, the license, certificate, or 1503
registration of any dentist, chiropractor, physician, 1504
podiatrist, registered nurse, advanced practice registered 1505
nurse, licensed practical nurse, physician assistant, advanced 1506
practice respiratory therapist, pharmacist, pharmacy intern, 1507
pharmacy technician trainee, registered pharmacy technician, 1508
certified pharmacy technician, optometrist, or veterinarian who 1509
is or becomes addicted to the use of controlled substances shall 1510
be suspended by the board that authorized the person's license, 1511
certificate, or registration until the person offers 1512

satisfactory proof to the board that the person no longer is 1513
addicted to the use of controlled substances. 1514

(B) If the board under which a person has been issued a 1515
license, certificate, or evidence of registration determines 1516
that there is clear and convincing evidence that continuation of 1517
the person's professional practice or method of administering, 1518
prescribing, preparing, distributing, dispensing, or personally 1519
furnishing controlled substances or other dangerous drugs 1520
presents a danger of immediate and serious harm to others, the 1521
board may suspend the person's license, certificate, or 1522
registration without a hearing. Except as otherwise provided in 1523
sections 4715.30, 4723.281, 4729.16, 4730.25, 4731.22, ~~and~~ 1524
4734.36, and 4761.09 of the Revised Code, the board shall follow 1525
the procedure for suspension without a prior hearing in section 1526
119.07 of the Revised Code. The suspension shall remain in 1527
effect, unless removed by the board, until the board's final 1528
adjudication order becomes effective, except that if the board 1529
does not issue its final adjudication order within ninety days 1530
after the hearing, the suspension shall be void on the ninety- 1531
first day after the hearing. 1532

(C) On receiving notification pursuant to section 2929.42 1533
or 3719.12 of the Revised Code, the board under which a person 1534
has been issued a license, certificate, or evidence of 1535
registration immediately shall suspend the license, certificate, 1536
or registration of that person on a plea of guilty to, a finding 1537
by a jury or court of the person's guilt of, or conviction of a 1538
felony drug abuse offense; a finding by a court of the person's 1539
eligibility for intervention in lieu of conviction; a plea of 1540
guilty to, or a finding by a jury or court of the person's guilt 1541
of, or the person's conviction of an offense in another 1542
jurisdiction that is essentially the same as a felony drug abuse 1543

offense; or a finding by a court of the person's eligibility for 1544
treatment or intervention in lieu of conviction in another 1545
jurisdiction. The board shall notify the holder of the license, 1546
certificate, or registration of the suspension, which shall 1547
remain in effect until the board holds an adjudicatory hearing 1548
under Chapter 119. of the Revised Code. 1549

Sec. 3719.13. Prescriptions, orders, and records, required 1550
by Chapter 3719. of the Revised Code, and stocks of dangerous 1551
drugs and controlled substances, shall be open for inspection 1552
only to federal, state, county, and municipal officers, and 1553
employees of the state board of pharmacy whose duty it is to 1554
enforce the laws of this state or of the United States relating 1555
to controlled substances. Such prescriptions, orders, records, 1556
and stocks shall be open for inspection by employees of the 1557
state medical board for purposes of enforcing Chapters 4730.~~and~~ 1558
4731., and 4761. of the Revised Code, employees of the board of 1559
nursing for purposes of enforcing Chapter 4723. of the Revised 1560
Code, and employees of the department of mental health and 1561
addiction services for purposes of section 5119.37 of the 1562
Revised Code. No person having knowledge of any such 1563
prescription, order, or record shall divulge such knowledge, 1564
except in connection with a prosecution or proceeding in court 1565
or before a licensing or registration board or officer, to which 1566
prosecution or proceeding the person to whom such prescriptions, 1567
orders, or records relate is a party. 1568

Sec. 3719.81. (A) As used in this section, "sample drug" 1569
has the same meaning as in section 2925.01 of the Revised Code. 1570

(B) A person may furnish another a sample drug, if all of 1571
the following apply: 1572

(1) The sample drug is furnished free of charge by a 1573

manufacturer, manufacturer's representative, or wholesale dealer 1574
in pharmaceuticals to a licensed health professional authorized 1575
to prescribe drugs, other than an advanced practice respiratory 1576
therapist, or is furnished free of charge by ~~such a professional~~ 1577
the prescriber who received the sample drug to a patient for use 1578
as medication; 1579

(2) The sample drug is in the original container in which 1580
it was placed by the manufacturer, and the container is plainly 1581
marked as a sample; 1582

(3) Prior to its being furnished, the sample drug has been 1583
stored under the proper conditions to prevent its deterioration 1584
or contamination; 1585

(4) If the sample drug is of a type which deteriorates 1586
with time, the sample container is plainly marked with the date 1587
beyond which the sample drug is unsafe to use, and the date has 1588
not expired on the sample furnished. Compliance with the 1589
labeling requirements of the "Federal Food, Drug, and Cosmetic 1590
Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, shall 1591
be deemed compliance with this section. 1592

(5) The sample drug is distributed, stored, or discarded 1593
in such a way that the sample drug may not be acquired or used 1594
by any unauthorized person, or by any person, including a child, 1595
for whom it may present a health or safety hazard. 1596

(C) Division (B) of this section does not do any of the 1597
following: 1598

(1) Apply to or restrict the furnishing of any sample of a 1599
nonnarcotic substance if the substance may, under the "Federal 1600
Food, Drug, and Cosmetic Act" and under the laws of this state, 1601
otherwise be lawfully sold over the counter without a 1602

prescription; 1603

(2) Authorize a ~~licensed health professional authorized to~~ 1604
~~prescribe drugs~~ prescriber who is a clinical nurse specialist, 1605
certified nurse-midwife, certified nurse practitioner, 1606
optometrist, or physician assistant to furnish a sample drug 1607
that is not a drug the ~~professional~~ prescriber is authorized to 1608
prescribe. 1609

(3) Prohibit a ~~licensed health professional authorized to~~ 1610
~~prescribe drugs~~ prescriber, manufacturer of dangerous drugs, 1611
wholesale distributor of dangerous drugs, or representative of a 1612
manufacturer of dangerous drugs from furnishing a sample drug to 1613
a charitable pharmacy in accordance with section 3719.811 of the 1614
Revised Code. 1615

(4) Prohibit a pharmacist working, whether or not for 1616
compensation, in a charitable pharmacy from dispensing a sample 1617
drug to a person in accordance with section 3719.811 of the 1618
Revised Code. 1619

(D) The state board of pharmacy shall, in accordance with 1620
Chapter 119. of the Revised Code, adopt rules as necessary to 1621
give effect to this section. 1622

Sec. 4729.01. As used in this chapter: 1623

(A) "Pharmacy," except when used in a context that refers 1624
to the practice of pharmacy, means any area, room, rooms, place 1625
of business, department, or portion of any of the foregoing 1626
where the practice of pharmacy is conducted. 1627

(B) "Practice of pharmacy" means providing pharmacist care 1628
requiring specialized knowledge, judgment, and skill derived 1629
from the principles of biological, chemical, behavioral, social, 1630
pharmaceutical, and clinical sciences. As used in this division, 1631

"pharmacist care" includes the following:	1632
(1) Interpreting prescriptions;	1633
(2) Dispensing drugs and drug therapy related devices;	1634
(3) Compounding drugs;	1635
(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;	1636 1637 1638 1639 1640
(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;	1641 1642 1643
(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;	1644 1645 1646 1647 1648
(7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;	1649 1650 1651
(8) Acting pursuant to a consult agreement, if an agreement has been established;	1652 1653
(9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code;	1654 1655
(10) Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code.	1656 1657
(C) "Compounding" means the preparation, mixing,	1658

assembling, packaging, and labeling of one or more drugs in any 1659
of the following circumstances: 1660

(1) Pursuant to a prescription issued by a licensed health 1661
professional authorized to prescribe drugs; 1662

(2) Pursuant to the modification of a prescription made in 1663
accordance with a consult agreement; 1664

(3) As an incident to research, teaching activities, or 1665
chemical analysis; 1666

(4) In anticipation of orders for drugs pursuant to 1667
prescriptions, based on routine, regularly observed dispensing 1668
patterns; 1669

(5) Pursuant to a request made by a licensed health 1670
professional authorized to prescribe drugs for a drug that is to 1671
be used by the professional for the purpose of direct 1672
administration to patients in the course of the professional's 1673
practice, if all of the following apply: 1674

(a) At the time the request is made, the drug is not 1675
commercially available regardless of the reason that the drug is 1676
not available, including the absence of a manufacturer for the 1677
drug or the lack of a readily available supply of the drug from 1678
a manufacturer. 1679

(b) A limited quantity of the drug is compounded and 1680
provided to the professional. 1681

(c) The drug is compounded and provided to the 1682
professional as an occasional exception to the normal practice 1683
of dispensing drugs pursuant to patient-specific prescriptions. 1684

(D) "Consult agreement" means an agreement that has been 1685
entered into under section 4729.39 of the Revised Code. 1686

(E) "Drug" means:	1687
(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, or prevention of disease in humans or animals;	1688 1689 1690 1691
(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	1692 1693 1694
(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;	1695 1696
(4) Any article intended for use as a component of any article specified in division (E) (1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.	1697 1698 1699 1700
"Drug" does not include "hemp" or a "hemp product" as those terms are defined in section 928.01 of the Revised Code.	1701 1702
(F) "Dangerous drug" means any of the following:	1703
(1) Any drug to which either of the following applies:	1704
(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;	1705 1706 1707 1708 1709 1710 1711
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	1712 1713

(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body;

(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code.

(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.

(H) "Prescription" means all of the following:

(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;

(2) 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, gonorrhoea, or trichomoniasis issued to and in the name of a patient who is not the intended user of the drug but is the sexual partner of the intended user;

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

(4) For purposes of Chapter 3728. and sections 4723.483, 4729.88, 4730.433, and 4731.96 of the Revised Code, a written,

electronic, or oral order for an epinephrine autoinjector issued 1742
to and in the name of a qualified entity, as defined in section 1743
3728.01 of the Revised Code; 1744

(5) For purposes of sections 3313.7115, 3313.7116, 1745
3314.147, 3326.60, 3328.38, 4723.4811, 4730.437, 4731.92, and 1746
5101.78 of the Revised Code, a written, electronic, or oral 1747
order for injectable or nasally administered glucagon in the 1748
name of a school, school district, or camp. 1749

(I) "Licensed health professional authorized to prescribe 1750
drugs" or "prescriber" means an individual who is authorized by 1751
law to prescribe drugs or dangerous drugs or drug therapy 1752
related devices in the course of the individual's professional 1753
practice, including only the following: 1754

(1) A dentist licensed under Chapter 4715. of the Revised 1755
Code; 1756

(2) A clinical nurse specialist, certified nurse-midwife, 1757
or certified nurse practitioner who holds a current, valid 1758
license issued under Chapter 4723. of the Revised Code to 1759
practice nursing as an advanced practice registered nurse; 1760

(3) A certified registered nurse anesthetist who holds a 1761
current, valid license issued under Chapter 4723. of the Revised 1762
Code to practice nursing as an advanced practice registered 1763
nurse, but only to the extent of the nurse's authority under 1764
sections 4723.43 and 4723.434 of the Revised Code; 1765

(4) An optometrist licensed under Chapter 4725. of the 1766
Revised Code to practice optometry; 1767

(5) A physician authorized under Chapter 4731. of the 1768
Revised Code to practice medicine and surgery, osteopathic 1769
medicine and surgery, or podiatric medicine and surgery; 1770

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

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

(8) An advanced practice respiratory therapist who holds a
license to practice as an advanced practice respiratory
therapist issued under Chapter 4761. of the Revised Code and has
been granted physician-delegated prescriptive authority.

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

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

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

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

(N) "Price information" means the price charged for a
prescription for a particular drug product and, in an easily

understandable manner, all of the following: 1800

(1) The proprietary name of the drug product; 1801

(2) The established (generic) name of the drug product; 1802

(3) The strength of the drug product if the product 1803
contains a single active ingredient or if the drug product 1804
contains more than one active ingredient and a relevant strength 1805
can be associated with the product without indicating each 1806
active ingredient. The established name and quantity of each 1807
active ingredient are required if such a relevant strength 1808
cannot be so associated with a drug product containing more than 1809
one ingredient. 1810

(4) The dosage form; 1811

(5) The price charged for a specific quantity of the drug 1812
product. The stated price shall include all charges to the 1813
consumer, including, but not limited to, the cost of the drug 1814
product, professional fees, handling fees, if any, and a 1815
statement identifying professional services routinely furnished 1816
by the pharmacy. Any mailing fees and delivery fees may be 1817
stated separately without repetition. The information shall not 1818
be false or misleading. 1819

(O) "Wholesale distributor of dangerous drugs" or 1820
"wholesale distributor" means a person engaged in the sale of 1821
dangerous drugs at wholesale and includes any agent or employee 1822
of such a person authorized by the person to engage in the sale 1823
of dangerous drugs at wholesale. 1824

(P) "Manufacturer of dangerous drugs" or "manufacturer" 1825
means a person, other than a pharmacist or prescriber, who 1826
manufactures dangerous drugs and who is engaged in the sale of 1827
those dangerous drugs. 1828

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

(R) "Promote to the public" means disseminating a representation to the public in any manner or by any means, other than by labeling, for the purpose of inducing, or that is likely to induce, directly or indirectly, the purchase of a dangerous drug at retail.

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

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

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

(U) "Food" has the same meaning as in section 3715.01 of 1859
the Revised Code. 1860

(V) "Pain management clinic" has the same meaning as in 1861
section 4731.054 of the Revised Code. 1862

(W) "Investigational drug or product" means a drug or 1863
product that has successfully completed phase one of the United 1864
States food and drug administration clinical trials and remains 1865
under clinical trial, but has not been approved for general use 1866
by the United States food and drug administration. 1867
"Investigational drug or product" does not include controlled 1868
substances in schedule I, as defined in section 3719.01 of the 1869
Revised Code. 1870

(X) "Product," when used in reference to an 1871
investigational drug or product, means a biological product, 1872
other than a drug, that is made from a natural human, animal, or 1873
microorganism source and is intended to treat a disease or 1874
medical condition. 1875

(Y) "Third-party logistics provider" means a person that 1876
provides or coordinates warehousing or other logistics services 1877
pertaining to dangerous drugs including distribution, on behalf 1878
of a manufacturer, wholesale distributor, or terminal 1879
distributor of dangerous drugs, but does not take ownership of 1880
the drugs or have responsibility to direct the sale or 1881
disposition of the drugs. 1882

(Z) "Repackager of dangerous drugs" or "repackager" means 1883
a person that repacks and relabels dangerous drugs for sale or 1884
distribution. 1885

(AA) "Outsourcing facility" means a facility that is 1886
engaged in the compounding and sale of sterile drugs and is 1887

registered as an outsourcing facility with the United States 1888
food and drug administration. 1889

(BB) "Laboratory" means a laboratory licensed under this 1890
chapter as a terminal distributor of dangerous drugs and 1891
entrusted to have custody of any of the following drugs and to 1892
use the drugs for scientific and clinical purposes and for 1893
purposes of instruction: dangerous drugs that are not controlled 1894
substances, as defined in section 3719.01 of the Revised Code; 1895
dangerous drugs that are controlled substances, as defined in 1896
that section; and controlled substances in schedule I, as 1897
defined in that section. 1898

(CC) "Overdose reversal drug" means both of the following: 1899

(1) Naloxone; 1900

(2) Any other drug that the state board of pharmacy, 1901
through rules adopted in accordance with Chapter 119. of the 1902
Revised Code, designates as a drug that is approved by the 1903
federal food and drug administration for the reversal of a known 1904
or suspected opioid-related overdose. 1905

Sec. 4729.51. (A) No person other than a licensed 1906
manufacturer of dangerous drugs, outsourcing facility, third- 1907
party logistics provider, repackager of dangerous drugs, or 1908
wholesale distributor of dangerous drugs shall possess for sale, 1909
sell, distribute, or deliver, at wholesale, dangerous drugs or 1910
investigational drugs or products, except as follows: 1911

(1) A licensed terminal distributor of dangerous drugs 1912
that is a pharmacy may make occasional sales of dangerous drugs 1913
or investigational drugs or products at wholesale. 1914

(2) A licensed terminal distributor of dangerous drugs 1915
having more than one licensed location may transfer or deliver 1916

dangerous drugs from one licensed location to another licensed 1917
location owned by the terminal distributor if the license issued 1918
for each location is in effect at the time of the transfer or 1919
delivery. 1920

(3) A licensed terminal distributor of dangerous drugs 1921
that is not a pharmacy may make occasional sales of the 1922
following at wholesale: 1923

(a) Overdose reversal drugs; 1924

(b) Dangerous drugs if the drugs being sold are in 1925
shortage, as defined in rules adopted under section 4729.26 of 1926
the Revised Code; 1927

(c) Dangerous drugs other than those described in 1928
divisions (A) (3) (a) and (b) of this section or investigational 1929
drugs or products if authorized by rules adopted under section 1930
4729.26 of the Revised Code. 1931

(B) No licensed manufacturer, outsourcing facility, third- 1932
party logistics provider, repackager, or wholesale distributor 1933
shall possess for sale, sell, or distribute, at wholesale, 1934
dangerous drugs or investigational drugs or products to any 1935
person other than the following: 1936

(1) Subject to division (D) of this section, a licensed 1937
terminal distributor of dangerous drugs; 1938

(2) Subject to division (C) of this section, any person 1939
exempt from licensure as a terminal distributor of dangerous 1940
drugs under section 4729.541 of the Revised Code; 1941

(3) A licensed manufacturer, outsourcing facility, third- 1942
party logistics provider, repackager, or wholesale distributor; 1943

(4) A terminal distributor, manufacturer, outsourcing 1944

facility, third-party logistics provider, repackager, or 1945
wholesale distributor that is located in another state, is not 1946
engaged in the sale of dangerous drugs within this state, and is 1947
actively licensed to engage in the sale of dangerous drugs by 1948
the state in which the distributor conducts business. 1949

(C) No licensed manufacturer, outsourcing facility, third- 1950
party logistics provider, repackager, or wholesale distributor 1951
shall possess for sale, sell, or distribute, at wholesale, 1952
dangerous drugs or investigational drugs or products to either 1953
of the following: 1954

(1) A prescriber who is employed by a pain management 1955
clinic that is not licensed as a terminal distributor of 1956
dangerous drugs with a pain management clinic classification 1957
issued under section 4729.552 of the Revised Code; 1958

(2) A business entity described in division (A) (2) or (3) 1959
of section 4729.541 of the Revised Code that is, or is 1960
operating, a pain management clinic without a license as a 1961
terminal distributor of dangerous drugs with a pain management 1962
clinic classification issued under section 4729.552 of the 1963
Revised Code. 1964

(D) No licensed manufacturer, outsourcing facility, third- 1965
party logistics provider, repackager, or wholesale distributor 1966
shall possess dangerous drugs or investigational drugs or 1967
products for sale at wholesale, or sell or distribute such drugs 1968
at wholesale, to a licensed terminal distributor of dangerous 1969
drugs, except as follows: 1970

(1) In the case of a terminal distributor with a category 1971
II license, only dangerous drugs in category II, as defined in 1972
division (A) (1) of section 4729.54 of the Revised Code; 1973

(2) In the case of a terminal distributor with a category III license, dangerous drugs in category II and category III, as defined in divisions (A) (1) and (2) of section 4729.54 of the Revised Code;	1974 1975 1976 1977
(3) In the case of a terminal distributor with a limited category II or III license, only the dangerous drugs specified in the license.	1978 1979 1980
(E) (1) Except as provided in division (E) (2) of this section, no person shall do any of the following:	1981 1982
(a) Sell or distribute, at retail, dangerous drugs;	1983
(b) Possess for sale, at retail, dangerous drugs;	1984
(c) Possess dangerous drugs.	1985
(2) (a) Divisions (E) (1) (a), (b), and (c) of this section do not apply to any of the following:	1986 1987
(i) A licensed terminal distributor of dangerous drugs;	1988
(ii) A person who possesses, or possesses for sale or sells, at retail, a dangerous drug in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. <u>and 4761.</u> of the Revised Code;	1989 1990 1991 1992
(iii) Any of the persons identified in divisions (A) (1) to (5) and (18) of section 4729.541 of the Revised Code, but only to the extent specified in that section.	1993 1994 1995
(b) Division (E) (1) (c) of this section does not apply to any of the following:	1996 1997
(i) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;	1998 1999
(ii) Any of the persons identified in divisions (A) (6) to	2000

(16) of section 4729.541 of the Revised Code, but only to the extent specified in that section. 2001
2002

(F) No licensed terminal distributor of dangerous drugs or person that is exempt from licensure under section 4729.541 of the Revised Code shall purchase dangerous drugs or investigational drugs or products from any person other than a licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor, except as follows: 2003
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2006
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(1) A licensed terminal distributor of dangerous drugs or person that is exempt from licensure under section 4729.541 of the Revised Code may make occasional purchases of dangerous drugs or investigational drugs or products that are sold in accordance with division (A) (1) or (3) of this section. 2010
2011
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(2) A licensed terminal distributor of dangerous drugs having more than one licensed location may transfer or deliver dangerous drugs or investigational drugs or products from one licensed location to another licensed location if the license issued for each location is in effect at the time of the transfer or delivery. 2015
2016
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2020

(G) No licensed terminal distributor of dangerous drugs shall engage in the retail sale or other distribution of dangerous drugs or investigational drugs or products or maintain possession, custody, or control of dangerous drugs or investigational drugs or products for any purpose other than the distributor's personal use or consumption, at any establishment or place other than that or those described in the license issued by the state board of pharmacy to such terminal distributor. 2021
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(H) Nothing in this section shall be construed to 2030
interfere with the performance of official duties by any law 2031
enforcement official authorized by municipal, county, state, or 2032
federal law to collect samples of any drug, regardless of its 2033
nature or in whose possession it may be. 2034

