

# AN ACT

To amend sections 2305.234, 2305.41, 2305.42, 2305.43, 2305.44, 2305.45, 2305.48, 2305.49, 2305.51, 2925.01, 2925.02, 2925.03, 2925.11, 2925.12, 2925.14, 2925.23, 2925.36, 2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3709.161, 3715.50, 3715.501, 3715.502, 3715.503, 3715.872, 3719.06, 3719.064, 3719.121, 3719.13, 3719.81, 4729.01, 4729.285, 4729.45, 4729.51, 4729.921, 4731.051, 4731.07, 4731.071, 4731.22, 4731.224, 4731.24, 4731.25, 4731.251, 4734.99, 4743.09, 4765.51, 4769.01, 4776.01, 5123.47, 5164.95, and 5903.12 and to enact sections 3959.22, 4729.554, 4772.01, 4772.02, 4772.03, 4772.04, 4772.041, 4772.05, 4772.06, 4772.07, 4772.08, 4772.081, 4772.082, 4772.09, 4772.091, 4772.092, 4772.10, 4772.11, 4772.12, 4772.13, 4772.14, 4772.15, 4772.19, 4772.20, 4772.201, 4772.202, 4772.203, 4772.21, 4772.22, 4772.23, 4772.24, 4772.25, 4772.26, 4772.27, 4772.28, and 4772.99 of the Revised Code related to remote dispensing pharmacies and other changes to the pharmacy law and to license certified mental health assistants.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2305.234, 2305.41, 2305.42, 2305.43, 2305.44, 2305.45, 2305.48, 2305.49, 2305.51, 2925.01, 2925.02, 2925.03, 2925.11, 2925.12, 2925.14, 2925.23, 2925.36, 2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3709.161, 3715.50, 3715.501, 3715.502, 3715.503, 3715.872, 3719.06, 3719.064, 3719.121, 3719.13, 3719.81, 4729.01, 4729.285, 4729.45, 4729.51, 4729.921, 4731.051, 4731.07, 4731.071, 4731.22, 4731.224, 4731.24, 4731.25, 4731.251, 4734.99, 4743.09, 4765.51, 4769.01, 4776.01, 5123.47, 5164.95, and 5903.12 be amended and sections 3959.22, 4729.554, 4772.01, 4772.02, 4772.03, 4772.04, 4772.041, 4772.05, 4772.06, 4772.07, 4772.08, 4772.081, 4772.082, 4772.09, 4772.091, 4772.092, 4772.10, 4772.11, 4772.12, 4772.13, 4772.14, 4772.15, 4772.19, 4772.20, 4772.201, 4772.202, 4772.203, 4772.21, 4772.22, 4772.23, 4772.24, 4772.25, 4772.26, 4772.27, 4772.28, and 4772.99 of the Revised Code be enacted to read as follows:

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

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

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

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

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

(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Advanced practice registered nurses, registered nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists, physical therapist assistants, occupational therapists, occupational therapy assistants, and athletic trainers licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;

(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code;

(n) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, and marriage and family therapists, licensed under Chapter 4757. of the Revised Code;

(o) Psychologists licensed under Chapter 4732. of the Revised Code;

(p) Independent chemical dependency counselors-clinical supervisors, independent chemical dependency counselors, chemical dependency counselors III, and chemical dependency counselors II, licensed under Chapter 4758. of the Revised Code, and chemical dependency counselor assistants, prevention consultants, prevention specialists, prevention specialist assistants, and registered applicants, certified under that chapter;

(q) Certified mental health assistants licensed under Chapter 4772. of the Revised Code.

(6) "Health care worker" means a person other than a health care professional who provides

medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(7) "Indigent and uninsured person" means a person who meets both of the following requirements:

(a) Relative to being indigent, the person's income is not greater than two hundred per cent of the federal poverty line, as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, except in any case in which division (A)(7)(b)(iii) of this section includes a person whose income is greater than two hundred per cent of the federal poverty line.

(b) Relative to being uninsured, one of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(iii) Until June 30, 2019, the person is eligible for the medicaid program or is a medicaid recipient.

(iv) Except as provided in division (A)(7)(b)(iii) of this section, the person is not eligible for or a recipient, enrollee, or beneficiary of any governmental health care program.

(8) "Nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.

(9) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any

compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral organization, or any other person or government entity.

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

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

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

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

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

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

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

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the

provisions of this section. A written waiver under division (B)(2)(c) of this section shall state clearly and in conspicuous type that the person or other individual who signs the waiver is signing it with full knowledge that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot bring a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, against the health care professional unless the action or omission of the health care professional constitutes willful or wanton misconduct.

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

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

(D) Subject to divisions (F) and (G)(3) of this section, a nonprofit health care referral organization is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the nonprofit health care referral organization in referring indigent and uninsured persons to, or arranging for the provision of, medical, dental, or other health-related diagnosis, care, or treatment by a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section, unless the action or omission constitutes willful or wanton misconduct.

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

(F)(1) Except as provided in division (F)(2) of this section, the immunities provided by divisions (B), (C), (D), and (E) of this section are not available to a health care professional, health

care worker, nonprofit health care referral organization, or health care facility or location if, at the time of an alleged injury, death, or loss to person or property, the health care professionals or health care workers involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation to which any one of the following applies:

(i) The operation requires the administration of deep sedation or general anesthesia.

(ii) The operation is a procedure that is not typically performed in an office.

(iii) The individual involved is a health care professional, and the operation is beyond the scope of practice or the education, training, and competence, as applicable, of the health care professional.

(c) Delivery of a baby or any other purposeful termination of a human pregnancy.

(2) Division (F)(1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(G)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment.

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

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

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

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

health, fire, zoning, or safety.

Sec. 2305.41. As used in sections 2305.41 to 2305.49 of the Revised Code:

~~(A) "Disabled condition" means the condition of being unconscious, semiconscious, incoherent, or otherwise incapacitated to communicate.~~

~~(B) "Disabled person" means a person in a disabled condition.~~

~~(C) "Certified nurse practitioner," "clinical nurse specialist," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code.~~

(B) "Emergency medical service provider" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, or first responder.

(C) "Emergency symbol" means the caduceus inscribed within a six-barred cross used by the American medical association to denote emergency information.

(D) "Health care practitioner" means a physician, physician assistant, certified nurse practitioner, clinical nurse specialist, or registered nurse.

(E) "Identifying device" means an identifying bracelet, necklace, metal tag, chain, other piece of jewelry, or similar device bearing that meets either or both of the following:

(1) Bears the emergency symbol and the medical information needed in an emergency;

(2) Contains on its front or back side a bar code or quick response code that may be scanned to determine medical information needed in an emergency.

~~(E)-(F) "Identification card" means any card containing the holder's name, type of medical condition, physician's name, and other medical information. "Identification