(I) Notwithstanding anything to the contrary in this 2035
section, the board of education of a city, local, exempted 2036
village, or joint vocational school district may distribute 2037
epinephrine autoinjectors for use in accordance with section 2038
3313.7110 of the Revised Code, may distribute inhalers for use 2039
in accordance with section 3313.7113 of the Revised Code, and 2040
may distribute injectable or nasally administered glucagon for 2041
use in accordance with section 3313.7115 of the Revised Code. 2042

Sec. 4731.22. (A) The state medical board, by an 2043
affirmative vote of not fewer than six of its members, may 2044
limit, revoke, or suspend a license or certificate to practice 2045
or certificate to recommend, refuse to grant a license or 2046
certificate, refuse to renew a license or certificate, refuse to 2047
reinstate a license or certificate, or reprimand or place on 2048
probation the holder of a license or certificate if the 2049
individual applying for or holding the license or certificate is 2050
found by the board to have committed fraud during the 2051
administration of the examination for a license or certificate 2052
to practice or to have committed fraud, misrepresentation, or 2053
deception in applying for, renewing, or securing any license or 2054
certificate to practice or certificate to recommend issued by 2055
the board. 2056

(B) Except as provided in division (P) of this section, 2057
the board, by an affirmative vote of not fewer than six members, 2058
shall, to the extent permitted by law, limit, revoke, or suspend 2059

a license or certificate to practice or certificate to 2060
recommend, refuse to issue a license or certificate, refuse to 2061
renew a license or certificate, refuse to reinstate a license or 2062
certificate, or reprimand or place on probation the holder of a 2063
license or certificate for one or more of the following reasons: 2064

(1) Permitting one's name or one's license or certificate 2065
to practice to be used by a person, group, or corporation when 2066
the individual concerned is not actually directing the treatment 2067
given; 2068

(2) Failure to maintain minimal standards applicable to 2069
the selection or administration of drugs, or failure to employ 2070
acceptable scientific methods in the selection of drugs or other 2071
modalities for treatment of disease; 2072

(3) Except as provided in section 4731.97 of the Revised 2073
Code, selling, giving away, personally furnishing, prescribing, 2074
or administering drugs for other than legal and legitimate 2075
therapeutic purposes or a plea of guilty to, a judicial finding 2076
of guilt of, or a judicial finding of eligibility for 2077
intervention in lieu of conviction of, a violation of any 2078
federal or state law regulating the possession, distribution, or 2079
use of any drug; 2080

(4) Willfully betraying a professional confidence. 2081

For purposes of this division, "willfully betraying a 2082
professional confidence" does not include providing any 2083
information, documents, or reports under sections 307.621 to 2084
307.629 of the Revised Code to a child fatality review board; 2085
does not include providing any information, documents, or 2086
reports under sections 307.631 to 307.6410 of the Revised Code 2087
to a drug overdose fatality review committee, a suicide fatality 2088

review committee, or hybrid drug overdose fatality and suicide 2089
fatality review committee; does not include providing any 2090
information, documents, or reports under sections 307.651 to 2091
307.659 of the Revised Code to a domestic violence fatality 2092
review board; does not include providing any information, 2093
documents, or reports to the director of health pursuant to 2094
guidelines established under section 3701.70 of the Revised 2095
Code; does not include written notice to a mental health 2096
professional under section 4731.62 of the Revised Code; and does 2097
not include the making of a report of an employee's use of a 2098
drug of abuse, or a report of a condition of an employee other 2099
than one involving the use of a drug of abuse, to the employer 2100
of the employee as described in division (B) of section 2305.33 2101
of the Revised Code. Nothing in this division affects the 2102
immunity from civil liability conferred by section 2305.33 or 2103
4731.62 of the Revised Code upon a physician who makes a report 2104
in accordance with section 2305.33 or notifies a mental health 2105
professional in accordance with section 4731.62 of the Revised 2106
Code. As used in this division, "employee," "employer," and 2107
"physician" have the same meanings as in section 2305.33 of the 2108
Revised Code. 2109

(5) Making a false, fraudulent, deceptive, or misleading 2110
statement in the solicitation of or advertising for patients; in 2111
relation to the practice of medicine and surgery, osteopathic 2112
medicine and surgery, podiatric medicine and surgery, or a 2113
limited branch of medicine; or in securing or attempting to 2114
secure any license or certificate to practice issued by the 2115
board. 2116

As used in this division, "false, fraudulent, deceptive, 2117
or misleading statement" means a statement that includes a 2118
misrepresentation of fact, is likely to mislead or deceive 2119

because of a failure to disclose material facts, is intended or 2120
is likely to create false or unjustified expectations of 2121
favorable results, or includes representations or implications 2122
that in reasonable probability will cause an ordinarily prudent 2123
person to misunderstand or be deceived. 2124

(6) A departure from, or the failure to conform to, 2125
minimal standards of care of similar practitioners under the 2126
same or similar circumstances, whether or not actual injury to a 2127
patient is established; 2128

(7) Representing, with the purpose of obtaining 2129
compensation or other advantage as personal gain or for any 2130
other person, that an incurable disease or injury, or other 2131
incurable condition, can be permanently cured; 2132

(8) The obtaining of, or attempting to obtain, money or 2133
anything of value by fraudulent misrepresentations in the course 2134
of practice; 2135

(9) A plea of guilty to, a judicial finding of guilt of, 2136
or a judicial finding of eligibility for intervention in lieu of 2137
conviction for, a felony; 2138

(10) Commission of an act that constitutes a felony in 2139
this state, regardless of the jurisdiction in which the act was 2140
committed; 2141

(11) A plea of guilty to, a judicial finding of guilt of, 2142
or a judicial finding of eligibility for intervention in lieu of 2143
conviction for, a misdemeanor committed in the course of 2144
practice; 2145

(12) Commission of an act in the course of practice that 2146
constitutes a misdemeanor in this state, regardless of the 2147
jurisdiction in which the act was committed; 2148

(13) A plea of guilty to, a judicial finding of guilt of, 2149
or a judicial finding of eligibility for intervention in lieu of 2150
conviction for, a misdemeanor involving moral turpitude; 2151

(14) Commission of an act involving moral turpitude that 2152
constitutes a misdemeanor in this state, regardless of the 2153
jurisdiction in which the act was committed; 2154

(15) Violation of the conditions of limitation placed by 2155
the board upon a license or certificate to practice; 2156

(16) Failure to pay license renewal fees specified in this 2157
chapter; 2158

(17) Except as authorized in section 4731.31 of the 2159
Revised Code, engaging in the division of fees for referral of 2160
patients, or the receiving of a thing of value in return for a 2161
specific referral of a patient to utilize a particular service 2162
or business; 2163

(18) Subject to section 4731.226 of the Revised Code, 2164
violation of any provision of a code of ethics of the American 2165
medical association, the American osteopathic association, the 2166
American podiatric medical association, or any other national 2167
professional organizations that the board specifies by rule. The 2168
state medical board shall obtain and keep on file current copies 2169
of the codes of ethics of the various national professional 2170
organizations. The individual whose license or certificate is 2171
being suspended or revoked shall not be found to have violated 2172
any provision of a code of ethics of an organization not 2173
appropriate to the individual's profession. 2174

For purposes of this division, a "provision of a code of 2175
ethics of a national professional organization" does not include 2176
any provision that would preclude the making of a report by a 2177

physician of an employee's use of a drug of abuse, or of a 2178
condition of an employee other than one involving the use of a 2179
drug of abuse, to the employer of the employee as described in 2180
division (B) of section 2305.33 of the Revised Code. Nothing in 2181
this division affects the immunity from civil liability 2182
conferred by that section upon a physician who makes either type 2183
of report in accordance with division (B) of that section. As 2184
used in this division, "employee," "employer," and "physician" 2185
have the same meanings as in section 2305.33 of the Revised 2186
Code. 2187

(19) Inability to practice according to acceptable and 2188
prevailing standards of care by reason of mental illness or 2189
physical illness, including, but not limited to, physical 2190
deterioration that adversely affects cognitive, motor, or 2191
perceptive skills. 2192

In enforcing this division, the board, upon a showing of a 2193
possible violation, shall refer any individual who is authorized 2194
to practice by this chapter or who has submitted an application 2195
pursuant to this chapter to the monitoring organization that 2196
conducts the confidential monitoring program established under 2197
section 4731.25 of the Revised Code. The board also may compel 2198
the individual to submit to a mental examination, physical 2199
examination, including an HIV test, or both a mental and a 2200
physical examination. The expense of the examination is the 2201
responsibility of the individual compelled to be examined. 2202
Failure to submit to a mental or physical examination or consent 2203
to an HIV test ordered by the board constitutes an admission of 2204
the allegations against the individual unless the failure is due 2205
to circumstances beyond the individual's control, and a default 2206
and final order may be entered without the taking of testimony 2207
or presentation of evidence. If the board finds an individual 2208

unable to practice because of the reasons set forth in this 2209
division, the board shall require the individual to submit to 2210
care, counseling, or treatment by physicians approved or 2211
designated by the board, as a condition for initial, continued, 2212
reinstated, or renewed authority to practice. An individual 2213
affected under this division shall be afforded an opportunity to 2214
demonstrate to the board the ability to resume practice in 2215
compliance with acceptable and prevailing standards under the 2216
provisions of the individual's license or certificate. For the 2217
purpose of this division, any individual who applies for or 2218
receives a license or certificate to practice under this chapter 2219
accepts the privilege of practicing in this state and, by so 2220
doing, shall be deemed to have given consent to submit to a 2221
mental or physical examination when directed to do so in writing 2222
by the board, and to have waived all objections to the 2223
admissibility of testimony or examination reports that 2224
constitute a privileged communication. 2225

(20) Except as provided in division (F) (1) (b) of section 2226
4731.282 of the Revised Code or when civil penalties are imposed 2227
under section 4731.225 of the Revised Code, and subject to 2228
section 4731.226 of the Revised Code, violating or attempting to 2229
violate, directly or indirectly, or assisting in or abetting the 2230
violation of, or conspiring to violate, any provisions of this 2231
chapter or any rule promulgated by the board. 2232

This division does not apply to a violation or attempted 2233
violation of, assisting in or abetting the violation of, or a 2234
conspiracy to violate, any provision of this chapter or any rule 2235
adopted by the board that would preclude the making of a report 2236
by a physician of an employee's use of a drug of abuse, or of a 2237
condition of an employee other than one involving the use of a 2238
drug of abuse, to the employer of the employee as described in 2239

division (B) of section 2305.33 of the Revised Code. Nothing in 2240
this division affects the immunity from civil liability 2241
conferred by that section upon a physician who makes either type 2242
of report in accordance with division (B) of that section. As 2243
used in this division, "employee," "employer," and "physician" 2244
have the same meanings as in section 2305.33 of the Revised 2245
Code. 2246

(21) The violation of section 3701.79 of the Revised Code 2247
or of any abortion rule adopted by the director of health 2248
pursuant to section 3701.341 of the Revised Code; 2249

(22) Any of the following actions taken by an agency 2250
responsible for authorizing, certifying, or regulating an 2251
individual to practice a health care occupation or provide 2252
health care services in this state or another jurisdiction, for 2253
any reason other than the nonpayment of fees: the limitation, 2254
revocation, or suspension of an individual's license to 2255
practice; acceptance of an individual's license surrender; 2256
denial of a license; refusal to renew or reinstate a license; 2257
imposition of probation; or issuance of an order of censure or 2258
other reprimand; 2259

(23) The violation of section 2919.12 of the Revised Code 2260
or the performance or inducement of an abortion upon a pregnant 2261
woman with actual knowledge that the conditions specified in 2262
division (B) of section 2317.56 of the Revised Code have not 2263
been satisfied or with a heedless indifference as to whether 2264
those conditions have been satisfied, unless an affirmative 2265
defense as specified in division (H) (2) of that section would 2266
apply in a civil action authorized by division (H) (1) of that 2267
section; 2268

(24) The revocation, suspension, restriction, reduction, 2269

or termination of clinical privileges by the United States 2270
department of defense or department of veterans affairs or the 2271
termination or suspension of a certificate of registration to 2272
prescribe drugs by the drug enforcement administration of the 2273
United States department of justice; 2274

(25) Termination or suspension from participation in the 2275
medicare or medicaid programs by the department of health and 2276
human services or other responsible agency; 2277

(26) Impairment of ability to practice according to 2278
acceptable and prevailing standards of care because of substance 2279
use disorder or excessive use or abuse of drugs, alcohol, or 2280
other substances that may impair ability to practice. 2281

For the purposes of this division, any individual 2282
authorized to practice by this chapter accepts the privilege of 2283
practicing in this state subject to supervision by the board. By 2284
filing an application for or holding a license or certificate to 2285
practice under this chapter, an individual shall be deemed to 2286
have given consent to submit to a mental or physical examination 2287
when ordered to do so by the board in writing, and to have 2288
waived all objections to the admissibility of testimony or 2289
examination reports that constitute privileged communications. 2290

If it has reason to believe that any individual authorized 2291
to practice by this chapter or any applicant for licensure or 2292
certification to practice suffers such impairment, the board 2293
shall refer the individual to the monitoring organization that 2294
conducts the confidential monitoring program established under 2295
section 4731.25 of the Revised Code. The board also may compel 2296
the individual to submit to a mental or physical examination, or 2297
both. The expense of the examination is the responsibility of 2298
the individual compelled to be examined. Any mental or physical 2299

examination required under this division shall be undertaken by 2300
a treatment provider or physician who is qualified to conduct 2301
the examination and who is approved under section 4731.251 of 2302
the Revised Code. 2303

Failure to submit to a mental or physical examination 2304
ordered by the board constitutes an admission of the allegations 2305
against the individual unless the failure is due to 2306
circumstances beyond the individual's control, and a default and 2307
final order may be entered without the taking of testimony or 2308
presentation of evidence. If the board determines that the 2309
individual's ability to practice is impaired, the board shall 2310
suspend the individual's license or certificate or deny the 2311
individual's application and shall require the individual, as a 2312
condition for initial, continued, reinstated, or renewed 2313
licensure or certification to practice, to submit to treatment. 2314

Before being eligible to apply for reinstatement of a 2315
license or certificate suspended under this division, the 2316
impaired practitioner shall demonstrate to the board the ability 2317
to resume practice in compliance with acceptable and prevailing 2318
standards of care under the provisions of the practitioner's 2319
license or certificate. The demonstration shall include, but 2320
shall not be limited to, the following: 2321

(a) Certification from a treatment provider approved under 2322
section 4731.251 of the Revised Code that the individual has 2323
successfully completed any required inpatient treatment; 2324

(b) Evidence of continuing full compliance with an 2325
aftercare contract or consent agreement; 2326

(c) Two written reports indicating that the individual's 2327
ability to practice has been assessed and that the individual 2328

has been found capable of practicing according to acceptable and 2329
prevailing standards of care. The reports shall be made by 2330
individuals or providers approved by the board for making the 2331
assessments and shall describe the basis for their 2332
determination. 2333

The board may reinstate a license or certificate suspended 2334
under this division after that demonstration and after the 2335
individual has entered into a written consent agreement. 2336

When the impaired practitioner resumes practice, the board 2337
shall require continued monitoring of the individual. The 2338
monitoring shall include, but not be limited to, compliance with 2339
the written consent agreement entered into before reinstatement 2340
or with conditions imposed by board order after a hearing, and, 2341
upon termination of the consent agreement, submission to the 2342
board for at least two years of annual written progress reports 2343
made under penalty of perjury stating whether the individual has 2344
maintained sobriety. 2345

(27) A second or subsequent violation of section 4731.66 2346
or 4731.69 of the Revised Code; 2347

(28) Except as provided in division (N) of this section: 2348

(a) Waiving the payment of all or any part of a deductible 2349
or copayment that a patient, pursuant to a health insurance or 2350
health care policy, contract, or plan that covers the 2351
individual's services, otherwise would be required to pay if the 2352
waiver is used as an enticement to a patient or group of 2353
patients to receive health care services from that individual; 2354

(b) Advertising that the individual will waive the payment 2355
of all or any part of a deductible or copayment that a patient, 2356
pursuant to a health insurance or health care policy, contract, 2357

or plan that covers the individual's services, otherwise would	2358
be required to pay.	2359
(29) Failure to use universal blood and body fluid	2360
precautions established by rules adopted under section 4731.051	2361
of the Revised Code;	2362
(30) Failure to provide notice to, and receive	2363
acknowledgment of the notice from, a patient when required by	2364
section 4731.143 of the Revised Code prior to providing	2365
nonemergency professional services, or failure to maintain that	2366
notice in the patient's medical record;	2367
(31) Failure of a physician supervising a physician	2368
assistant to maintain supervision in accordance with the	2369
requirements of Chapter 4730. of the Revised Code and the rules	2370
adopted under that chapter;	2371
(32) Failure of a physician or podiatrist to enter into a	2372
standard care arrangement with a clinical nurse specialist,	2373
certified nurse-midwife, or certified nurse practitioner with	2374
whom the physician or podiatrist is in collaboration pursuant to	2375
section 4731.27 of the Revised Code or failure to fulfill the	2376
responsibilities of collaboration after entering into a standard	2377
care arrangement;	2378
(33) Failure to comply with the terms of a consult	2379
agreement entered into with a pharmacist pursuant to section	2380
4729.39 of the Revised Code;	2381
(34) Failure to cooperate in an investigation conducted by	2382
the board under division (F) of this section, including failure	2383
to comply with a subpoena or order issued by the board or	2384
failure to answer truthfully a question presented by the board	2385
in an investigative interview, an investigative office	2386

conference, at a deposition, or in written interrogatories, 2387
except that failure to cooperate with an investigation shall not 2388
constitute grounds for discipline under this section if a court 2389
of competent jurisdiction has issued an order that either 2390
quashes a subpoena or permits the individual to withhold the 2391
testimony or evidence in issue; 2392

(35) Failure to supervise an anesthesiologist assistant in 2393
accordance with Chapter 4760. of the Revised Code and the 2394
board's rules for supervision of an anesthesiologist assistant; 2395

(36) Assisting suicide, as defined in section 3795.01 of 2396
the Revised Code; 2397

(37) Failure to comply with the requirements of section 2398
2317.561 of the Revised Code; 2399

(38) Failure to supervise a radiologist assistant in 2400
accordance with Chapter 4774. of the Revised Code and the 2401
board's rules for supervision of radiologist assistants; 2402

(39) Performing or inducing an abortion at an office or 2403
facility with knowledge that the office or facility fails to 2404
post the notice required under section 3701.791 of the Revised 2405
Code; 2406

(40) Failure to comply with the standards and procedures 2407
established in rules under section 4731.054 of the Revised Code 2408
for the operation of or the provision of care at a pain 2409
management clinic; 2410

(41) Failure to comply with the standards and procedures 2411
established in rules under section 4731.054 of the Revised Code 2412
for providing supervision, direction, and control of individuals 2413
at a pain management clinic; 2414

(42) Failure to comply with the requirements of section 2415
4729.79 or 4731.055 of the Revised Code, unless the state board 2416
of pharmacy no longer maintains a drug database pursuant to 2417
section 4729.75 of the Revised Code; 2418

(43) Failure to comply with the requirements of section 2419
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 2420
to submit to the department of health in accordance with a court 2421
order a complete report as described in section 2919.171 or 2422
2919.202 of the Revised Code; 2423

(44) Practicing at a facility that is subject to licensure 2424
as a category III terminal distributor of dangerous drugs with a 2425
pain management clinic classification unless the person 2426
operating the facility has obtained and maintains the license 2427
with the classification; 2428

(45) Owning a facility that is subject to licensure as a 2429
category III terminal distributor of dangerous drugs with a pain 2430
management clinic classification unless the facility is licensed 2431
with the classification; 2432

(46) Failure to comply with any of the requirements 2433
regarding making or maintaining medical records or documents 2434
described in division (A) of section 2919.192, division (C) of 2435
section 2919.193, division (B) of section 2919.195, or division 2436
(A) of section 2919.196 of the Revised Code; 2437

(47) Failure to comply with the requirements in section 2438
3719.061 of the Revised Code before issuing for a minor a 2439
prescription for an opioid analgesic, as defined in section 2440
3719.01 of the Revised Code; 2441

(48) Failure to comply with the requirements of section 2442
4731.30 of the Revised Code or rules adopted under section 2443

4731.301 of the Revised Code when recommending treatment with medical marijuana;	2444 2445
(49) A pattern of continuous or repeated violations of division (E) (2) or (3) of section 3963.02 of the Revised Code;	2446 2447
(50) Failure to fulfill the responsibilities of a collaboration agreement entered into with an athletic trainer as described in section 4755.621 of the Revised Code;	2448 2449 2450
(51) Failure to take the steps specified in section 4731.911 of the Revised Code following an abortion or attempted abortion in an ambulatory surgical facility or other location that is not a hospital when a child is born alive;	2451 2452 2453 2454
<u>(52) Failure of a physician supervising an advanced practice respiratory therapist to maintain supervision in accordance with the requirements of Chapter 4761. of the Revised Code and rules adopted under that chapter.</u>	2455 2456 2457 2458
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.	2459 2460 2461 2462 2463 2464 2465 2466 2467 2468 2469 2470
A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an	2471 2472

individual's license or certificate to practice or certificate 2473
to recommend. The telephone conference call shall be considered 2474
a special meeting under division (F) of section 121.22 of the 2475
Revised Code. 2476

If the board takes disciplinary action against an 2477
individual under division (B) of this section for a second or 2478
subsequent plea of guilty to, or judicial finding of guilt of, a 2479
violation of section 2919.123 or 2919.124 of the Revised Code, 2480
the disciplinary action shall consist of a suspension of the 2481
individual's license or certificate to practice for a period of 2482
at least one year or, if determined appropriate by the board, a 2483
more serious sanction involving the individual's license or 2484
certificate to practice. Any consent agreement entered into 2485
under this division with an individual that pertains to a second 2486
or subsequent plea of guilty to, or judicial finding of guilt 2487
of, a violation of that section shall provide for a suspension 2488
of the individual's license or certificate to practice for a 2489
period of at least one year or, if determined appropriate by the 2490
board, a more serious sanction involving the individual's 2491
license or certificate to practice. 2492

(D) For purposes of divisions (B) (10), (12), and (14) of 2493
this section, the commission of the act may be established by a 2494
finding by the board, pursuant to an adjudication under Chapter 2495
119. of the Revised Code, that the individual committed the act. 2496
The board does not have jurisdiction under those divisions if 2497
the trial court renders a final judgment in the individual's 2498
favor and that judgment is based upon an adjudication on the 2499
merits. The board has jurisdiction under those divisions if the 2500
trial court issues an order of dismissal upon technical or 2501
procedural grounds. 2502

(E) The sealing or expungement of conviction records by 2503
any court shall have no effect upon a prior board order entered 2504
under this section or upon the board's jurisdiction to take 2505
action under this section if, based upon a plea of guilty, a 2506
judicial finding of guilt, or a judicial finding of eligibility 2507
for intervention in lieu of conviction, the board issued a 2508
notice of opportunity for a hearing prior to the court's order 2509
to seal or expunge the records. The board shall not be required 2510
to seal, expunge, destroy, redact, or otherwise modify its 2511
records to reflect the court's sealing of conviction records. 2512

(F) (1) The board shall investigate evidence that appears 2513
to show that a person has violated any provision of this chapter 2514
or any rule adopted under it. Any person may report to the board 2515
in a signed writing any information that the person may have 2516
that appears to show a violation of any provision of this 2517
chapter or any rule adopted under it. In the absence of bad 2518
faith, any person who reports information of that nature or who 2519
testifies before the board in any adjudication conducted under 2520
Chapter 119. of the Revised Code shall not be liable in damages 2521
in a civil action as a result of the report or testimony. Each 2522
complaint or allegation of a violation received by the board 2523
shall be assigned a case number and shall be recorded by the 2524
board. 2525

(2) Investigations of alleged violations of this chapter 2526
or any rule adopted under it shall be supervised by the 2527
supervising member elected by the board in accordance with 2528
section 4731.02 of the Revised Code and by the secretary as 2529
provided in section 4731.39 of the Revised Code. The president 2530
may designate another member of the board to supervise the 2531
investigation in place of the supervising member. No member of 2532
the board who supervises the investigation of a case shall 2533

participate in further adjudication of the case. 2534

(3) In investigating a possible violation of this chapter 2535
or any rule adopted under this chapter, or in conducting an 2536
inspection under division (E) of section 4731.054 of the Revised 2537
Code, the board may question witnesses, conduct interviews, 2538
administer oaths, order the taking of depositions, inspect and 2539
copy any books, accounts, papers, records, or documents, issue 2540
subpoenas, and compel the attendance of witnesses and production 2541
of books, accounts, papers, records, documents, and testimony, 2542
except that a subpoena for patient record information shall not 2543
be issued without consultation with the attorney general's 2544
office and approval of the secretary of the board. 2545

(a) Before issuance of a subpoena for patient record 2546
information, the secretary shall determine whether there is 2547
probable cause to believe that the complaint filed alleges a 2548
violation of this chapter or any rule adopted under it and that 2549
the records sought are relevant to the alleged violation and 2550
material to the investigation. The subpoena may apply only to 2551
records that cover a reasonable period of time surrounding the 2552
alleged violation. 2553

(b) On failure to comply with any subpoena issued by the 2554
board and after reasonable notice to the person being 2555
subpoenaed, the board may move for an order compelling the 2556
production of persons or records pursuant to the Rules of Civil 2557
Procedure. 2558

(c) A subpoena issued by the board may be served by a 2559
sheriff, the sheriff's deputy, or a board employee or agent 2560
designated by the board. Service of a subpoena issued by the 2561
board may be made by delivering a copy of the subpoena to the 2562
person named therein, reading it to the person, or leaving it at 2563

the person's usual place of residence, usual place of business, 2564
or address on file with the board. When serving a subpoena to an 2565
applicant for or the holder of a license or certificate issued 2566
under this chapter, service of the subpoena may be made by 2567
certified mail, return receipt requested, and the subpoena shall 2568
be deemed served on the date delivery is made or the date the 2569
person refuses to accept delivery. If the person being served 2570
refuses to accept the subpoena or is not located, service may be 2571
made to an attorney who notifies the board that the attorney is 2572
representing the person. 2573

(d) A sheriff's deputy who serves a subpoena shall receive 2574
the same fees as a sheriff. Each witness who appears before the 2575
board in obedience to a subpoena shall receive the fees and 2576
mileage provided for under section 119.094 of the Revised Code. 2577

(4) All hearings, investigations, and inspections of the 2578
board shall be considered civil actions for the purposes of 2579
section 2305.252 of the Revised Code. 2580

(5) A report required to be submitted to the board under 2581
this chapter, a complaint, or information received by the board 2582
pursuant to an investigation or pursuant to an inspection under 2583
division (E) of section 4731.054 of the Revised Code is 2584
confidential and not subject to discovery in any civil action. 2585

The board shall conduct all investigations or inspections 2586
and proceedings in a manner that protects the confidentiality of 2587
patients and persons who file complaints with the board. The 2588
board shall not make public the names or any other identifying 2589
information about patients or complainants unless proper consent 2590
is given or, in the case of a patient, a waiver of the patient 2591
privilege exists under division (B) of section 2317.02 of the 2592
Revised Code, except that consent or a waiver of that nature is 2593

not required if the board possesses reliable and substantial 2594
evidence that no bona fide physician-patient relationship 2595
exists. 2596

The board may share any information it receives pursuant 2597
to an investigation or inspection, including patient records and 2598
patient record information, with law enforcement agencies, other 2599
licensing boards, and other governmental agencies that are 2600
prosecuting, adjudicating, or investigating alleged violations 2601
of statutes or administrative rules. An agency or board that 2602
receives the information shall comply with the same requirements 2603
regarding confidentiality as those with which the state medical 2604
board must comply, notwithstanding any conflicting provision of 2605
the Revised Code or procedure of the agency or board that 2606
applies when it is dealing with other information in its 2607
possession. In a judicial proceeding, the information may be 2608
admitted into evidence only in accordance with the Rules of 2609
Evidence, but the court shall require that appropriate measures 2610
are taken to ensure that confidentiality is maintained with 2611
respect to any part of the information that contains names or 2612
other identifying information about patients or complainants 2613
whose confidentiality was protected by the state medical board 2614
when the information was in the board's possession. Measures to 2615
ensure confidentiality that may be taken by the court include 2616
sealing its records or deleting specific information from its 2617
records. 2618

(6) On a quarterly basis, the board shall prepare a report 2619
that documents the disposition of all cases during the preceding 2620
three months. The report shall contain the following information 2621
for each case with which the board has completed its activities: 2622

(a) The case number assigned to the complaint or alleged 2623

violation;	2624
(b) The type of license or certificate to practice, if	2625
any, held by the individual against whom the complaint is	2626
directed;	2627
(c) A description of the allegations contained in the	2628
complaint;	2629
(d) The disposition of the case.	2630
The report shall state how many cases are still pending	2631
and shall be prepared in a manner that protects the identity of	2632
each person involved in each case. The report shall be a public	2633
record under section 149.43 of the Revised Code.	2634
(G) If the secretary and supervising member determine both	2635
of the following, they may recommend that the board suspend an	2636
individual's license or certificate to practice or certificate	2637
to recommend without a prior hearing:	2638
(1) That there is clear and convincing evidence that an	2639
individual has violated division (B) of this section;	2640
(2) That the individual's continued practice presents a	2641
danger of immediate and serious harm to the public.	2642
Written allegations shall be prepared for consideration by	2643
the board. The board, upon review of those allegations and by an	2644
affirmative vote of not fewer than six of its members, excluding	2645
the secretary and supervising member, may suspend a license or	2646
certificate without a prior hearing. A telephone conference call	2647
may be utilized for reviewing the allegations and taking the	2648
vote on the summary suspension.	2649
The board shall serve a written order of suspension in	2650
accordance with sections 119.05 and 119.07 of the Revised Code.	2651

The order shall not be subject to suspension by the court during 2652
pendency of any appeal filed under section 119.12 of the Revised 2653
Code. If the individual subject to the summary suspension 2654
requests an adjudicatory hearing by the board, the date set for 2655
the hearing shall be within fifteen days, but not earlier than 2656
seven days, after the individual requests the hearing, unless 2657
otherwise agreed to by both the board and the individual. 2658

Any summary suspension imposed under this division shall 2659
remain in effect, unless reversed on appeal, until a final 2660
adjudicative order issued by the board pursuant to this section 2661
and Chapter 119. of the Revised Code becomes effective. The 2662
board shall issue its final adjudicative order within seventy- 2663
five days after completion of its hearing. A failure to issue 2664
the order within seventy-five days shall result in dissolution 2665
of the summary suspension order but shall not invalidate any 2666
subsequent, final adjudicative order. 2667

(H) If the board takes action under division (B) (9), (11), 2668
or (13) of this section and the judicial finding of guilt, 2669
guilty plea, or judicial finding of eligibility for intervention 2670
in lieu of conviction is overturned on appeal, upon exhaustion 2671
of the criminal appeal, a petition for reconsideration of the 2672
order may be filed with the board along with appropriate court 2673
documents. Upon receipt of a petition of that nature and 2674
supporting court documents, the board shall reinstate the 2675
individual's license or certificate to practice. The board may 2676
then hold an adjudication under Chapter 119. of the Revised Code 2677
to determine whether the individual committed the act in 2678
question. Notice of an opportunity for a hearing shall be given 2679
in accordance with Chapter 119. of the Revised Code. If the 2680
board finds, pursuant to an adjudication held under this 2681
division, that the individual committed the act or if no hearing 2682

is requested, the board may order any of the sanctions 2683
identified under division (B) of this section. 2684

(I) The license or certificate to practice issued to an 2685
individual under this chapter and the individual's practice in 2686
this state are automatically suspended as of the date of the 2687
individual's second or subsequent plea of guilty to, or judicial 2688
finding of guilt of, a violation of section 2919.123 or 2919.124 2689
of the Revised Code. In addition, the license or certificate to 2690
practice or certificate to recommend issued to an individual 2691
under this chapter and the individual's practice in this state 2692
are automatically suspended as of the date the individual pleads 2693
guilty to, is found by a judge or jury to be guilty of, or is 2694
subject to a judicial finding of eligibility for intervention in 2695
lieu of conviction in this state or treatment or intervention in 2696
lieu of conviction in another jurisdiction for any of the 2697
following criminal offenses in this state or a substantially 2698
equivalent criminal offense in another jurisdiction: aggravated 2699
murder, murder, voluntary manslaughter, felonious assault, 2700
kidnapping, rape, sexual battery, gross sexual imposition, 2701
aggravated arson, aggravated robbery, or aggravated burglary. 2702
Continued practice after suspension shall be considered 2703
practicing without a license or certificate. 2704

The board shall notify the individual subject to the 2705
suspension in accordance with sections 119.05 and 119.07 of the 2706
Revised Code. If an individual whose license or certificate is 2707
automatically suspended under this division fails to make a 2708
timely request for an adjudication under Chapter 119. of the 2709
Revised Code, the board shall do whichever of the following is 2710
applicable: 2711

(1) If the automatic suspension under this division is for 2712

a second or subsequent plea of guilty to, or judicial finding of 2713
guilt of, a violation of section 2919.123 or 2919.124 of the 2714
Revised Code, the board shall enter an order suspending the 2715
individual's license or certificate to practice for a period of 2716
at least one year or, if determined appropriate by the board, 2717
imposing a more serious sanction involving the individual's 2718
license or certificate to practice. 2719

(2) In all circumstances in which division (I)(1) of this 2720
section does not apply, enter a final order permanently revoking 2721
the individual's license or certificate to practice. 2722

(J) If the board is required by Chapter 119. of the 2723
Revised Code to give notice of an opportunity for a hearing and 2724
if the individual subject to the notice does not timely request 2725
a hearing in accordance with section 119.07 of the Revised Code, 2726
the board is not required to hold a hearing, but may adopt, by 2727
an affirmative vote of not fewer than six of its members, a 2728
final order that contains the board's findings. In that final 2729
order, the board may order any of the sanctions identified under 2730
division (A) or (B) of this section. 2731

(K) Any action taken by the board under division (B) of 2732
this section resulting in a suspension from practice shall be 2733
accompanied by a written statement of the conditions under which 2734
the individual's license or certificate to practice may be 2735
reinstated. The board shall adopt rules governing conditions to 2736
be imposed for reinstatement. Reinstatement of a license or 2737
certificate suspended pursuant to division (B) of this section 2738
requires an affirmative vote of not fewer than six members of 2739
the board. 2740

(L) When the board refuses to grant or issue a license or 2741
certificate to practice to an applicant, revokes an individual's 2742

license or certificate to practice, refuses to renew an 2743
individual's license or certificate to practice, or refuses to 2744
reinstate an individual's license or certificate to practice, 2745
the board may specify that its action is permanent. An 2746
individual subject to a permanent action taken by the board is 2747
forever thereafter ineligible to hold a license or certificate 2748
to practice and the board shall not accept an application for 2749
reinstatement of the license or certificate or for issuance of a 2750
new license or certificate. 2751

(M) Notwithstanding any other provision of the Revised 2752
Code, all of the following apply: 2753

(1) The surrender of a license or certificate issued under 2754
this chapter shall not be effective unless or until accepted by 2755
the board. A telephone conference call may be utilized for 2756
acceptance of the surrender of an individual's license or 2757
certificate to practice. The telephone conference call shall be 2758
considered a special meeting under division (F) of section 2759
121.22 of the Revised Code. Reinstatement of a license or 2760
certificate surrendered to the board requires an affirmative 2761
vote of not fewer than six members of the board. 2762

(2) An application for a license or certificate made under 2763
the provisions of this chapter may not be withdrawn without 2764
approval of the board. 2765

(3) Failure by an individual to renew a license or 2766
certificate to practice in accordance with this chapter or a 2767
certificate to recommend in accordance with rules adopted under 2768
section 4731.301 of the Revised Code does not remove or limit 2769
the board's jurisdiction to take any disciplinary action under 2770
this section against the individual. 2771

(4) The placement of an individual's license on retired status, as described in section 4731.283 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

(5) At the request of the board, a license or certificate holder shall immediately surrender to the board a license or certificate that the board has suspended, revoked, or permanently revoked.

(N) Sanctions shall not be imposed under division (B) (28) of this section against any person who waives deductibles and copayments as follows:

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

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

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may

do all of the following: 2801

(1) Offer in appropriate cases as determined by the board 2802
an educational and assessment program pursuant to an 2803
investigation the board conducts under this section; 2804

(2) Select providers of educational and assessment 2805
services, including a quality intervention program panel of case 2806
reviewers; 2807

(3) Make referrals to educational and assessment service 2808
providers and approve individual educational programs 2809
recommended by those providers. The board shall monitor the 2810
progress of each individual undertaking a recommended individual 2811
educational program. 2812

(4) Determine what constitutes successful completion of an 2813
individual educational program and require further monitoring of 2814
the individual who completed the program or other action that 2815
the board determines to be appropriate; 2816

(5) Adopt rules in accordance with Chapter 119. of the 2817
Revised Code to further implement the quality intervention 2818
program. 2819

An individual who participates in an individual 2820
educational program pursuant to this division shall pay the 2821
financial obligations arising from that educational program. 2822

(P) The board shall not refuse to issue a license to an 2823
applicant because of a conviction, plea of guilty, judicial 2824
finding of guilt, judicial finding of eligibility for 2825
intervention in lieu of conviction, or the commission of an act 2826
that constitutes a criminal offense, unless the refusal is in 2827
accordance with section 9.79 of the Revised Code. 2828

Sec. 4731.25. (A) As used in this section and in sections	2829
4731.251 to 4731.255 of the Revised Code:	2830
(1) "Applicant" means an individual who has applied under	2831
Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or	2832
4778. of the Revised Code for a license, training or other	2833
certificate, limited permit, or other authority to practice as	2834
any one of the following practitioners: a physician assistant,	2835
physician, podiatrist, limited branch of medicine practitioner,	2836
dietitian, anesthesiologist assistant, respiratory care	2837
professional, <u>advanced practice respiratory therapist,</u>	2838
acupuncturist, radiologist assistant, or genetic counselor.	2839
"Applicant" may include an individual who has been granted	2840
authority by the state medical board to practice as one type of	2841
practitioner, but has applied for authority to practice as	2842
another type of practitioner.	2843
(2) "Impaired" or "impairment" means either or both of the	2844
following:	2845
(a) Impairment of ability to practice as described in	2846
division (B) (5) of section 4730.25, division (B) (26) of section	2847
4731.22, division (A) (18) of section 4759.07, division (B) (6) of	2848
section 4760.13, division (A) (18) of section 4761.09, division	2849
(B) (6) of section 4762.13, division (B) (6) of section 4774.13,	2850
or division (B) (6) of section 4778.14 of the Revised Code;	2851
(b) Inability to practice as described in division (B) (4)	2852
of section 4730.25, division (B) (19) of section 4731.22,	2853
division (A) (14) of section 4759.07, division (B) (5) of section	2854
4760.13, division (A) (14) of section 4761.09, division (B) (5) of	2855
section 4762.13, division (B) (5) of section 4774.13, or division	2856
(B) (5) of section 4778.14 of the Revised Code.	2857

(3) "Practitioner" means any of the following:	2858
(a) An individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine;	2859 2860 2861
(b) An individual licensed under Chapter 4730. of the Revised Code to practice as a physician assistant;	2862 2863
(c) An individual authorized under Chapter 4759. of the Revised Code to practice as a dietitian;	2864 2865
(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;	2866 2867
(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care <u>or advanced practice respiratory care</u> ;	2868 2869 2870
(f) An individual licensed under Chapter 4762. of the Revised Code to practice as an acupuncturist;	2871 2872
(g) An individual licensed under Chapter 4774. of the Revised Code to practice as a radiologist assistant;	2873 2874
(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.	2875 2876
(B) The state medical board shall establish a confidential, nondisciplinary program for the evaluation and treatment of practitioners and applicants who are, or may be, impaired and also meet the eligibility conditions described in section 4731.252 or 4731.253 of the Revised Code. The program shall be known as the confidential monitoring program.	2877 2878 2879 2880 2881 2882
The board shall contract with a monitoring organization to conduct the program and perform monitoring services. To be	2883 2884

qualified to contract with the board, an organization shall meet 2885
all of the following requirements: 2886

(1) Be a professionals health program sponsored by one or 2887
more professional associations or societies of practitioners; 2888

(2) Be organized as a not-for-profit entity and exempt 2889
from federal income taxation under subsection 501(c)(3) of the 2890
Internal Revenue Code; 2891

(3) Contract with or employ a medical director who is 2892
authorized under this chapter to practice medicine and surgery 2893
or osteopathic medicine and surgery and specializes or has 2894
training and expertise in addiction medicine; 2895

(4) Contract with or employ licensed health care 2896
professionals necessary for the organization's operation. 2897

(C) The monitoring organization shall do all of the 2898
following pursuant to the contract: 2899

(1) Receive from the board a referral regarding an 2900
applicant or receive any report of suspected practitioner 2901
impairment from any source, including from the board; 2902

(2) Notify a practitioner who is the subject of a report 2903
received under division (C)(1) of this section that the report 2904
has been made and that the practitioner may be eligible to 2905
participate in the program conducted under this section; 2906

(3) Provide a practitioner who is the subject of a report 2907
received under division (C)(1) of this section with the list of 2908
approved evaluators and treatment providers prepared and updated 2909
as described in section 4731.251 of the Revised Code; 2910

(4) Determine whether a practitioner reported or applicant 2911
referred to the monitoring organization is eligible to 2912

participate in the program, which in the case of an applicant 2913
may include evaluating records as described in division (E) (1) 2914
(d) of this section, and notify the practitioner or applicant of 2915
the determination; 2916

(5) In the case of a practitioner reported by a treatment 2917
provider, notify the treatment provider of the eligibility 2918
determination; 2919

(6) Report to the board any practitioner or applicant who 2920
is determined ineligible to participate in the program; 2921

(7) Refer an eligible practitioner who chooses to 2922
participate in the program for evaluation by an evaluator 2923
approved by the monitoring organization, unless the report 2924
received by the monitoring organization was made by an approved 2925
evaluator and the practitioner has already been evaluated; 2926

(8) Monitor the evaluation of an eligible practitioner; 2927

(9) Refer an eligible practitioner who chooses to 2928
participate in the program to a treatment provider approved by 2929
the monitoring organization; 2930

(10) Establish, in consultation with the treatment 2931
provider to which a practitioner is referred, the terms and 2932
conditions with which the practitioner must comply for continued 2933
participation in and successful completion of the program; 2934

(11) Report to the board any practitioner who does not 2935
complete evaluation or treatment or does not comply with any of 2936
the terms and conditions established by the monitoring 2937
organization and the treatment provider; 2938

(12) Perform any other activities specified in the 2939
contract with the board or that the monitoring organization 2940

considers necessary to comply with this section and sections	2941
4731.251 to 4731.255 of the Revised Code.	2942
(D) The monitoring organization shall not disclose to the	2943
board the name of a practitioner or applicant or any records	2944
relating to a practitioner or applicant, unless any of the	2945
following occurs:	2946
(1) The practitioner or applicant is determined to be	2947
ineligible to participate in the program.	2948
(2) The practitioner or applicant requests the disclosure.	2949
(3) The practitioner or applicant is unwilling or unable	2950
to complete or comply with any part of the program, including	2951
evaluation, treatment, or monitoring.	2952
(4) The practitioner or applicant presents an imminent	2953
danger to oneself or the public, as a result of the	2954
practitioner's or applicant's impairment.	2955
(5) The practitioner's impairment has not been	2956
substantially alleviated by participation in the program.	2957
(E) (1) The monitoring organization shall develop	2958
procedures governing each of the following:	2959
(a) Receiving reports of practitioner impairment;	2960
(b) Notifying practitioners of reports and eligibility	2961
determinations;	2962
(c) Receiving applicant referrals as described in section	2963
4731.253 of the Revised Code;	2964
(d) Evaluating records of referred applicants, in	2965
particular records from other jurisdictions regarding prior	2966
treatment for impairment or current or continued monitoring;	2967

(e) Notifying applicants of eligibility determinations;	2968
(f) Referring eligible practitioners for evaluation or treatment;	2969 2970
(g) Establishing individualized treatment plans for eligible practitioners, as recommended by treatment providers;	2971 2972
(h) Establishing individualized terms and conditions with which eligible practitioners or applicants must comply for continued participation in and successful completion of the program.	2973 2974 2975 2976
(2) The monitoring organization, in consultation with the board, shall develop procedures governing each of the following:	2977 2978
(a) Providing reports to the board on a periodic basis on the total number of practitioners or applicants participating in the program, without disclosing the names or records of any program participants other than those about whom reports are required by this section;	2979 2980 2981 2982 2983
(b) Reporting to the board any practitioner or applicant who due to impairment presents an imminent danger to oneself or the public;	2984 2985 2986
(c) Reporting to the board any practitioner or applicant who is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring;	2987 2988 2989
(d) Reporting to the board any practitioner or applicant whose impairment was not substantially alleviated by participation in the program.	2990 2991 2992
Sec. 4743.09. (A) As used in this section:	2993
(1) "Durable medical equipment" means a type of equipment,	2994

such as a remote monitoring device utilized by a physician, 2995
physician assistant, or advanced practice registered nurse in 2996
accordance with this section, that can withstand repeated use, 2997
is primarily and customarily used to serve a medical purpose, 2998
and generally is not useful to a person in the absence of 2999
illness or injury and, in addition, includes repair and 3000
replacement parts for the equipment. 3001

(2) "Facility fee" means any fee charged or billed for 3002
telehealth services provided in a facility that is intended to 3003
compensate the facility for its operational expenses and is 3004
separate and distinct from a professional fee. 3005

(3) "Health care professional" means: 3006

(a) An advanced practice registered nurse, as defined in 3007
section 4723.01 of the Revised Code; 3008

(b) An optometrist licensed under Chapter 4725. of the 3009
Revised Code to practice optometry; 3010

(c) A pharmacist licensed under Chapter 4729. of the 3011
Revised Code; 3012

(d) A physician assistant licensed under Chapter 4730. of 3013
the Revised Code; 3014

(e) A physician licensed under Chapter 4731. of the 3015
Revised Code to practice medicine and surgery, osteopathic 3016
medicine and surgery, or podiatric medicine and surgery; 3017

(f) A psychologist, independent school psychologist, or 3018
school psychologist licensed under Chapter 4732. of the Revised 3019
Code; 3020

(g) A chiropractor licensed under Chapter 4734. of the 3021
Revised Code; 3022

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;	3023 3024
(i) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;	3025 3026
(j) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code;	3027 3028 3029
(k) A professional clinical counselor, independent social worker, independent marriage and family therapist, art therapist, or music therapist licensed under Chapter 4757. of the Revised Code;	3030 3031 3032 3033
(l) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;	3034 3035
(m) A dietitian licensed under Chapter 4759. of the Revised Code;	3036 3037
(n) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	3038 3039 3040
(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;	3041 3042
(p) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code.	3043 3044
(4) "Health care professional licensing board" means any of the following:	3045 3046
(a) The board of nursing;	3047
(b) The state vision professionals board;	3048
(c) The state board of pharmacy;	3049

(d) The state medical board;	3050
(e) The state board of psychology;	3051
(f) The state chiropractic board;	3052
(g) The state speech and hearing professionals board;	3053
(h) The Ohio occupational therapy, physical therapy, and athletic trainers board;	3054 3055
(i) The counselor, social worker, and marriage and family therapist board;	3056 3057
(j) The chemical dependency professionals board.	3058
(5) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.	3059 3060
(6) "Telehealth services" means health care services provided through the use of information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where either of the following is located:	3061 3062 3063 3064 3065
(a) The patient receiving the services;	3066
(b) Another health care professional with whom the provider of the services is consulting regarding the patient.	3067 3068
(B) (1) Each health care professional licensing board shall permit a health care professional under its jurisdiction to provide the professional's services as telehealth services in accordance with this section. Subject to division (B) (2) of this section, a board may adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. Any such rules adopted by a board are not subject to the	3069 3070 3071 3072 3073 3074 3075 3076

requirements of division (F) of section 121.95 of the Revised Code. 3077
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(2) (a) Except as provided in division (B) (2) (b) of this section, the rules adopted by a health care professional licensing board under this section shall establish a standard of care for telehealth services that is equal to the standard of care for in-person services. 3079
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(b) Subject to division (B) (2) (c) of this section, a board may require an initial in-person visit prior to prescribing a schedule II controlled substance to a new patient, equivalent to applicable state and federal requirements. 3084
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(c) (i) A board shall not require an initial in-person visit for a new patient whose medical record indicates that the patient is receiving hospice or palliative care, who is receiving medication-assisted treatment or any other medication for opioid-use disorder, who is a patient with a mental health condition, or who, as determined by the clinical judgment of a health care professional, is in an emergency situation. 3088
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(ii) Notwithstanding division (B) of section 3796.01 of the Revised Code, medical marijuana shall not be considered a schedule II controlled substance. 3095
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(C) With respect to the provision of telehealth services, all of the following apply: 3098
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(1) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an initial visit if the appropriate standard of care for an initial visit is satisfied. 3100
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(2) A health care professional may deny a patient telehealth services and, instead, require the patient to undergo 3104
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an in-person visit. 3106

(3) When providing telehealth services in accordance with 3107
this section, a health care professional shall comply with all 3108
requirements under state and federal law regarding the 3109
protection of patient information. A health care professional 3110
shall ensure that any username or password information and any 3111
electronic communications between the professional and a patient 3112
are securely transmitted and stored. 3113

(4) A health care professional may use synchronous or 3114
asynchronous technology to provide telehealth services to a 3115
patient during an annual visit if the appropriate standard of 3116
care for an annual visit is satisfied. 3117

(5) In the case of a health care professional who is a 3118
physician, physician assistant, or advanced practice registered 3119
nurse, both of the following apply: 3120

(a) The professional may provide telehealth services to a 3121
patient located outside of this state if permitted by the laws 3122
of the state in which the patient is located. 3123

(b) The professional may provide telehealth services 3124
through the use of medical devices that enable remote 3125
monitoring, including such activities as monitoring a patient's 3126
blood pressure, heart rate, or glucose level. 3127

(D) When a patient has consented to receiving telehealth 3128
services, the health care professional who provides those 3129
services is not liable in damages under any claim made on the 3130
basis that the services do not meet the same standard of care 3131
that would apply if the services were provided in-person. 3132

(E) (1) A health care professional providing telehealth 3133
services shall not charge a patient or a health plan issuer 3134

covering telehealth services under section 3902.30 of the Revised Code any of the following: a facility fee, an origination fee, or any fee associated with the cost of the equipment used at the provider site to provide telehealth services.

A health care professional providing telehealth services may charge a health plan issuer for durable medical equipment used at a patient or client site.

(2) A health care professional may negotiate with a health plan issuer to establish a reimbursement rate for fees associated with the administrative costs incurred in providing telehealth services as long as a patient is not responsible for any portion of the fee.

(3) A health care professional providing telehealth services shall obtain a patient's consent before billing for the cost of providing the services, but the requirement to do so applies only once.

(F) Nothing in this section limits or otherwise affects any other provision of the Revised Code that requires a health care professional who is not a physician to practice under the supervision of, in collaboration with, in consultation with, or pursuant to the referral of another health care professional.

(G) It is the intent of the general assembly, through the amendments to this section, to expand access to and investment in telehealth services in this state in congruence with the expansion and investment in telehealth services made during the COVID-19 pandemic.

Sec. 4755.48. (A) No person shall employ fraud or deception in applying for or securing a license to practice

physical therapy or to be a physical therapist assistant. 3164

(B) No person shall practice or in any way imply or claim 3165
to the public by words, actions, or the use of letters as 3166
described in division (C) of this section to be able to practice 3167
physical therapy or to provide physical therapy services, 3168
including practice as a physical therapist assistant, unless the 3169
person holds a valid license under sections 4755.40 to 4755.56 3170
of the Revised Code or except for submission of claims as 3171
provided in section 4755.56 of the Revised Code. 3172

(C) No person shall use the words or letters, physical 3173
therapist, physical therapy, physical therapy services, 3174
physiotherapist, physiotherapy, physiotherapy services, licensed 3175
physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., 3176
D.P.T., M.S.P.T., P.T.A., physical therapy assistant, physical 3177
therapist assistant, physical therapy technician, licensed 3178
physical therapist assistant, L.P.T.A., R.P.T.A., or any other 3179
letters, words, abbreviations, or insignia, indicating or 3180
implying that the person is a physical therapist or physical 3181
therapist assistant without a valid license under sections 3182
4755.40 to 4755.56 of the Revised Code. 3183

(D) No person who practices physical therapy or assists in 3184
the provision of physical therapy treatments under the 3185
supervision of a physical therapist shall fail to display the 3186
person's current license granted under sections 4755.40 to 3187
4755.56 of the Revised Code in a conspicuous location in the 3188
place where the person spends the major part of the person's 3189
time so engaged. 3190

(E) Nothing in sections 4755.40 to 4755.56 of the Revised 3191
Code shall affect or interfere with the performance of the 3192
duties of any physical therapist or physical therapist assistant 3193

in active service in the army, navy, coast guard, marine corps, 3194
air force, public health service, or marine hospital service of 3195
the United States, while so serving. 3196

(F) Nothing in sections 4755.40 to 4755.56 of the Revised 3197
Code shall prevent or restrict the activities or services of a 3198
person pursuing a course of study leading to a degree in 3199
physical therapy in an accredited or approved educational 3200
program if the activities or services constitute a part of a 3201
supervised course of study and the person is designated by a 3202
title that clearly indicates the person's status as a student. 3203

(G) (1) Subject to division (G) (2) of this section, nothing 3204
in sections 4755.40 to 4755.56 of the Revised Code shall prevent 3205
or restrict the activities or services of any person who holds a 3206
current, unrestricted license to practice physical therapy in 3207
another state when that person, pursuant to contract or 3208
employment with an athletic team located in the state in which 3209
the person holds the license, provides physical therapy to any 3210
of the following while the team is traveling to or from or 3211
participating in a sporting event in this state: 3212

(a) A member of the athletic team; 3213

(b) A member of the athletic team's coaching, 3214
communications, equipment, or sports medicine staff; 3215

(c) A member of a band or cheerleading squad accompanying 3216
the athletic team; 3217

(d) The athletic team's mascot. 3218

(2) In providing physical therapy pursuant to division (G) 3219
(1) of this section, the person shall not do either of the 3220
following: 3221

(a) Provide physical therapy at a health care facility;	3222
(b) Provide physical therapy for more than sixty days in a calendar year.	3223 3224
(3) The limitations described in divisions (G) (1) and (2) of this section do not apply to a person who is practicing in accordance with the compact privilege granted by this state through the "Physical Therapy Licensure Compact" entered into under section 4755.57 of the Revised Code.	3225 3226 3227 3228 3229
(4) The physical therapy section of the occupational therapy, physical therapy, and athletic trainers board shall not require a nonresident person who holds a license to practice physical therapy in another state to obtain a license in accordance with Chapter 4796. of the Revised Code to provide physical therapy services in the manner described under division (G) (1) of this section.	3230 3231 3232 3233 3234 3235 3236
(H) (1) Except as provided in division (H) (2) of this section and subject to division (I) of this section, no person shall practice physical therapy other than on the prescription of, or the referral of a patient by, a person who is licensed in this or another state to do at least one of the following:	3237 3238 3239 3240 3241
(a) Practice medicine and surgery, chiropractic, dentistry, osteopathic medicine and surgery, podiatric medicine and surgery;	3242 3243 3244
(b) Practice as a physician assistant;	3245
(c) Practice nursing as an advanced practice registered nurse;	3246 3247
<u>(d) Practice as an advanced practice respiratory therapist.</u>	3248 3249

(2) The prohibition in division (H) (1) of this section on practicing physical therapy other than on the prescription of, or the referral of a patient by, any of the persons described in that division does not apply if either of the following applies to the person:

(a) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national physical therapy accreditation agency approved by the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board.

(b) On or before December 31, 2004, the person has completed at least two years of practical experience as a licensed physical therapist.

(I) To be authorized to prescribe physical therapy or refer a patient to a physical therapist for physical therapy, a person described in division (H) (1) of this section must be in good standing with the relevant licensing board in this state or the state in which the person is licensed and must act only within the person's scope of practice.

(J) In the prosecution of any person for violation of division (B) or (C) of this section, it is not necessary to allege or prove want of a valid license to practice physical therapy or to practice as a physical therapist assistant, but such matters shall be a matter of defense to be established by the accused.

Sec. 4761.01. As used in this chapter:

(A) "Respiratory care" means rendering or offering to render to individuals, groups, organizations, or the public any service involving the evaluation of cardiopulmonary function,

the treatment of cardiopulmonary impairment, the assessment of 3279
treatment effectiveness, and the care of patients with 3280
deficiencies and abnormalities associated with the 3281
cardiopulmonary system. The practice of respiratory care 3282
includes: 3283

(1) Obtaining, analyzing, testing, measuring, and 3284
monitoring blood and gas samples in the determination of 3285
cardiopulmonary parameters and related physiologic data, 3286
including flows, pressures, and volumes, and the use of 3287
equipment employed for this purpose; 3288

(2) Administering, monitoring, recording the results of, 3289
and instructing in the use of medical gases, aerosols, and 3290
bronchopulmonary hygiene techniques, including drainage, 3291
aspiration, and sampling, and applying, maintaining, and 3292
instructing in the use of artificial airways, ventilators, and 3293
other life support equipment employed in the treatment of 3294
cardiopulmonary impairment and provided in collaboration with 3295
other licensed health care professionals responsible for 3296
providing care; 3297

(3) Performing cardiopulmonary resuscitation and 3298
respiratory rehabilitation techniques; 3299

(4) Administering medications for the testing or treatment 3300
of cardiopulmonary impairment. 3301

(B) "Respiratory care professional" means a person who is 3302
licensed under this chapter to practice the full range of 3303
services described in division (A) of this section. 3304

(C) "Physician" means an individual authorized under 3305
Chapter 4731. of the Revised Code to practice medicine and 3306
surgery or osteopathic medicine and surgery. 3307

(D) "Registered nurse" means an individual licensed under Chapter 4723. of the Revised Code to engage in the practice of nursing as a registered nurse.

(E) "Hospital" has the same meaning as in section 3722.01 of the Revised Code.

(F) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

(G) "Advanced practice registered nurse" has the same meaning as in section 4723.01 of the Revised Code.

(H) "Physician assistant" means an individual who holds a valid license to practice as a physician assistant issued under Chapter 4730. of the Revised Code.

(I) "Advanced practice respiratory therapist" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of respiratory care as an advanced practice respiratory therapist.

(J) "Practice of respiratory care as an advanced practice respiratory therapist" means the performance of services delegated by a supervising physician to an advanced practice respiratory therapist in the diagnosis and treatment of patients with cardiopulmonary diseases or conditions, including prescribing, ordering, and administering drugs and medical devices.

(K) "Health care facility" means any of the following:

(1) A hospital;

(2) Any other hospital-based facility designated by the state medical board in rules adopted pursuant to division (B) of section 4761.36 of the Revised Code.

Sec. 4761.03. (A) The state medical board shall regulate 3336
the practice of respiratory care in this state and the persons 3337
to whom the board issues licenses and limited permits under this 3338
chapter. Rules adopted under this chapter that deal with the 3339
provision of respiratory care in a hospital, other than rules 3340
regulating the issuance of licenses or limited permits, shall be 3341
consistent with the conditions for participation under medicare, 3342
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 3343
42 U.S.C.A. 1395, as amended, and with the respiratory care 3344
accreditation standards of the joint commission or the American 3345
osteopathic association. 3346

(B) The board shall adopt, and may rescind or amend, rules 3347
in accordance with Chapter 119. of the Revised Code to carry out 3348
the purposes of this chapter, including rules prescribing the 3349
following: 3350

(1) The form and manner for filing applications under 3351
sections 4761.05 and 4761.06 of the Revised Code; 3352

(2) Standards for the approval of examinations and 3353
reexaminations administered by national organizations for 3354
licensure, license renewal, and license reinstatement; 3355

(3) Standards for the approval of educational programs 3356
required to qualify for licensure and approval of continuing 3357
education programs required for license renewal; 3358

(4) Continuing education courses and the number of hour 3359
requirements necessary for license renewal under section 4761.06 3360
of the Revised Code, including rules providing for pro rata 3361
reductions by month of the number of hours of continuing 3362
education that must be completed for license holders who are in 3363
their first renewal period, have been disabled by illness or 3364

accident, or have been absent from the country;	3365
(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees;	3366 3367 3368
(6) Procedures for the limitation, suspension, and revocation of licenses and limited permits, the refusal to issue, renew, or reinstate licenses and limited permits, and the imposition of a reprimand or probation under section 4761.09 of the Revised Code;	3369 3370 3371 3372 3373
(7) Standards of ethical conduct for the practice of respiratory care;	3374 3375
(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B)(3) of section 4761.10 of the Revised Code;	3376 3377 3378 3379
(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.	3380 3381
(C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit.	3382 3383 3384 3385
(D) The board shall determine the respiratory care educational programs that are acceptable for fulfilling the requirements of division (A) of section 4761.04 of the Revised Code.	3386 3387 3388 3389
(E)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board	3390 3391 3392

in a signed writing any information that the person may have 3393
that appears to show a violation of any provision of this 3394
chapter or any rule adopted under it. In the absence of bad 3395
faith, any person who reports information of that nature or who 3396
testifies before the board in any adjudication conducted under 3397
Chapter 119. of the Revised Code shall not be liable in damages 3398
in a civil action as a result of the report or testimony. Each 3399
complaint or allegation of a violation received by the board 3400
shall be assigned a case number and shall be recorded by the 3401
board. 3402

(2) Investigations of alleged violations of this chapter 3403
or any rule adopted under it shall be supervised by the 3404
supervising member elected by the board in accordance with 3405
section 4731.02 of the Revised Code and by the secretary as 3406
provided in section 4761.012 of the Revised Code. The president 3407
may designate another member of the board to supervise the 3408
investigation in place of the supervising member. No member of 3409
the board who supervises the investigation of a case shall 3410
participate in further adjudication of the case. 3411

(3) In investigating a possible violation of this chapter 3412
or any rule adopted under it, the board may issue subpoenas, 3413
administer oaths, question witnesses, conduct interviews, order 3414
the taking of depositions, inspect and copy any books, accounts, 3415
papers, records, or documents, and compel the attendance of 3416
witnesses and production of books, accounts, papers, records, 3417
documents, and testimony, except that a subpoena for patient 3418
record information shall not be issued without consultation with 3419
the attorney general's office and approval of the secretary of 3420
the board. 3421

Before issuance of a subpoena for patient record 3422

information, the secretary shall determine whether there is 3423
probable cause to believe that the complaint filed alleges a 3424
violation of this chapter or any rule adopted under it and that 3425
the records sought are relevant to the alleged violation and 3426
material to the investigation. The subpoena may apply only to 3427
records that cover a reasonable period of time surrounding the 3428
alleged violation. 3429

On failure to comply with any subpoena issued by the board 3430
and after reasonable notice to the person being subpoenaed, the 3431
board may move for an order compelling the production of persons 3432
or records pursuant to the Rules of Civil Procedure. 3433

A subpoena issued by the board may be served by a sheriff, 3434
the sheriff's deputy, or a board employee or agent designated by 3435
the board. Service of a subpoena issued by the board may be made 3436
by delivering a copy of the subpoena to the person named 3437
therein, reading it to the person, or leaving it at the person's 3438
usual place of residence, usual place of business, or address on 3439
file with the board. When serving a subpoena to an applicant for 3440
or the holder of a license or limited permit issued under this 3441
chapter, service of the subpoena may be made by certified mail, 3442
return receipt requested, and the subpoena shall be deemed 3443
served on the date delivery is made or the date the person 3444
refuses to accept delivery. If the person being served refuses 3445
to accept the subpoena or is not located, service may be made to 3446
an attorney who notifies the board that the attorney is 3447
representing the person. 3448

A sheriff's deputy who serves a subpoena shall receive the 3449
same fees as a sheriff. Each witness who appears before the 3450
board in obedience to a subpoena shall receive the fees and 3451
mileage provided for under section 119.094 of the Revised Code. 3452

(4) In an investigation involving the practice or supervision of an advanced practice respiratory therapist pursuant to the policies of a health care facility, the board may require that the health care facility provide any information the board considers necessary to identify either or both of the following: 3453
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(a) The facility's policies for the practice of advanced practice respiratory therapists within the facility; 3459
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(b) The services that the facility has authorized a particular advanced practice respiratory therapist to provide for the facility. 3461
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(5) All hearings, investigations, and inspections of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code. 3464
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~~(5)~~ (6) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action. 3467
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The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given. 3471
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The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations 3477
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of statutes or administrative rules. An agency or board that 3482
receives the information shall comply with the same requirements 3483
regarding confidentiality as those with which the state medical 3484
board must comply, notwithstanding any conflicting provision of 3485
the Revised Code or procedure of the agency or board that 3486
applies when it is dealing with other information in its 3487
possession. In a judicial proceeding, the information may be 3488
admitted into evidence only in accordance with the Rules of 3489
Evidence, but the court shall require that appropriate measures 3490
are taken to ensure that confidentiality is maintained with 3491
respect to any part of the information that contains names or 3492
other identifying information about patients or complainants 3493
whose confidentiality was protected by the state medical board 3494
when the information was in the board's possession. Measures to 3495
ensure confidentiality that may be taken by the court include 3496
sealing its records or deleting specific information from its 3497
records. 3498

~~(6)~~ (7) On a quarterly basis, the board shall prepare a 3499
report that documents the disposition of all cases during the 3500
preceding three months. The report shall contain the following 3501
information for each case with which the board has completed its 3502
activities: 3503

(a) The case number assigned to the complaint or alleged 3504
violation; 3505

(b) The type of license or limited permit, if any, held by 3506
the individual against whom the complaint is directed; 3507

(c) A description of the allegations contained in the 3508
complaint; 3509

(d) The disposition of the case. 3510

The report shall state how many cases are still pending 3511
and shall be prepared in a manner that protects the identity of 3512
each person involved in each case. The report shall be a public 3513
record under section 149.43 of the Revised Code. 3514

(F) The board shall keep records of its proceedings and do 3515
other things as are necessary and proper to carry out and 3516
enforce the provisions of this chapter. 3517

(G) The board shall maintain and publish on its internet 3518
web site all of the following: 3519

(1) The requirements for the issuance of licenses and 3520
limited permits under this chapter and rules adopted by the 3521
board; 3522

(2) A list of the names and locations of the institutions 3523
that each year granted degrees or certificates of completion in 3524
respiratory care. 3525

Sec. 4761.032. (A) The state medical board shall appoint a 3526
respiratory care advisory council for the purpose of advising 3527
the board on issues relating to the practice of respiratory 3528
care. The advisory council shall consist of not more than ~~seven-~~ 3529
nine individuals knowledgeable in the area of respiratory care. 3530

A majority of the council members shall be individuals 3531
licensed under this chapter who are actively engaged in the 3532
practice of respiratory care. The board shall include all of the 3533
following on the council: 3534

(1) One physician who is a member of the state medical 3535
board; 3536

(2) One physician who has clinical training and experience 3537
in pulmonary disease, and one physician who is a supervising 3538

physician of an advanced practice respiratory therapist. 3539

The Ohio state medical association, or its successor 3540
organization, may nominate not more than three individuals for 3541
consideration by the board in appointing the physician members 3542
described in division (A)(2) of this section. 3543

(3) One advanced practice respiratory therapist; 3544

(4) One individual who is not affiliated with any health 3545
care profession, who shall be appointed to represent the 3546
interest of consumers. 3547

The Ohio society for respiratory care, or its successor 3548
organization, may nominate not more than three individuals for 3549
consideration by the board in appointing any member of the 3550
council other than the members described in divisions (A)(1) and 3551
(2) of this section. 3552

~~The Ohio state medical association, or its successor~~ 3553
~~organization, may nominate not more than three individuals for~~ 3554
~~consideration by the board in appointing the physician member~~ 3555
~~described in division (A)(2) of this section.~~ 3556

~~The Ohio society for respiratory care, or its successor~~ 3557
~~organization, may nominate not more than three individuals for~~ 3558
~~consideration by the board in appointing any member of the~~ 3559
~~council other than the physician members described in divisions~~ 3560
~~(A)(1) and (2) of this section.~~ 3561

(B) Not later than ninety days after January 21, 2018, the 3562
board shall make initial appointments to the council. Initial 3563
members shall serve terms of office of one, two, or three years, 3564
as selected by the board. Thereafter, terms of office shall be 3565
for three years, with each term ending on the same day of the 3566
same month as the term that it succeeds. A council member shall 3567

continue in office subsequent to the expiration date of the 3568
member's term until a successor is appointed and takes office, 3569
or until a period of sixty days has elapsed, whichever occurs 3570
first. Each council member shall hold office from the date of 3571
appointment until the end of the term for which the member was 3572
appointed. 3573

(C) Members shall serve without compensation, but shall be 3574
reimbursed for actual and necessary expenses incurred in 3575
performing their official duties. 3576

(D) The council shall meet at least four times each year 3577
and at such other times as may be necessary to carry out its 3578
responsibilities. 3579

(E) The council may submit to the board recommendations 3580
concerning all of the following: 3581

(1) Requirements for issuing a license to practice as a 3582
respiratory care professional or as an advanced practice 3583
respiratory therapist and requirements for issuing a permit to 3584
practice as a limited permit holder, including the educational 3585
and experience requirements that must be met to receive the 3586
license or permit; 3587

(2) Existing and proposed rules pertaining to ~~the practice~~ 3588
~~of respiratory care and~~ the administration and enforcement of 3589
this chapter, including rules pertaining to the practice of 3590
respiratory care by respiratory care professionals, the practice 3591
of holders of limited permits issued under this chapter, the 3592
practice of respiratory care as advanced practice respiratory 3593
therapists, and the supervisory relationship between advanced 3594
practice respiratory therapists and supervising physicians; 3595

(3) Standards for the approval of educational programs 3596

required to qualify for licensure and continuing education 3597
programs for licensure renewal; 3598

(4) Standards for the approval of examinations and re- 3599
examinations administered by national organizations for 3600
licensure, license renewal, and license reinstatement; 3601

(5) Policies related to the issuance and renewal of 3602
licenses and limited permits; 3603

~~(5)-(6) Fees for the issuance and renewal of a license to~~ 3604
~~practice respiratory care as a licensee or as a licenses and~~ 3605
~~limited permit holder permits;~~ 3606

~~(6)-(7) Standards of practice and ethical conduct in the~~ 3607
practice of respiratory care; 3608

~~(7)-(8) The safe and effective practice of respiratory~~ 3609
care, including scope of practice and minimal standards of care; 3610

(9) Any issue the board asks the council to consider. 3611

(F) In addition to the matters that are required to be 3612
reviewed under division (E) of this section, the council may 3613
review, and may submit to the board recommendations concerning, 3614
quality assurance activities to be performed by a supervising 3615
physician and advanced practice respiratory therapist under a 3616
quality assurance system established pursuant to division (F) of 3617
section 4761.39 of the Revised Code. 3618

(G) The board may permit meetings of the council to 3619
include the use of interactive videoconferencing, 3620
teleconferencing, or both if all of the following requirements 3621
are met: 3622

(1) The meeting location is open and accessible to the 3623
public. 3624

(2) Each council member is permitted to choose whether the member attends in person or through the use of the meeting's videoconferencing or teleconferencing. 3625
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(3) Any meeting-related materials available before the meeting are sent to each council member by electronic mail, facsimile, or United States mail, or are hand-delivered. 3628
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(4) If interactive videoconferencing is used, there is a clear video and audio connection that enables all participants at the meeting location to see and hear each council member. 3631
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(5) If teleconferencing is used, there is a clear audio connection that enables all participants at the meeting location to hear each council member. 3634
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(6) A roll call vote is recorded for each vote taken. 3637

(7) The meeting minutes specify for each member whether the member attended by videoconference, teleconference, or in person. 3638
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Sec. 4761.033. In addition to rules that are specifically required or authorized by this chapter to be adopted, the state medical board may adopt any other rules necessary to govern the practice of advanced practice respiratory therapists, the supervisory relationship between advanced practice respiratory therapists and supervising physicians, and the administration and enforcement of this chapter. Rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. 3641
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Sec. 4761.06. (A) Each license to practice respiratory care shall expire on the date that is two years after the date of issuance and may be renewed for additional two-year periods. Each limited permit to practice respiratory care shall be 3650
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renewed annually. Each person seeking to renew a license or 3654
limited permit to practice respiratory care shall apply to the 3655
state medical board in a manner prescribed by the board. 3656
Licenses and limited permits shall be renewed in accordance with 3657
the standard renewal procedure of Chapter 4745. of the Revised 3658
Code. The board shall renew a license if the holder pays the 3659
license renewal fee prescribed under section 4761.07 of the 3660
Revised Code and certifies that the holder has completed the 3661
continuing education or reexamination requirements of division 3662
(B) of this section. 3663

At least one month before a license expires, the board 3664
shall provide to the license holder a renewal notice. Failure of 3665
any license holder to receive a notice of renewal from the board 3666
shall not excuse the holder from the requirements contained in 3667
this section. Each license holder shall give notice to the board 3668
of a change in the holder's residence address, business address, 3669
or electronic mail address not later than thirty days after the 3670
change occurs. 3671

The board shall renew a limited permit if the holder pays 3672
the limited permit renewal fee prescribed under section 4761.07 3673
of the Revised Code and does either of the following: 3674

(1) If the limited permit was issued on the basis of 3675
division (B) (1) (a) of section 4761.05 of the Revised Code, 3676
certifies that the holder is enrolled and in good standing in an 3677
educational program that meets the requirements of division (A) 3678
(1) of section 4761.04 of the Revised Code or has graduated from 3679
such a program; 3680

(2) If the limited permit was issued on the basis of 3681
division (B) (1) (b) of section 4761.05 of the Revised Code, 3682
certifies that the applicant is employed as a provider of 3683

respiratory care under the supervision of a respiratory care professional. 3684
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(B) On or before the annual renewal date, the holder of a limited permit issued under division (B)(1)(b) of section 4761.05 of the Revised Code shall certify to the board that the holder has satisfactorily completed the number of hours of continuing education required by the board, which shall not be less than three nor more than ten hours of continuing education acceptable to the board. 3686
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~~On~~ Subject to division (C) of section 4761.32 of the Revised Code, on or before the date a license expires, a license holder shall certify to the board that the license holder has satisfactorily completed the number of hours of continuing education required by the board, which shall be not less than six nor more than twenty hours of continuing education acceptable to the board, or has passed a reexamination in accordance with the board's renewal requirements. 3693
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(C) (1) A license to practice respiratory care that is not renewed on or before its expiration date is automatically suspended on its expiration date. Continued practice after suspension shall be considered as practicing in violation of section 4761.10 of the Revised Code. 3701
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(2) If a license has been suspended pursuant to division (C) (1) of this section for two years or less, it may be reinstated. The board shall reinstate the license upon the applicant's submission of a complete renewal application and payment of a reinstatement fee of one hundred dollars. 3706
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If a license has been suspended pursuant to division (C) (1) of this section for more than two years, it may be restored. 3711
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Subject to section 4761.061 of the Revised Code, the board may 3713
restore the license upon an applicant's submission of a complete 3714
restoration application and a restoration fee of one hundred 3715
twenty-five dollars and compliance with sections 4776.01 to 3716
4776.04 of the Revised Code. The board shall not restore a 3717
license unless the board, in its discretion, decides that the 3718
results of the criminal records check do not make the applicant 3719
ineligible for a license issued pursuant to division (A) of this 3720
section. 3721

(D) (1) The board may require a random sample of limited 3722
permit holders to submit materials documenting that the holder 3723
has completed the number of hours of continuing education as 3724
described in division (B) of this section. 3725

(2) The board may require a random sample of license 3726
holders to submit materials documenting that the holder has 3727
completed the number of hours of continuing education as 3728
described in division (B) of this section or has passed a 3729
reexamination. 3730

(3) Division (D) (1) or (2) of this section does not limit 3731
the board's authority to conduct investigations pursuant to 3732
section 4731.22 of the Revised Code. 3733

(E) (1) If, through a random sample conducted under 3734
division (D) of this section or through any other means, the 3735
board finds that an individual who certified passing the 3736
reexamination or completion of the number of hours and type of 3737
continuing education required to renew, reinstate, or restore a 3738
limited permit or license or to reactivate a license placed on 3739
retired status did not pass the reexamination or complete the 3740
requisite continuing education, the board may do either of the 3741
following: 3742

(a) Take disciplinary action against the individual under section 4761.09 of the Revised Code, impose a civil penalty, or both; 3743
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(b) Permit the individual to agree in writing to pass the reexamination or complete the continuing education and pay a civil penalty. 3746
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(2) The board's finding in any disciplinary action taken under division (E) (1) (a) of this section shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six of its members. 3749
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(3) A civil penalty imposed under division (E) (1) (a) of this section or paid under division (E) (1) (b) of this section shall be in an amount specified by the board of not more than five thousand dollars. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code. 3753
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Sec. 4761.061. (A) This section applies to all of the following: 3758
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(1) An applicant seeking restoration of a license issued under this chapter that has been in a suspended or inactive state for any cause for more than two years; 3760
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(2) An applicant seeking issuance of a license pursuant to this chapter who for more than two years has not been engaged in the practice of respiratory care or advanced practice respiratory care as either of the following: 3763
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(a) An active practitioner; 3767

(b) A student in an educational program as described in section 4761.04 or 4761.30 of the Revised Code. 3768
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(3) An applicant seeking to reactivate a license placed on 3770

retired status. 3771

(B) Before issuing a license to an applicant subject to 3772
this section, or before restoring a license to good standing or 3773
reactivating a license placed on retired status for an applicant 3774
subject to this section, the state medical board may impose 3775
terms and conditions including any one or more of the following: 3776

(1) Requiring the applicant to pass an oral or written 3777
examination, or both, to determine the applicant's present 3778
fitness to resume practice; 3779

(2) Requiring the applicant to obtain additional training 3780
and to pass an examination upon completion of such training; 3781

(3) Requiring an assessment of the applicant's physical 3782
skills for purposes of determining whether the applicant's 3783
coordination, fine motor skills, and dexterity are sufficient 3784
for performing evaluations and procedures in a manner that meets 3785
the minimal standards of care; 3786

(4) Requiring an assessment of the applicant's skills in 3787
recognizing and understanding diseases and conditions; 3788

(5) Requiring the applicant to undergo a comprehensive 3789
physical examination, which may include an assessment of 3790
physical abilities, evaluation of sensory capabilities, or 3791
screening for the presence of neurological disorders; 3792

(6) Restricting or limiting the extent, scope, or type of 3793
practice of the applicant. 3794

The board shall consider the moral background and the 3795
activities of the applicant during the period of suspension, 3796
inactivity, or retirement. The board shall not issue, restore, 3797
or reactivate a license under this section unless the applicant 3798

complies with sections 4776.01 to 4776.04 of the Revised Code. 3799

Sec. 4761.07. (A) The state medical board shall charge any 3800
license applicant or holder who is to take an examination 3801
required under division (A)(2) of section 4761.04 or a 3802
reexamination required under division (B) of section 4761.06 of 3803
the Revised Code for license renewal or under section 4761.09 of 3804
the Revised Code for license reinstatement, a nonrefundable 3805
examination fee, not to exceed the amount necessary to cover the 3806
expense of administering the examination. The license applicant 3807
or holder shall pay the fee at the time of application for 3808
licensure or renewal. 3809

(B) The board shall establish the following additional 3810
nonrefundable fees and penalty: 3811

(1) ~~An~~ For an initial license to practice respiratory 3812
care, a fee of seventy-five dollars; 3813

(2) ~~A~~ For renewal of a license to practice respiratory 3814
care, a biennial license-renewal fee of seventy-five dollars; 3815

(3) A limited permit fee of twenty dollars; 3816

(4) A limited permit renewal fee of ten dollars; 3817

(5) For an initial license to practice respiratory care as 3818
an advanced practice respiratory therapist, a fee to be 3819
determined by the board in an amount not to exceed one hundred 3820
seventy-five dollars; 3821

(6) For renewal of a license to practice respiratory care 3822
as an advanced practice respiratory therapist, a biennial 3823
renewal fee to be determined by the board in an amount not to 3824
exceed one hundred twenty-five dollars; 3825

(7) A duplicate license or limited permit fee of thirty- 3826

five dollars; 3827

~~(6)~~ (8) In the case of a person holding a license issued 3828
under this chapter, a license verification fee of fifty dollars. 3829

(C) Notwithstanding division (B) (4) of this section, after 3830
the third renewal of a limited permit that meets the exception 3831
in division (B) (3) of section 4761.05 of the Revised Code, the 3832
limited permit renewal fee shall be thirty-five dollars. 3833

(D) All fees received by the board shall be deposited into 3834
the state treasury to the credit of the state medical board 3835
operating fund pursuant to section 4731.24 of the Revised Code. 3836

Sec. 4761.09. (A) The state medical board, by an 3837
affirmative vote of not fewer than six members, shall, except as 3838
provided in division (B) of this section, and to the extent 3839
permitted by law, limit, revoke, or suspend an individual's 3840
license or limited permit, refuse to issue a license or limited 3841
permit to an individual, refuse to renew a license or limited 3842
permit, refuse to reinstate a license or limited permit, or 3843
reprimand or place on probation the holder of a license or 3844
limited permit for one or more of the following reasons: 3845

(1) A plea of guilty to, a judicial finding of guilt of, 3846
or a judicial finding of eligibility for intervention in lieu of 3847
conviction for, a felony; 3848

(2) Commission of an act that constitutes a felony in this 3849
state, regardless of the jurisdiction in which the act was 3850
committed; 3851

(3) A plea of guilty to, a judicial finding of guilt of, 3852
or a judicial finding of eligibility for intervention in lieu of 3853
conviction for, a misdemeanor committed in the course of 3854
practice; 3855

(4) Commission of an act in the course of practice that 3856
constitutes a misdemeanor in this state, regardless of the 3857
jurisdiction in which the act was committed; 3858

(5) A plea of guilty to, a judicial finding of guilt of, 3859
or a judicial finding of eligibility for intervention in lieu of 3860
conviction for, a misdemeanor involving moral turpitude; 3861

(6) Commission of an act involving moral turpitude that 3862
constitutes a misdemeanor in this state, regardless of the 3863
jurisdiction in which the act was committed; 3864

(7) Except when civil penalties are imposed under section 3865
4761.091 of the Revised Code, violating or attempting to 3866
violate, directly or indirectly, or assisting in or abetting the 3867
violation of, or conspiring to violate, any provision of this 3868
chapter or the rules adopted by the board; 3869

(8) Making a false, fraudulent, deceptive, or misleading 3870
statement in ~~the~~ soliciting or advertising for employment, in 3871
connection with any solicitation of or advertising for 3872
patients, ~~in~~ in relation to the practice of respiratory care, or 3873
advanced practice respiratory care, or in securing or attempting 3874
to secure any license or permit issued by the board under this 3875
chapter. 3876

As used in division (A) (8) of this section, "false, 3877
fraudulent, deceptive, or misleading statement" means a 3878
statement that includes a misrepresentation of fact, is likely 3879
to mislead or deceive because of a failure to disclose material 3880
facts, is intended or is likely to create false or unjustified 3881
expectations of favorable results, or includes representations 3882
or implications that in reasonable probability will cause an 3883
ordinarily prudent person to misunderstand or be deceived. 3884

(9) Committing fraud during the administration of the examination for a license to practice or committing fraud,	3885
misrepresentation, or deception in applying for, renewing, or	3886
securing any license or permit issued by the board;	3887
	3888
(10) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or	3889
similar circumstances, whether or not actual injury to a patient	3890
is established;	3891
	3892
(11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care <u>or advanced</u>	3893
<u>practice respiratory care</u> ;	3894
	3895
(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course	3896
of practice;	3897
	3898
(13) Violation of the conditions of limitation placed by the board upon a license or permit;	3899
	3900
(14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or	3901
physical illness, including physical deterioration that	3902
adversely affects cognitive, motor, or perceptive skills;	3903
	3904
(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an	3905
individual to practice a health care occupation or provide	3906
health care services in this state or another jurisdiction, for	3907
any reason other than the nonpayment of fees: the limitation,	3908
revocation, or suspension of an individual's license; acceptance	3909
of an individual's license surrender; denial of a license;	3910
refusal to renew or reinstate a license; imposition of	3911
probation; or issuance of an order of censure or other	3912
	3913

reprimand;	3914
(16) The revocation, suspension, restriction, reduction,	3915
or termination of practice privileges by the United States	3916
department of defense or department of veterans affairs;	3917
(17) Termination or suspension from participation in the	3918
medicare or medicaid programs by the department of health and	3919
human services or other responsible agency for any act or acts	3920
that also would constitute a violation of division (A) (10),	3921
(12), or (14) of this section;	3922
(18) Impairment of ability to practice according to	3923
acceptable and prevailing standards of care because of substance	3924
use disorder or excessive use or abuse of drugs, alcohol, or	3925
other substances that may impair ability to practice;	3926
(19) Failure to cooperate in an investigation conducted by	3927
the board under division (E) of section 4761.03 of the Revised	3928
Code, including failure to comply with a subpoena or order	3929
issued by the board or failure to answer truthfully a question	3930
presented by the board in an investigative interview, an	3931
investigative office conference, at a deposition, or in written	3932
interrogatories, except that failure to cooperate with an	3933
investigation shall not constitute grounds for discipline under	3934
this section if a court of competent jurisdiction has issued an	3935
order that either quashes a subpoena or permits the individual	3936
to withhold the testimony or evidence in issue;	3937
(20) Practicing in an area of respiratory care <u>or advanced</u>	3938
<u>practice respiratory care</u> for which the person is clearly	3939
untrained or incompetent or practicing in a manner that	3940
conflicts with section 4761.17 <u>or 4761.36</u> of the Revised Code;	3941
(21) Employing, directing, or supervising a person who is	3942

not authorized to practice respiratory care under this chapter 3943
in the performance of respiratory care procedures; 3944

(22) Misrepresenting educational attainments or authorized 3945
functions for the purpose of obtaining some benefit related to 3946
the practice of respiratory care or advanced practice 3947
respiratory care; 3948

(23) Assisting suicide, as defined in section 3795.01 of 3949
the Revised Code; 3950

(24) Representing, with the purpose of obtaining 3951
compensation or other advantage as personal gain or for any 3952
other person, that an incurable disease or injury, or other 3953
incurable condition, can be permanently cured; 3954

(25) Failure to comply with the requirements of this 3955
chapter, Chapter 4731. of the Revised Code, or any rules adopted 3956
by the board; 3957

(26) Violating or attempting to violate, directly or 3958
indirectly, or assisting in or abetting the violation of, or 3959
conspiring to violate, any provision of this chapter, Chapter 3960
4731. of the Revised Code, or the rules adopted by the board; 3961

(27) Failure to practice in accordance with the 3962
supervising physician's supervision agreement with the advanced 3963
practice respiratory therapist, including the policies of the 3964
health care facility in which the supervising physician and 3965
advanced practice respiratory therapist are practicing; 3966

(28) Administering drugs for purposes other than those 3967
authorized under this chapter; 3968

(29) A plea of guilty to, a judicial finding of guilt of, 3969
or a judicial finding of eligibility for intervention in lieu of 3970

conviction for violating any state or federal law regulating the 3971
possession, distribution, or use of any drug, including 3972
trafficking in drugs; 3973

(30) Willfully betraying a professional confidence; 3974

(31) Failure to use universal blood and body fluid 3975
precautions established by rules adopted under section 4731.051 3976
of the Revised Code; 3977

(32) Having the individual's qualification to practice 3978
advanced practice respiratory care from an organization that is 3979
recognized by the board expire, lapse, or otherwise fail to be 3980
active. 3981

Disciplinary actions taken by the board under division (A) 3982
of this section shall be taken pursuant to an adjudication under 3983
Chapter 119. of the Revised Code, except that in lieu of an 3984
adjudication, the board may enter into a consent agreement with 3985
an individual to resolve an allegation of a violation of this 3986
chapter or any rule adopted under it. A consent agreement, when 3987
ratified by an affirmative vote of not fewer than six members of 3988
the board, shall constitute the findings and order of the board 3989
with respect to the matter addressed in the agreement. If the 3990
board refuses to ratify a consent agreement, the admissions and 3991
findings contained in the consent agreement shall be of no 3992
effect. 3993

A telephone conference call may be utilized for 3994
ratification of a consent agreement that revokes or suspends an 3995
individual's license or permit. The telephone conference call 3996
shall be considered a special meeting under division (F) of 3997
section 121.22 of the Revised Code. 3998

(B) The board shall not refuse to issue a license or 3999

limited permit to an applicant because of a plea of guilty to, a 4000
judicial finding of guilt of, or a judicial finding of 4001
eligibility for intervention in lieu of conviction for an 4002
offense unless the refusal is in accordance with section 9.79 of 4003
the Revised Code. 4004

(C) Any action taken by the board under division (A) of 4005
this section resulting in a suspension from practice shall be 4006
accompanied by a written statement of the conditions under which 4007
the individual's license or permit may be reinstated. The board 4008
shall adopt rules governing conditions to be imposed for 4009
reinstatement. Reinstatement of a license or permit suspended 4010
pursuant to division (A) of this section requires an affirmative 4011
vote of not fewer than six members of the board. 4012

(D) When the board refuses to grant or issue a license or 4013
permit to an applicant, revokes an individual's license or 4014
permit, refuses to renew an individual's license or permit, or 4015
refuses to reinstate an individual's license or permit, the 4016
board may specify that its action is permanent. An individual 4017
subject to a permanent action taken by the board is forever 4018
thereafter ineligible to hold a license or permit and the board 4019
shall not accept an application for reinstatement of the license 4020
or permit or for issuance of a new license or permit. 4021

(E) If the board is required by Chapter 119. of the 4022
Revised Code to give notice of an opportunity for a hearing and 4023
if the individual subject to the notice does not timely request 4024
a hearing in accordance with section 119.07 of the Revised Code, 4025
the board is not required to hold a hearing, but may adopt, by 4026
an affirmative vote of not fewer than six of its members, a 4027
final order that contains the board's findings. In the final 4028
order, the board may order any of the sanctions identified under 4029

division (A) of this section. 4030

(F) In enforcing division (A)(14) of this section, the 4031
board, upon a showing of a possible violation, shall refer any 4032
individual authorized to practice by this chapter or who has 4033
submitted an application pursuant to this chapter to the 4034
monitoring organization that conducts the confidential 4035
monitoring program established under section 4731.25 of the 4036
Revised Code. The board also may compel the individual to submit 4037
to a mental examination, physical examination, including an HIV 4038
test, or both a mental and a physical examination. The expense 4039
of the examination is the responsibility of the individual 4040
compelled to be examined. Failure to submit to a mental or 4041
physical examination or consent to an HIV test ordered by the 4042
board constitutes an admission of the allegations against the 4043
individual unless the failure is due to circumstances beyond the 4044
individual's control, and a default and final order may be 4045
entered without the taking of testimony or presentation of 4046
evidence. If the board finds an individual unable to practice 4047
because of the reasons set forth in division (A)(14) of this 4048
section, the board shall require the individual to submit to 4049
care, counseling, or treatment by physicians approved or 4050
designated by the board, as a condition for initial, continued, 4051
reinstated, or renewed authority to practice. An individual 4052
affected under this division shall be afforded an opportunity to 4053
demonstrate to the board the ability to resume practice in 4054
compliance with acceptable and prevailing standards under the 4055
provisions of the individual's license or permit. For the 4056
purpose of division (A)(14) of this section, any individual who 4057
applies for or receives a license or permit to practice under 4058
this chapter accepts the privilege of practicing in this state 4059
and, by so doing, shall be deemed to have given consent to 4060

submit to a mental or physical examination when directed to do 4061
so in writing by the board, and to have waived all objections to 4062
the admissibility of testimony or examination reports that 4063
constitute a privileged communication. 4064

(G) For the purposes of division (A)(18) of this section, 4065
any individual authorized to practice by this chapter accepts 4066
the privilege of practicing in this state subject to supervision 4067
by the board. By filing an application for or holding a license 4068
or permit under this chapter, an individual shall be deemed to 4069
have given consent to submit to a mental or physical examination 4070
when ordered to do so by the board in writing, and to have 4071
waived all objections to the admissibility of testimony or 4072
examination reports that constitute privileged communications. 4073

If it has reason to believe that any individual authorized 4074
to practice by this chapter or any applicant for a license or 4075
permit suffers such impairment, the board shall refer the 4076
individual to the monitoring organization that conducts the 4077
confidential monitoring program established under section 4078
4731.25 of the Revised Code. The board also may compel the 4079
individual to submit to a mental or physical examination, or 4080
both. The expense of the examination is the responsibility of 4081
the individual compelled to be examined. Any mental or physical 4082
examination required under this division shall be undertaken by 4083
a treatment provider or physician who is qualified to conduct 4084
the examination and who is approved under section 4731.251 of 4085
the Revised Code. 4086

Failure to submit to a mental or physical examination 4087
ordered by the board constitutes an admission of the allegations 4088
against the individual unless the failure is due to 4089
circumstances beyond the individual's control, and a default and 4090

final order may be entered without the taking of testimony or 4091
presentation of evidence. If the board determines that the 4092
individual's ability to practice is impaired, the board shall 4093
suspend the individual's license or permit or deny the 4094
individual's application and shall require the individual, as a 4095
condition for an initial, continued, reinstated, or renewed 4096
license or permit, to submit to treatment. 4097

Before being eligible to apply for reinstatement of a 4098
license or permit suspended under this division, the impaired 4099
practitioner shall demonstrate to the board the ability to 4100
resume practice in compliance with acceptable and prevailing 4101
standards of care under the provisions of the practitioner's 4102
license or permit. The demonstration shall include, but shall 4103
not be limited to, the following: 4104

(1) Certification from a treatment provider approved under 4105
section 4731.251 of the Revised Code that the individual has 4106
successfully completed any required inpatient treatment; 4107

(2) Evidence of continuing full compliance with an 4108
aftercare contract or consent agreement; 4109

(3) Two written reports indicating that the individual's 4110
ability to practice has been assessed and that the individual 4111
has been found capable of practicing according to acceptable and 4112
prevailing standards of care. The reports shall be made by 4113
individuals or providers approved by the board for making the 4114
assessments and shall describe the basis for their 4115
determination. 4116

The board may reinstate a license or permit suspended 4117
under this division after that demonstration and after the 4118
individual has entered into a written consent agreement. 4119

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

(H) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or permit without a prior hearing:

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

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

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

The board shall serve a written order of suspension in accordance with sections 119.05 and 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for

the hearing shall be within fifteen days, but not earlier than 4149
seven days, after the individual requests the hearing, unless 4150
otherwise agreed to by both the board and the individual. 4151

Any summary suspension imposed under this division shall 4152
remain in effect, unless reversed on appeal, until a final 4153
adjudicative order issued by the board pursuant to this section 4154
and Chapter 119. of the Revised Code becomes effective. The 4155
board shall issue its final adjudicative order within seventy- 4156
five days after completion of its hearing. A failure to issue 4157
the order within seventy-five days shall result in dissolution 4158
of the summary suspension order but shall not invalidate any 4159
subsequent, final adjudicative order. 4160

(I) For purposes of divisions (A) (2), (4), and (6) of this 4161
section, the commission of the act may be established by a 4162
finding by the board, pursuant to an adjudication under Chapter 4163
119. of the Revised Code, that the individual committed the act. 4164
The board does not have jurisdiction under those divisions if 4165
the trial court renders a final judgment in the individual's 4166
favor and that judgment is based upon an adjudication on the 4167
merits. The board has jurisdiction under those divisions if the 4168
trial court issues an order of dismissal upon technical or 4169
procedural grounds. 4170

(J) The sealing or expungement of conviction records by 4171
any court shall have no effect upon a prior board order entered 4172
under this section or upon the board's jurisdiction to take 4173
action under this section if, based upon a plea of guilty, a 4174
judicial finding of guilt, or a judicial finding of eligibility 4175
for intervention in lieu of conviction, the board issued a 4176
notice of opportunity for a hearing prior to the court's order 4177
to seal or expunge the records. The board shall not be required 4178

to seal, destroy, redact, or otherwise modify its records to 4179
reflect the court's sealing or expungement of conviction 4180
records. 4181

(K) If the board takes action under division (A) (1), (3), 4182
or (5) of this section, and the judicial finding of guilt, 4183
guilty plea, or judicial finding of eligibility for intervention 4184
in lieu of conviction is overturned on appeal, upon exhaustion 4185
of the criminal appeal, a petition for reconsideration of the 4186
order may be filed with the board along with appropriate court 4187
documents. Upon receipt of a petition for reconsideration and 4188
supporting court documents, the board shall reinstate the 4189
individual's license or permit. The board may then hold an 4190
adjudication under Chapter 119. of the Revised Code to determine 4191
whether the individual committed the act in question. Notice of 4192
an opportunity for a hearing shall be given in accordance with 4193
Chapter 119. of the Revised Code. If the board finds, pursuant 4194
to an adjudication held under this division, that the individual 4195
committed the act or if no hearing is requested, the board may 4196
order any of the sanctions identified under division (A) of this 4197
section. 4198

(L) The license or permit issued to an individual under 4199
this chapter and the individual's practice in this state are 4200
automatically suspended as of the date the individual pleads 4201
guilty to, is found by a judge or jury to be guilty of, or is 4202
subject to a judicial finding of eligibility for intervention in 4203
lieu of conviction in this state or treatment or intervention in 4204
lieu of conviction in another jurisdiction for any of the 4205
following criminal offenses in this state or a substantially 4206
equivalent criminal offense in another jurisdiction: aggravated 4207
murder, murder, voluntary manslaughter, felonious assault, 4208
kidnapping, rape, sexual battery, gross sexual imposition, 4209

aggravated arson, aggravated robbery, or aggravated burglary. 4210
Continued practice after suspension shall be considered 4211
practicing without a license or permit. 4212

The board shall serve the individual subject to the 4213
suspension in accordance with sections 119.05 and 119.07 of the 4214
Revised Code. If an individual whose license or permit is 4215
automatically suspended under this division fails to make a 4216
timely request for an adjudication under Chapter 119. of the 4217
Revised Code, the board shall enter a final order permanently 4218
revoking the individual's license or permit. 4219

(M) Notwithstanding any other provision of the Revised 4220
Code, all of the following apply: 4221

(1) The surrender of a license or permit issued under this 4222
chapter shall not be effective unless or until accepted by the 4223
board. A telephone conference call may be utilized for 4224
acceptance of the surrender of an individual's license or 4225
permit. The telephone conference call shall be considered a 4226
special meeting under division (F) of section 121.22 of the 4227
Revised Code. Reinstatement of a license or permit surrendered 4228
to the board requires an affirmative vote of not fewer than six 4229
members of the board. 4230

(2) An application for a license or permit made under the 4231
provisions of this chapter may not be withdrawn without approval 4232
of the board. 4233

(3) Failure by an individual to renew a license or permit 4234
in accordance with this chapter does not remove or limit the 4235
board's jurisdiction to take any disciplinary action under this 4236
section against the individual. 4237

(4) The placement of an individual's license on retired 4238

status, as described in section 4761.062 of the Revised Code, 4239
does not remove or limit the board's jurisdiction to take any 4240
disciplinary action against the individual with regard to the 4241
license as it existed before being placed on retired status. 4242

(5) At the request of the board, a license or permit 4243
holder shall immediately surrender to the board a license or 4244
permit that the board has suspended, revoked, or permanently 4245
revoked. 4246

Sec. 4761.13. (A) As used in this section, "prosecutor" 4247
has the same meaning as in section 2935.01 of the Revised Code. 4248

(B) The prosecutor in any case against any respiratory 4249
care professional, advanced practice respiratory therapist, or 4250
~~an~~ individual holding a limited permit issued under this chapter 4251
shall promptly notify the state medical board of any of the 4252
following: 4253

(1) A plea of guilty to, or a finding of guilt by a jury 4254
or court of, a felony, or a case in which the trial court issues 4255
an order of dismissal upon technical or procedural grounds of a 4256
felony charge; 4257

(2) A plea of guilty to, or a finding of guilt by a jury 4258
or court of, a misdemeanor committed in the course of practice, 4259
or a case in which the trial court issues an order of dismissal 4260
upon technical or procedural grounds of a charge of a 4261
misdemeanor, if the alleged act was committed in the course of 4262
practice; 4263

(3) A plea of guilty to, or a finding of guilt by a jury 4264
or court of, a misdemeanor involving moral turpitude, or a case 4265
in which the trial court issues an order of dismissal upon 4266
technical or procedural grounds of a charge of a misdemeanor 4267

involving moral turpitude. 4268

(C) The report shall include the name and address of the 4269
respiratory care professional, advanced practice respiratory 4270
therapist, or person holding a limited permit, the nature of the 4271
offense for which the action was taken, and the certified court 4272
documents recording the action. The board may prescribe and 4273
provide forms for prosecutors to make reports under this 4274
section. The form may be the same as the form required to be 4275
provided under section 2929.42 of the Revised Code. 4276

Sec. 4761.14. An employer that disciplines or terminates 4277
the employment of a respiratory care professional, advanced 4278
practice respiratory therapist, or individual holding a limited 4279
permit issued under this chapter because of conduct that would 4280
be grounds for disciplinary action under section 4761.09 of the 4281
Revised Code shall, not later than sixty days after the 4282
discipline or termination, report the action to the state 4283
medical board. The report shall state the name of the 4284
respiratory care professional, advanced practice respiratory 4285
therapist, or individual holding the limited permit and the 4286
reason the employer took the action. If an employer fails to 4287
report to the board, the board may seek an order from the 4288
Franklin county court of common pleas, or any other court of 4289
competent jurisdiction, compelling submission of the report. 4290

Sec. 4761.17. All of the following apply to the practice 4291
of respiratory care by a person who holds a license or limited 4292
permit issued under this chapter: 4293

(A) The person shall practice only pursuant to a 4294
prescription or other order for respiratory care issued by any 4295
of the following: 4296

(1) A physician;	4297
(2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice nursing as an advanced practice registered nurse and has entered into a standard care arrangement with a physician;	4298 4299 4300 4301 4302
(3) A certified registered nurse anesthetist who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice nursing as an advanced practice registered nurse and acts in compliance with sections 4723.43, 4723.433, and 4723.434 of the Revised Code;	4303 4304 4305 4306 4307
(4) A physician assistant who holds a valid prescriber number issued by the state medical board, has been granted physician-delegated prescriptive authority, and has entered into a supervision agreement that allows the physician assistant to prescribe or order respiratory care services;	4308 4309 4310 4311 4312
<u>(5) An advanced practice respiratory therapist who has been granted physician-delegated prescriptive authority and has entered into a supervision agreement that allows the advanced practice respiratory therapist to prescribe and order respiratory care services.</u>	4313 4314 4315 4316 4317
(B) The person shall practice only under the supervision of any of the following:	4318 4319
(1) A physician;	4320
(2) A certified nurse practitioner, certified nurse- midwife, or clinical nurse specialist;	4321 4322
(3) A physician assistant who is authorized to prescribe or order respiratory care services as provided in division (A)	4323 4324

(4) of this section; 4325

(4) An advanced practice respiratory therapist who is 4326
authorized to prescribe or order respiratory care services as 4327
provided in division (A)(5) of this section. 4328

(C) (1) When practicing under the prescription or order of 4329
a certified nurse practitioner, certified nurse midwife, or 4330
clinical nurse specialist or under the supervision of such a 4331
nurse, the person's administration of medication that requires a 4332
prescription is limited to the drugs that the nurse is 4333
authorized to prescribe pursuant to section 4723.481 of the 4334
Revised Code. 4335

(2) When practicing under the order of a certified 4336
registered nurse anesthetist, the person's administration of 4337
medication is limited to the drugs that the nurse is authorized 4338
to order or direct the person to administer, as provided in 4339
sections 4723.43, 4723.433, and 4723.434 of the Revised Code. 4340

(3) When practicing under the prescription or order of a 4341
physician assistant or under the supervision of a physician 4342
assistant, the person's administration of medication that 4343
requires a prescription is limited to the drugs that the 4344
physician assistant is authorized to prescribe pursuant to the 4345
physician assistant's physician-delegated prescriptive 4346
authority. 4347

(4) When practicing under the prescription or order of an 4348
advanced practice respiratory therapist or under the supervision 4349
of an advanced practice respiratory therapist, the person's 4350
administration of medication that requires a prescription is 4351
limited to the drugs that an advanced practice respiratory 4352
therapist is authorized to prescribe pursuant to the advanced 4353

practice respiratory therapist's physician-delegated 4354
prescriptive authority. 4355

Sec. 4761.20. If the state medical board has reason to 4356
believe that any person who has been granted a license or 4357
limited permit under this chapter is mentally ill or mentally 4358
incompetent, it may file in the probate court of the county in 4359
which such person has a legal residence an affidavit in the form 4360
prescribed in section 5122.11 of the Revised Code and signed by 4361
the board secretary or a member of the secretary's staff, 4362
whereupon the same proceedings shall be had as provided in 4363
Chapter 5122. of the Revised Code. The attorney general may 4364
represent the board in any proceeding commenced under this 4365
section. 4366

If the license holder or limited permit holder is adjudged 4367
by a probate court to be mentally ill or mentally incompetent, 4368
the individual's license or limited permit shall be 4369
automatically suspended until the individual has filed with the 4370
board a certified copy of an adjudication by a probate court of 4371
being restored to competency or has submitted to the board 4372
proof, satisfactory to the board, of having been discharged as 4373
being restored to competency in the manner and form provided in 4374
section 5122.38 of the Revised Code. The judge of the court 4375
shall immediately notify the board of an adjudication of 4376
incompetence and note any suspension of a license in the margin 4377
of the court's record of the license. 4378

Sec. 4761.21. In the absence of fraud or bad faith, the 4379
state medical board, the board's respiratory care advisory 4380
council, a current or former board or council member, an agent 4381
of the board or council, a person formally requested by the 4382
board to be the board's representative or by the council to be 4383

the council's representative, or an employee of the board or 4384
council shall not be held liable in damages to any person as the 4385
result of any act, omission, proceeding, conduct, or decision 4386
related to official duties undertaken or performed pursuant to 4387
this chapter. If any such person requests to be defended by the 4388
state against any claim or action arising out of any act, 4389
omission, proceeding, conduct, or decision related to the 4390
person's official duties, and if the request is made in writing 4391
at a reasonable time before trial and the person requesting 4392
defense cooperates in good faith in the defense of the claim or 4393
action, the state shall provide and pay for the person's defense 4394
and shall pay any resulting judgment, compromise, or settlement. 4395
At no time shall the state pay any part of a claim or judgment 4396
that is for punitive or exemplary damages. 4397

Sec. ~~4761.30~~ 4761.25. A respiratory care professional or 4398
advanced practice respiratory therapist may provide telehealth 4399
services in accordance with section 4743.09 of the Revised Code. 4400

Sec. 4761.30. (A) An individual seeking an initial license 4401
to practice as an advanced practice respiratory therapist shall 4402
file with the state medical board a written application on a 4403
form prescribed and supplied by the board. The application shall 4404
be accompanied by the initial license fee determined by the 4405
board. The board shall deposit the fees in accordance with 4406
section 4731.24 of the Revised Code. 4407

(B) To be eligible for licensure as an advanced practice 4408
respiratory therapist, the individual's application must show, 4409
to the satisfaction of the board, all of the following: 4410

(1) That the individual has been issued a license to 4411
practice respiratory care under section 4761.05 of the Revised 4412
Code; 4413

(2) That the individual has successfully completed the requirements of a master's or doctoral educational program approved by the board that includes instruction in the pathophysiology, symptomatology, differential diagnosis, disease management including the use and prescription of pharmacologic and nonpharmacologic interventions, health promotion and disease prevention of cardiopulmonary disease; 4414
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(3) That the individual has passed an examination approved under rules adopted by the board that tests the applicant's knowledge of the biomedical and clinical sciences relating to advanced respiratory therapy theory and practice, professional skills and assessment, management and follow-up for cardiopulmonary disease, and such other subjects as the board considers useful in determining fitness to practice; 4421
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(4) That the individual holds an active qualification to practice advanced practice respiratory care from an organization that is recognized by the board. 4428
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Sec. 4761.301. An advanced practice respiratory therapist who fails to maintain an active qualification to practice advanced practice respiratory care from an organization that is recognized by the state medical board shall notify the board not later than fourteen days after the qualification is no longer active. 4431
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Sec. 4761.31. (A) The state medical board shall review each application for a license to practice as an advanced practice respiratory therapist received under section 4761.30 of the Revised Code. Not later than sixty days after receiving a complete application, the board shall determine whether the applicant meets the requirements to receive the license, as specified in section 4761.30 of the Revised Code. 4437
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(B) If the board determines that an applicant meets the requirements to receive the license, the secretary of the board shall register the applicant as an advanced practice respiratory therapist and issue to the applicant a license to practice as an advanced practice respiratory therapist. 4444
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Sec. 4761.32. (A) A license to practice as an advanced practice respiratory therapist shall be valid for a two-year period unless revoked or suspended. The license shall expire on the date that is two years after the date of issuance and may be renewed for additional two-year periods in accordance with this section. A person seeking to renew a license shall apply to the state medical board for renewal prior to the license's expiration date. The board shall provide renewal notices to license holders at least one month prior to the expiration date. 4449
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Applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by the biennial renewal fee determined by the board. The board shall deposit the fees in accordance with section 4731.24 of the Revised Code. 4458
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The applicant shall report any criminal offense that constitutes grounds for refusing to issue a license to practice under section 4761.09 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a license to practice as an advanced practice respiratory therapist. 4463
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(B) To be eligible for renewal of a license, an applicant is subject to both of the following: 4471
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(1) The applicant must certify to the board that the applicant has maintained an active qualification to practice advanced practice respiratory care from an organization that is recognized by the board. 4473
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(2) The applicant must comply with the renewal eligibility requirements established under section 4761.48 of the Revised Code that pertain to the applicant. 4477
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(C) If an applicant submits a complete renewal application and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed license to practice as an advanced practice respiratory therapist. 4480
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Completion of the continuing education required for an advanced practice respiratory therapist to maintain an active qualification to practice advanced practice respiratory care from an organization that is recognized by the board shall constitute satisfactory completion of continuing education or reexamination requirements for renewal of a license to practice respiratory care as set forth in division (B) of section 4761.06 of the Revised Code. 4485
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(D) The board may require a random sample of advanced practice respiratory therapists to submit materials documenting both of the following: 4493
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(1) Maintenance of an active qualification to practice advanced practice respiratory care from an organization that is recognized by the board. 4496
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(2) Completion of the continuing education in pharmacology required by section 4761.48 of the Revised Code. 4499
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Division (D) of this section does not limit the board's 4501

authority to conduct investigations pursuant to section 4761.09 4502
of the Revised Code. 4503

(E) (1) A license to practice that is not renewed on or 4504
before its expiration date is automatically suspended on its 4505
expiration date. Continued practice after suspension of the 4506
license shall be considered as practicing in violation of 4507
section 4761.33 of the Revised Code. 4508

(2) If an advanced practice respiratory therapist's 4509
license to practice as a respiratory care professional is 4510
classified as inactive for any cause, the advanced practice 4511
respiratory therapist's license to practice respiratory care as 4512
an advanced practice respiratory therapist is automatically 4513
classified as inactive while the license to practice as a 4514
respiratory care professional remains inactive. If either 4515
license held by an advanced practice respiratory therapist is 4516
revoked under this chapter, the other license is automatically 4517
revoked. If either license is suspended under this chapter, 4518
including for failure to renew under this section or section 4519
4761.06 of the Revised Code, the other license is automatically 4520
suspended while the suspension remains in effect. 4521

(F) If a license has been suspended pursuant to division 4522
(E) of this section for two years or less, it may be reinstated. 4523
The board shall reinstate a license suspended for failure to 4524
renew upon an applicant's submission of a renewal application, 4525
the biennial renewal fee, and any applicable monetary penalty. 4526

If a license has been suspended pursuant to division (E) 4527
of this section for more than two years, it may be restored. In 4528
accordance with section 4761.061 of the Revised Code, the board 4529
may restore a license suspended for failure to renew upon an 4530
applicant's submission of a restoration application, the 4531

biennial renewal fee, and any applicable monetary penalty, and 4532
compliance with sections 4776.01 to 4776.04 of the Revised Code. 4533
The board shall not restore to an applicant a license to 4534
practice as an advanced practice respiratory therapist unless 4535
the board, in its discretion, decides that the results of the 4536
criminal records check do not make the applicant ineligible for 4537
a license issued pursuant to section 4761.31 of the Revised 4538
Code. 4539

The penalty for reinstatement shall be fifty dollars and 4540
the penalty for restoration shall be one hundred dollars. The 4541
board shall deposit penalties in accordance with section 4731.24 4542
of the Revised Code. 4543

(G) (1) If, through a random sample conducted under 4544
division (D) of this section or any other means, the board finds 4545
that an individual who certified maintenance of an active 4546
qualification or completion of continuing education in 4547
pharmacology required to renew, reinstate, or restore a license 4548
to practice did not complete the requisite maintenance or 4549
continuing education, the board may do either of the following: 4550

(a) Take disciplinary action against the individual under 4551
section 4761.09 of the Revised Code, impose a civil penalty, or 4552
both; 4553

(b) Permit the individual to agree in writing to re- 4554
establish an active qualification or complete the continuing 4555
education and pay a civil penalty. 4556

(2) The board's finding in any disciplinary action taken 4557
under division (G) (1) (a) of this section shall be made pursuant 4558
to an adjudication under Chapter 119. of the Revised Code and by 4559
an affirmative vote of not fewer than six of its members. 4560

(3) A civil penalty imposed under division (G) (1) (a) of this section or paid under division (G) (1) (b) of this section shall be in an amount specified by the board of not more than five thousand dollars. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code. 4561
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Sec. 4761.33. (A) No person shall hold that person out as being able to function as an advanced practice respiratory therapist, or use any words or letters indicating or implying that the person is an advanced practice respiratory therapist, without a current, valid license to practice as an advanced practice respiratory therapist issued under this chapter. 4566
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(B) No person shall practice as an advanced practice respiratory therapist without the supervision, control, and direction of a supervising physician who specializes in pulmonology, anesthesiology, critical care, or sleep medicine. 4572
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(C) No person shall practice as an advanced practice respiratory therapist without having entered into a supervision agreement with a supervising physician under section 4761.37 of the Revised Code. 4576
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(D) No person acting as the supervising physician of an advanced practice respiratory therapist shall authorize the advanced practice respiratory therapist to perform services if either of the following is the case: 4580
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(1) The services are not within the physician's normal course of practice and expertise; 4584
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(2) The services are inconsistent with the supervision agreement under which the advanced practice respiratory therapist is being supervised, including the policies of the health care facility in which the physician and the advanced 4586
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practice respiratory therapist are practicing. 4590

(E) No person practicing as an advanced practice 4591
respiratory therapist shall perform general anesthesia, 4592
monitored anesthesia care, regional anesthesia, or neuraxial 4593
anesthesia. 4594

(F) No person shall advertise to provide services as an 4595
advanced practice respiratory therapist, except for the purpose 4596
of seeking employment. 4597

(G) No person practicing as an advanced practice 4598
respiratory therapist shall fail to wear at all times when on 4599
duty a placard, plate, or other device identifying that person 4600
as an advanced practice respiratory therapist. 4601

(H) No person practicing as an advanced practice 4602
respiratory therapist shall prescribe controlled substances. 4603

(I) Division (A) of this section does not apply to a 4604
person who meets all of the following conditions: 4605

(1) The person holds in good standing a valid license or 4606
other form of authority to practice as an advanced practice 4607
respiratory therapist issued by another state. 4608

(2) The person is practicing as a volunteer without 4609
remuneration during a charitable event that lasts not more than 4610
seven days. 4611

(3) The medical care provided by the person will be 4612
supervised by the medical director of the charitable event or by 4613
another physician. 4614

When a person meets the conditions of this division, the 4615
person shall be deemed to hold, during the course of the 4616
charitable event, a license to practice as an advanced practice 4617

respiratory therapist from the state medical board and shall be 4618
subject to the provisions of this chapter authorizing the board 4619
to take disciplinary action against a license holder. Not less 4620
than seven calendar days before the first day of the charitable 4621
event, the person or the event's organizer shall notify the 4622
board of the person's intent to practice as an advanced practice 4623
respiratory therapist at the event. During the course of the 4624
charitable event, the person's scope of practice is limited to 4625
the procedures that an advanced practice respiratory therapist 4626
licensed under this chapter is authorized to perform unless the 4627
person's scope of practice in the other state is more 4628
restrictive than in this state. If the latter is the case, the 4629
person's scope of practice is limited to the procedures that an 4630
advanced practice respiratory therapist in the other state may 4631
perform. 4632

Sec. 4761.34. Nothing in this chapter shall: 4633

(A) Be construed to affect or interfere with the 4634
performance of duties of any medical personnel who are either of 4635
the following: 4636

(1) In active service in the army, navy, coast guard, 4637
marine corps, air force, public health service, or marine 4638
hospital service of the United States while so serving; 4639

(2) Employed by the veterans administration of the United 4640
States while so employed. 4641

(B) Prevent any person from performing any of the services 4642
an advanced practice respiratory therapist may be authorized to 4643
perform, if the person's professional scope of practice 4644
established under any other chapter of the Revised Code 4645
authorizes the person to perform the services; 4646

(C) Prohibit a physician from delegating responsibilities to any nurse or other qualified person who does not hold a license to practice as an advanced practice respiratory therapist, provided that the individual does not hold the individual out to be an advanced practice respiratory therapist; 4647
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(D) Be construed as authorizing an advanced practice respiratory therapist independently to order or direct the execution of procedures or techniques by a registered nurse or licensed practical nurse in the care and treatment of a person, except to the extent that an advanced practice respiratory therapist is authorized to do so by a physician who is responsible for supervising the advanced practice respiratory therapist and the policies of the health care facility in which the advanced practice respiratory therapist is practicing. 4652
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Sec. 4761.35. (A) As used in this section: 4661

(1) "Disaster" means any imminent threat or actual occurrence of widespread or severe damage to or loss of property, personal hardship or injury, or loss of life that results from any natural phenomenon or act of a human. 4662
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(2) "Emergency" means an occurrence or event that poses an imminent threat to the health or life of a human. 4666
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(B) Nothing in this chapter prohibits any of the following individuals from providing medical care, to the extent the individual is able, in response to a need for medical care precipitated by a disaster or emergency: 4668
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(1) An individual who holds a license to practice as an advanced practice respiratory therapist issued under this chapter; 4672
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(2) An individual licensed or authorized to practice as an 4675

advanced practice respiratory therapist in another state; 4676

(3) An individual employed as an advanced practice respiratory therapist by an agency, office, or other instrumentality of the federal government. 4677
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(C) For purposes of the medical care provided by an advanced practice respiratory therapist pursuant to division (B) (1) of this section, both of the following apply notwithstanding any supervision requirement of this chapter to the contrary: 4680
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(1) The physician who supervises the advanced practice respiratory therapist pursuant to a supervision agreement entered into under section 4761.37 of the Revised Code is not required to meet the supervision requirements established under this chapter. 4684
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(2) The physician designated as the medical director of the disaster or emergency may supervise the medical care provided by the advanced practice respiratory therapist. 4689
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Sec. 4761.36. (A) A license to practice as an advanced practice respiratory therapist issued under this chapter authorizes the holder to practice as an advanced practice respiratory therapist as follows: 4692
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(1) The advanced practice respiratory therapist shall practice only under the supervision, control, and direction of a physician with whom the advanced practice respiratory therapist has entered into a supervision agreement under section 4761.37 of the Revised Code. 4696
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(2) The advanced practice respiratory therapist shall practice in accordance with the supervision agreement entered into with the physician who is responsible for supervising the advanced practice respiratory therapist, including the policies 4701
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of the health care facility in which the advanced practice 4705
respiratory therapist is practicing. 4706

(B) The state medical board may adopt rules designating 4707
hospital-based facilities to be included as health care 4708
facilities that are in addition to hospitals as specified in 4709
division (K) (1) of section 4761.01 of the Revised Code. Any 4710
rules adopted shall be adopted in accordance with Chapter 119. 4711
of the Revised Code. 4712

Sec. 4761.37. (A) Before initiating supervision of an 4713
advanced practice respiratory therapist, a physician shall enter 4714
into a supervision agreement with the advanced practice 4715
respiratory therapist who will be supervised. A supervision 4716
agreement may not apply to more than one advanced practice 4717
respiratory therapist. Only a physician who specializes in one 4718
or more of the following areas is authorized to enter into a 4719
supervision agreement with an advanced practice respiratory 4720
therapist under this section: pulmonology, anesthesiology, 4721
critical care, or sleep medicine. 4722

The supervision agreement shall specify that the physician 4723
agrees to supervise the advanced practice respiratory therapist 4724
and the advanced practice respiratory therapist agrees to 4725
practice under that physician's supervision. The supervision 4726
agreement shall clearly state that the supervising physician is 4727
legally responsible and assumes legal liability for the services 4728
provided by the advanced practice respiratory therapist. The 4729
agreement shall be signed by the physician and the advanced 4730
practice respiratory therapist. 4731

(B) A supervision agreement shall include all of the 4732
following: 4733

(1) Terms that require the advanced practice respiratory therapist to practice in accordance with the policies of the health care facility in which the advanced practice respiratory therapist is practicing; 4734
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(2) Any limitations on the responsibilities to be fulfilled by the advanced practice respiratory therapist; 4738
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(3) The circumstances under which the advanced practice respiratory therapist is required to refer a patient to the supervising physician; 4740
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(4) If the supervising physician chooses to designate physicians to act as alternate supervising physicians, the names, business addresses, and business telephone numbers of the physicians who have agreed to act in that capacity. 4743
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(C) The supervising physician who entered into a supervision agreement shall retain a copy of the agreement in the records maintained by the supervising physician. Each advanced practice respiratory therapist who entered into the supervision agreement shall retain a copy of the agreement in the records maintained by the advanced practice respiratory therapist. 4747
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(D) (1) If the board finds, through a review conducted under this section or through any other means, any of the following, the board may take disciplinary action against the individual under section 4731.22 or 4761.09 of the Revised Code, impose a civil penalty, or both: 4754
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(a) That an advanced practice respiratory therapist has practiced in a manner that departs from, or fails to conform to, the terms of a supervision agreement entered into under this section; 4759
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(b) That a physician has supervised an advanced practice respiratory therapist in a manner that departs from, or fails to conform to, the terms of a supervision agreement entered into under this section; 4763
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(c) That a physician or an advanced practice respiratory therapist failed to comply with division (A) or (B) of this section. 4767
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(2) If the board finds, through a review conducted under this section or through any other means, that a physician or advanced practice respiratory therapist failed to comply with division (C) of this section, the board may do either of the following: 4770
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(a) Take disciplinary action against the individual under section 4731.22 or 4761.09 of the Revised Code, impose a civil penalty, or both; 4775
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(b) Permit the individual to agree in writing to update the records to comply with division (C) of this section and pay a civil penalty. 4778
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(3) The board's finding in any disciplinary action taken under division (D) of this section shall be made pursuant to an adjudication conducted under Chapter 119. of the Revised Code. 4781
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(4) A civil penalty imposed under division (D) (1) or (2) (a) of this section or paid under division (D) (2) (b) of this section shall be in an amount specified by the board of not more than five thousand dollars and shall be deposited in accordance with section 4731.24 of the Revised Code. 4784
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Sec. 4761.38. (A) An advanced practice respiratory therapist licensed under this chapter may perform any of the following services authorized by the supervising physician that 4789
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are part of the supervising physician's normal course of 4792
practice and expertise: 4793

(1) Ordering diagnostic, therapeutic, and other medical 4794
services; 4795

(2) Prescribing physical therapy or referring a patient to 4796
a physical therapist for physical therapy; 4797

(3) Ordering occupational therapy or referring a patient 4798
to an occupational therapist for occupational therapy; 4799

(4) If the advanced practice respiratory therapist has 4800
been granted physician-delegated prescriptive authority, 4801
ordering, prescribing, and administering drugs and medical 4802
devices; 4803

(5) Any other services that are part of the supervising 4804
physician's normal course of practice and expertise. 4805

(B) The services an advanced practice respiratory 4806
therapist may provide under the policies of a health care 4807
facility are limited to the services the facility authorizes the 4808
advanced practice respiratory therapist to provide for the 4809
facility. A facility shall not authorize an advanced practice 4810
respiratory therapist to perform a service that is prohibited 4811
under this chapter. A physician who is supervising an advanced 4812
practice respiratory therapist within a health care facility may 4813
impose limitations on the advanced practice respiratory 4814
therapist's practice that are in addition to any limitations 4815
applicable under the policies of the facility. 4816

Sec. 4761.381. (A) Acting pursuant to a supervision 4817
agreement, an advanced practice respiratory therapist may 4818
delegate performance of a task to implement a patient's plan of 4819
care or, if the conditions in division (C) of this section are 4820

met, may delegate administration of a drug. Subject to division 4821
(D) of section 4761.34 of the Revised Code, delegation may be to 4822
any person. The advanced practice respiratory therapist must be 4823
physically present at the location where the task is performed 4824
or the drug administered. 4825

(B) Prior to delegating a task or administration of a 4826
drug, an advanced practice respiratory therapist shall determine 4827
that the task or drug is appropriate for the patient and the 4828
person to whom the delegation is to be made may safely perform 4829
the task or administer the drug. 4830

(C) An advanced practice respiratory therapist may 4831
delegate administration of a drug only if all of the following 4832
conditions are met: 4833

(1) The advanced practice respiratory therapist has been 4834
granted physician-delegated prescriptive authority and is 4835
authorized to prescribe the drug. 4836

(2) The drug is not a controlled substance. 4837

(3) The drug will not be administered intravenously. 4838

(4) The drug will not be administered in a hospital 4839
inpatient care unit, as defined in section 3727.50 of the 4840
Revised Code; a hospital emergency department; a freestanding 4841
emergency department; or an ambulatory surgical facility 4842
licensed under section 3702.30 of the Revised Code. 4843

(D) A person not otherwise authorized to administer a drug 4844
or perform a specific task may do so in accordance with an 4845
advanced practice respiratory therapist's delegation under this 4846
section. 4847

Sec. 4761.39. (A) The supervising physician of an advanced 4848

practice respiratory therapist exercises supervision, control, 4849
and direction of the advanced practice respiratory therapist. An 4850
advanced practice respiratory therapist may practice in any 4851
health care facility within which the supervising physician has 4852
supervision, control, and direction of the advanced practice 4853
respiratory therapist. 4854

In supervising an advanced practice respiratory therapist, 4855
all of the following apply: 4856

(1) The supervising physician shall provide only on-site 4857
supervision, consisting of being physically present at the 4858
location where the advanced practice respiratory therapist is 4859
practicing and being continuously available for direct 4860
communication with the advanced practice respiratory therapist. 4861

(2) The supervising physician shall personally and 4862
actively review the advanced practice respiratory therapist's 4863
professional activities. 4864

(3) The supervising physician shall ensure that the 4865
quality assurance system established pursuant to division (F) of 4866
this section is implemented and maintained. 4867

(4) The supervising physician shall regularly perform any 4868
other reviews of the advanced practice respiratory therapist 4869
that the supervising physician considers necessary. 4870

(B) A physician may enter into supervision agreements with 4871
any number of advanced practice respiratory therapists, but the 4872
physician may not supervise more than five advanced practice 4873
respiratory therapists at any one time. An advanced practice 4874
respiratory therapist may enter into supervision agreements with 4875
any number of supervising physicians. 4876

(C) A supervising physician may authorize an advanced 4877

practice respiratory therapist to perform a service only if the 4878
physician is satisfied that the advanced practice respiratory 4879
therapist is capable of competently performing the service. A 4880
supervising physician shall not authorize an advanced practice 4881
respiratory therapist to perform any service that is beyond the 4882
physician's or the advanced practice respiratory therapist's 4883
normal course of practice and expertise. 4884

(D) In the case of a health care facility with an 4885
emergency department, the supervising physician may, on 4886
occasion, send the advanced practice respiratory therapist to 4887
the facility's emergency department to assess a patient. In 4888
supervising the advanced practice respiratory therapist's 4889
assessment of the patient, the supervising physician shall 4890
determine the appropriate level of supervision in compliance 4891
with the requirements of divisions (A) to (C) of this section, 4892
except that the supervising physician must be available to go to 4893
the emergency department to personally evaluate the patient and, 4894
at the request of an emergency department physician, the 4895
supervising physician shall go to the emergency department to 4896
personally evaluate the patient. 4897

(E) Each time an advanced practice respiratory therapist 4898
writes a medical order, including prescriptions written in the 4899
exercise of physician-delegated prescriptive authority, the 4900
advanced practice respiratory therapist shall sign the form on 4901
which the order is written and record on the form the time and 4902
date that the order is written. 4903

(F) (1) The supervising physician of an advanced practice 4904
respiratory therapist shall establish a quality assurance system 4905
to be used in supervising the advanced practice respiratory 4906
therapist. All or part of the system may be applied to other 4907

advanced practice respiratory therapists who are supervised by 4908
the supervising physician. The system shall be developed in 4909
consultation with each advanced practice respiratory therapist 4910
to be supervised by the physician. 4911

(2) In establishing the quality assurance system, the 4912
supervising physician shall describe a process to be used for 4913
all of the following: 4914

(a) Routine review by the physician of selected patient 4915
record entries made by the advanced practice respiratory 4916
therapist and selected medical orders issued by the advanced 4917
practice respiratory therapist; 4918

(b) Discussion of complex cases; 4919

(c) Discussion of new medical developments relevant to the 4920
practice of the physician and advanced practice respiratory 4921
therapist; 4922

(d) Performance of any quality assurance activities 4923
required in rules adopted by the state medical board pursuant to 4924
any recommendations made by the respiratory care advisory 4925
council under section 4761.032 of the Revised Code; 4926

(e) Performance of any other quality assurance activities 4927
that the supervising physician considers to be appropriate. 4928

(3) The supervising physician and advanced practice 4929
respiratory therapist shall keep records of their quality 4930
assurance activities. On request, the records shall be made 4931
available to the board. 4932

Sec. 4761.40. (A) When performing authorized services, an 4933
advanced practice respiratory therapist acts as the agent of the 4934
advanced practice respiratory therapist's supervising physician. 4935

The supervising physician is legally responsible and assumes 4936
legal liability for the services provided by the advanced 4937
practice respiratory therapist. 4938

The physician is not responsible or liable for any 4939
services provided by the advanced practice respiratory therapist 4940
after their supervision agreement expires or is terminated. 4941

(B) When a health care facility permits advanced practice 4942
respiratory therapists to practice within that facility or any 4943
other health care facility under its control, the health care 4944
facility shall make reasonable efforts to explain to each 4945
individual who may work with a particular advanced practice 4946
respiratory therapist the scope of that advanced practice 4947
respiratory therapist's practice within the facility. The 4948
appropriate credentialing body within the health care facility 4949
shall provide, on request of an individual practicing in the 4950
facility with an advanced practice respiratory therapist, a copy 4951
of the facility's policies on the practice of advanced practice 4952
respiratory therapists within the facility and a copy of each 4953
supervision agreement applicable to the advanced practice 4954
respiratory therapist. 4955

An individual who follows the orders of an advanced 4956
practice respiratory therapist practicing in a health care 4957
facility is not subject to disciplinary action by any 4958
administrative agency that governs that individual's conduct and 4959
is not liable in damages in a civil action for injury, death, or 4960
loss to person or property resulting from the individual's acts 4961
or omissions in the performance of any procedure, treatment, or 4962
other health care service if the individual reasonably believed 4963
that the advanced practice respiratory therapist was acting 4964
within the proper scope of practice or was relaying medical 4965

orders from a supervising physician, unless the act or omission 4966
constitutes willful or wanton misconduct. 4967

Sec. 4761.41. A license issued by the state medical board 4968
under section 4761.31 of the Revised Code authorizes the license 4969
holder to be granted physician-delegated prescriptive authority 4970
and to exercise that authority as provided in division (A) (4) of 4971
section 4761.38 and section 4761.44 of the Revised Code. The 4972
board shall issue a prescriber number to each advanced practice 4973
respiratory therapist licensed under this chapter. 4974

Sec. 4761.43. The state medical board shall adopt rules 4975
governing physician-delegated prescriptive authority for 4976
advanced practice respiratory therapists. The rules shall be 4977
adopted in accordance with Chapter 119. of the Revised Code and 4978
shall establish, at a minimum, requirements regarding the 4979
pharmacology courses that an advanced practice respiratory 4980
therapist is required to complete. 4981

Sec. 4761.44. An advanced practice respiratory therapist 4982
is authorized to prescribe drugs and therapeutic devices in the 4983
exercise of physician-delegated prescriptive authority, subject 4984
to all of the following: 4985

(A) An advanced practice respiratory therapist shall 4986
exercise physician-delegated prescriptive authority only to the 4987
extent that the physician supervising the advanced practice 4988
respiratory therapist has granted that authority. 4989

(B) An advanced practice respiratory therapist shall 4990
comply with all conditions placed on the physician-delegated 4991
prescriptive authority, as specified by the supervising 4992
physician who is supervising the advanced practice respiratory 4993
therapist in the exercise of physician-delegated prescriptive 4994

authority. 4995

(C) An advanced practice respiratory therapist's 4996
physician-delegated prescriptive authority shall not include the 4997
authority to do either of the following: 4998

(1) Prescribe a controlled substance; 4999

(2) Personally furnish any drug. 5000

(D) An advanced practice respiratory therapist shall not 5001
prescribe any drug in violation of state or federal law. 5002

Sec. 4761.45. (A) In granting physician-delegated 5003
prescriptive authority to a particular advanced practice 5004
respiratory therapist, the supervising physician shall supervise 5005
the advanced practice respiratory therapist in accordance with 5006
both of the following: 5007

(1) The supervision requirements specified in section 5008
4761.39 of the Revised Code; 5009

(2) The supervision agreement entered into with the 5010
advanced practice respiratory therapist under section 4761.37 of 5011
the Revised Code, including the policies of the health care 5012
facility in which the physician and advanced practice 5013
respiratory therapist are practicing. 5014

(B) (1) The supervising physician of an advanced practice 5015
respiratory therapist may place conditions on the physician- 5016
delegated prescriptive authority granted to the advanced 5017
practice respiratory therapist. If conditions are placed on that 5018
authority, the supervising physician shall maintain a written 5019
record of the conditions and make the record available to the 5020
state medical board on request. 5021

(2) The conditions that a supervising physician may place 5022

on the physician-delegated prescriptive authority granted to an 5023
advanced practice respiratory therapist include the following: 5024

(a) Identification by class and specific generic 5025
nomenclature of drugs and therapeutic devices that the physician 5026
chooses not to permit the advanced practice respiratory 5027
therapist to prescribe; 5028

(b) Limitations on the dosage units or refills that the 5029
advanced practice respiratory therapist is authorized to 5030
prescribe; 5031

(c) Specification of circumstances under which the 5032
advanced practice respiratory therapist is required to refer 5033
patients to the supervising physician or another physician when 5034
exercising physician-delegated prescriptive authority; 5035

(d) Responsibilities to be fulfilled by the physician in 5036
supervising the advanced practice respiratory therapist that are 5037
not otherwise specified in the supervision agreement or 5038
otherwise required by this chapter. 5039

Sec. 4761.48. (A) To be eligible for renewal of a license 5040
to practice as an advanced practice respiratory therapist, an 5041
applicant who has been granted physician-delegated prescriptive 5042
authority shall complete every two years at least twelve hours 5043
of continuing education in pharmacology obtained through a 5044
program or course approved by the state medical board or a 5045
person the board has authorized to approve continuing 5046
pharmacology education programs and courses. Except as provided 5047
in section 5903.12 of the Revised Code, the continuing education 5048
shall be completed not later than the date on which the 5049
applicant's license expires. 5050

(B) The state medical board shall provide for pro rata 5051

reductions by month of the number of hours of continuing 5052
education in pharmacology that is required to be completed for 5053
advanced practice respiratory therapists who have been disabled 5054
due to illness or accident or have been absent from the country. 5055
The board shall adopt rules, in accordance with Chapter 119. of 5056
the Revised Code, as necessary to implement this division. 5057

(C) The continuing education required by this section is 5058
in addition to the requirement of section 4761.32 of the Revised 5059
Code to maintain an active qualification to practice advanced 5060
practice respiratory care from an organization that is 5061
recognized by the state medical board. 5062

(D) If the state medical board chooses to authorize 5063
persons to approve continuing pharmacology education programs 5064
and courses, the board shall establish standards for granting 5065
that authority and grant the authority in accordance with the 5066
standards. 5067

Sec. 4761.99. Whoever violates division (A) of section 5068
4761.10 of the Revised Code is guilty of a minor misdemeanor on 5069
a first offense. On a second offense, the person is guilty of a 5070
misdemeanor of the fourth degree. On each subsequent offense, 5071
the person is guilty of a misdemeanor of the first degree. 5072

Whoever violates section 4761.33 of the Revised Code is 5073
guilty of a misdemeanor of the first degree on a first offense. 5074
On each subsequent offense, the person is guilty of a felony of 5075
the fourth degree. 5076

Sec. 4765.51. Nothing in this chapter prevents or 5077
restricts the practice, services, or activities of any 5078
registered nurse practicing within the scope of the registered 5079
nurse's practice. 5080

Nothing in this chapter prevents or restricts the 5081
practice, services, or activities of any physician assistant 5082
practicing in accordance with a supervision agreement entered 5083
into under section 4730.19 of the Revised Code, including, if 5084
applicable, the policies of the health care facility in which 5085
the physician assistant is practicing. 5086

Nothing in this chapter prevents or restricts the 5087
practice, services, or activities of any advanced practice 5088
respiratory therapist practicing in accordance with a 5089
supervision agreement entered into under section 4761.37 of the 5090
Revised Code, including the policies of the health care facility 5091
in which the advanced practice respiratory therapist is 5092
practicing. 5093

Sec. 4769.01. As used in this chapter: 5094

(A) "Medicare" means the program established by Title 5095
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 5096
U.S.C.A. 301, as amended. 5097

(B) "Balance billing" means charging or collecting from a 5098
medicare beneficiary an amount in excess of the medicare 5099
reimbursement rate for medicare-covered services or supplies 5100
provided to a medicare beneficiary, except when medicare is the 5101
secondary insurer. When medicare is the secondary insurer, the 5102
health care practitioner may pursue full reimbursement under the 5103
terms and conditions of the primary coverage and, if applicable, 5104
the charge allowed under the terms and conditions of the 5105
appropriate provider contract, from the primary insurer, but the 5106
medicare beneficiary cannot be balance billed above the medicare 5107
reimbursement rate for a medicare-covered service or supply. 5108
"Balance billing" does not include charging or collecting 5109
deductibles or coinsurance required by the program. 5110

(C) "Health care practitioner" means all of the following:	5111
(1) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	5112 5113
(2) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	5114 5115
(3) An optometrist licensed under Chapter 4725. of the Revised Code;	5116 5117
(4) A dispensing optician, spectacle dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;	5118 5119 5120
(5) A pharmacist licensed under Chapter 4729. of the Revised Code;	5121 5122
(6) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	5123 5124 5125
(7) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	5126 5127
(8) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;	5128 5129
(9) A psychologist licensed under Chapter 4732. of the Revised Code;	5130 5131
(10) A chiropractor licensed under Chapter 4734. of the Revised Code;	5132 5133
(11) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	5134 5135
(12) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	5136 5137

(13) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	5138 5139
(14) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	5140 5141
(15) A licensed professional clinical counselor, licensed professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	5142 5143 5144 5145
(16) A dietitian licensed under Chapter 4759. of the Revised Code;	5146 5147
(17) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	5148 5149 5150
(18) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	5151 5152 5153 5154
Sec. 5123.47. (A) As used in this section:	5155
(1) "In-home care" means the supportive services provided within the home of an individual with a developmental disability who receives funding for the services through a county board of developmental disabilities, including any recipient of residential services funded as home and community-based services, family support services provided under section 5126.11 of the Revised Code, or supported living provided in accordance with sections 5126.41 to 5126.47 of the Revised Code. "In-home care" includes care that is provided outside an individual's home in places incidental to the home, and while traveling to places incidental to the home, except that "in-home care" does	5156 5157 5158 5159 5160 5161 5162 5163 5164 5165 5166

not include care provided in the facilities of a county board of developmental disabilities or care provided in schools.	5167 5168
(2) "Parent" means either parent of a child, including an adoptive parent but not a foster parent.	5169 5170
(3) "Unlicensed in-home care worker" means an individual who provides in-home care but is not a health care professional.	5171 5172
(4) "Family member" means a parent, sibling, spouse, son, daughter, grandparent, aunt, uncle, cousin, or guardian of the individual with a developmental disability if the individual with a developmental disability lives with the person and is dependent on the person to the extent that, if the supports were withdrawn, another living arrangement would have to be found.	5173 5174 5175 5176 5177 5178
(5) "Health care professional" means any of the following:	5179
(a) A dentist who holds a valid license issued under Chapter 4715. of the Revised Code;	5180 5181
(b) A registered or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code;	5182 5183
(c) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code;	5184 5185
(d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code;	5186 5187
(e) A person who holds a valid license or certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited brand of medicine;	5188 5189 5190 5191
(f) A physician assistant who holds a valid license issued under Chapter 4730. of the Revised Code;	5192 5193

(g) An occupational therapist or occupational therapy assistant or a physical therapist or physical therapist assistant who holds a valid license issued under Chapter 4755. of the Revised Code;

(h) A respiratory care professional or advanced practice respiratory therapist who holds a valid license issued under Chapter 4761. of the Revised Code.

(6) "Health care task" means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of the professional's practice. "Health care task" includes the administration of oral and topical prescribed medications; administration of nutrition and medications through gastrostomy and jejunostomy tubes that are stable and labeled; administration of oxygen and metered dose inhaled medications; administration of insulin through subcutaneous injections, inhalation, and insulin pumps; and administration of prescribed medications for the treatment of metabolic glyceemic disorders through subcutaneous injections.

(B) Except as provided in division (E) of this section, a family member of an individual with a developmental disability may authorize an unlicensed in-home care worker to perform health care tasks as part of the in-home care the worker provides to the individual, if all of the following apply:

(1) The family member is the primary supervisor of the care.

(2) The unlicensed in-home care worker has been selected by the family member or the individual receiving care and is under the direct supervision of the family member.

(3) The unlicensed in-home care worker is providing the

care through an employment or other arrangement entered into 5223
directly with the family member and is not otherwise employed by 5224
or under contract with a person or government entity to provide 5225
services to individuals with developmental disabilities. 5226

(4) The health care task is completed in accordance with 5227
standard, written instructions. 5228

(5) Performance of the health care task requires no 5229
judgment based on specialized health care knowledge or 5230
expertise. 5231

(6) The outcome of the health care task is reasonably 5232
predictable. 5233

(7) Performance of the health care task requires no 5234
complex observation of the individual receiving the care. 5235

(8) Improper performance of the health care task will 5236
result in only minimal complications that are not life- 5237
threatening. 5238

(C) A family member shall obtain a prescription, if 5239
applicable, and written instructions from a health care 5240
professional for the care to be provided to the individual. The 5241
family member shall authorize the unlicensed in-home care worker 5242
to provide the care by preparing a written document granting the 5243
authority. The family member shall provide the unlicensed in- 5244
home care worker with appropriate training and written 5245
instructions in accordance with the instructions obtained from 5246
the health care professional. The family member or a health care 5247
professional shall be available to communicate with the 5248
unlicensed in-home care worker either in person or by 5249
telecommunication while the in-home care worker performs a 5250
health care task. 5251

(D) A family member who authorizes an unlicensed in-home care worker to administer oral and topical prescribed medications or perform other health care tasks retains full responsibility for the health and safety of the individual receiving the care and for ensuring that the worker provides the care appropriately and safely. No entity that funds or monitors the provision of in-home care may be held liable for the results of the care provided under this section by an unlicensed in-home care worker, including such entities as the county board of developmental disabilities and the department of developmental disabilities.

An unlicensed in-home care worker who is authorized under this section by a family member to provide care to an individual may not be held liable for any injury caused in providing the care, unless the worker provides the care in a manner that is not in accordance with the training and instructions received or the worker acts in a manner that constitutes willful or wanton misconduct.

(E) A county board of developmental disabilities may evaluate the authority granted by a family member under this section to an unlicensed in-home care worker at any time it considers necessary and shall evaluate the authority on receipt of a complaint. If the board determines that a family member has acted in a manner that is inappropriate for the health and safety of the individual receiving the care, the authorization granted by the family member to an unlicensed in-home care worker is void, and the family member may not authorize other unlicensed in-home care workers to provide the care. In making such a determination, the board shall use appropriately licensed health care professionals and shall provide the family member an opportunity to file a complaint under section 5126.06 of the

Revised Code. 5283

Sec. 5164.95. (A) As used in this section, "telehealth 5284
service" means a health care service delivered to a patient 5285
through the use of interactive audio, video, or other 5286
telecommunications or electronic technology from a site other 5287
than the site where the patient is located. 5288

(B) The department of medicaid shall establish standards 5289
for medicaid payments for health care services the department 5290
determines are appropriate to be covered by the medicaid program 5291
when provided as telehealth services. The standards shall be 5292
established in rules adopted under section 5164.02 of the 5293
Revised Code. 5294

In accordance with section 5162.021 of the Revised Code, 5295
the medicaid director shall adopt rules authorizing the 5296
directors of other state agencies to adopt rules regarding the 5297
medicaid coverage of telehealth services under programs 5298
administered by the other state agencies. Any such rules adopted 5299
by the medicaid director or the directors of other state 5300
agencies are not subject to the requirements of division (F) of 5301
section 121.95 of the Revised Code. 5302

(C) (1) To the extent permitted under rules adopted under 5303
section 5164.02 of the Revised Code and applicable federal law, 5304
the following practitioners are eligible to provide telehealth 5305
services covered pursuant to this section: 5306

(a) A physician licensed under Chapter 4731. of the 5307
Revised Code to practice medicine and surgery, osteopathic 5308
medicine and surgery, or podiatric medicine and surgery; 5309

(b) A psychologist, independent school psychologist, or 5310
school psychologist licensed under Chapter 4732. of the Revised 5311

Code;	5312
(c) A physician assistant licensed under Chapter 4730. of the Revised Code;	5313 5314
(d) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner licensed under Chapter 4723. of the Revised Code;	5315 5316 5317
(e) An independent social worker, independent marriage and family therapist, or professional clinical counselor licensed under Chapter 4757. of the Revised Code;	5318 5319 5320
(f) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;	5321 5322
(g) A supervised practitioner or supervised trainee;	5323
(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;	5324 5325
(i) An audiology aide or speech-language pathology aide, as defined in section 4753.072 of the Revised Code, or an individual holding a conditional license under section 4753.071 of the Revised Code;	5326 5327 5328 5329
(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;	5330 5331
(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.	5332 5333 5334
(l) A dietitian licensed under Chapter 4759. of the Revised Code;	5335 5336
(m) A chiropractor licensed under Chapter 4734. of the Revised Code;	5337 5338

(n) A pharmacist licensed under Chapter 4729. of the Revised Code;	5339 5340
(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;	5341 5342
(p) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry;	5343 5344
(q) A respiratory care professional <u>or advanced practice respiratory therapist</u> licensed under Chapter 4761. of the Revised Code;	5345 5346 5347
(r) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;	5348 5349
(s) A practitioner who provides services through a medicaid school program;	5350 5351
(t) Subject to section 5119.368 of the Revised Code, a practitioner authorized to provide services and supports certified under section 5119.36 of the Revised Code through a community mental health services provider or community addiction services provider;	5352 5353 5354 5355 5356
(u) Any other practitioner the medicaid director considers eligible to provide telehealth services.	5357 5358
(2) In accordance with division (B) of this section and to the extent permitted under rules adopted under section 5164.02 of the Revised Code and applicable federal law, the following provider types are eligible to submit claims for medicaid payments for providing telehealth services:	5359 5360 5361 5362 5363
(a) Any practitioner described in division (C)(1) of this section, except for those described in divisions (C)(1)(g), (i), and (k) of this section;	5364 5365 5366

(b) A professional medical group;	5367
(c) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	5368 5369 5370
(d) A rural health clinic;	5371
(e) An ambulatory health care clinic;	5372
(f) An outpatient hospital;	5373
(g) A medicaid school program;	5374
(h) Subject to section 5119.368 of the Revised Code, a community mental health services provider or community addiction services provider that offers services and supports certified under section 5119.36 of the Revised Code;	5375 5376 5377 5378
(i) Any other provider type the medicaid director considers eligible to submit the claims for payment.	5379 5380
(D) (1) When providing telehealth services under this section, a practitioner shall comply with all requirements under state and federal law regarding the protection of patient information. A practitioner shall ensure that any username or password information and any electronic communications between the practitioner and a patient are securely transmitted and stored.	5381 5382 5383 5384 5385 5386 5387
(2) When providing telehealth services under this section, every practitioner site shall have access to the medical records of the patient at the time telehealth services are provided.	5388 5389 5390
Sec. 5903.12. (A) As used in this section:	5391
"Continuing education" means continuing education required of a licensee by law and includes, but is not limited to, the	5392 5393

continuing education required of licensees under sections 5394
3737.881, 3776.07, 3781.10, 4701.11, 4715.141, 4715.25, 4717.09, 5395
4723.24, 4725.16, 4725.51, 4730.14, 4730.49, 4731.155, 4731.282, 5396
4734.25, 4735.141, 4741.16, 4741.19, 4751.24, 4751.25, 4755.63, 5397
4757.33, 4759.06, 4761.06, 4761.48, and 4763.07 of the Revised 5398
Code. 5399

"Reporting period" means the period of time during which a 5400
licensee must complete the number of hours of continuing 5401
education required of the licensee by law. 5402

(B) A licensee may submit an application to a licensing 5403
agency, stating that the licensee requires an extension of the 5404
current reporting period because the licensee has served on 5405
active duty during the current or a prior reporting period. The 5406
licensee shall submit proper documentation certifying the active 5407
duty service and the length of that active duty service. Upon 5408
receiving the application and proper documentation, the 5409
licensing agency shall extend the current reporting period by an 5410
amount of time equal to the total number of months that the 5411
licensee spent on active duty during the current reporting 5412
period. For purposes of this division, any portion of a month 5413
served on active duty shall be considered one full month. 5414

Section 2. That existing sections 2305.234, 2925.01, 5415
2925.23, 2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3715.872, 5416
3719.121, 3719.13, 3719.81, 4729.01, 4729.51, 4731.22, 4731.25, 5417
4743.09, 4755.48, 4761.01, 4761.03, 4761.032, 4761.06, 4761.061, 5418
4761.07, 4761.09, 4761.13, 4761.14, 4761.17, 4761.30, 4761.99, 5419
4765.51, 4769.01, 5123.47, 5164.95, and 5903.12 of the Revised 5420
Code are hereby repealed. 5421

Section 3. Section 4761.01 of the Revised Code as 5422
presented in this act takes effect on the later of September 30, 5423

2024, or the effective date of this section. (September 30, 5424
2024, is the effective date of an earlier amendment to that 5425
section by H.B. 110 of the 134th General Assembly.) 5426

Section 4. The General Assembly, applying the principle 5427
stated in division (B) of section 1.52 of the Revised Code that 5428
amendments are to be harmonized if reasonably capable of 5429
simultaneous operation, finds that the following sections, 5430
presented in this act as composites of the sections as amended 5431
by the acts indicated, are the resulting versions of the 5432
sections in effect prior to the effective date of the sections 5433
as presented in this act: 5434

Section 3719.121 of the Revised Code as amended by both 5435
H.B. 216 and S.B. 319 of the 131st General Assembly. 5436

Section 4729.01 of the Revised Code as amended by H.B. 509 5437
and H.B. 558, both of the 134th General Assembly. 5438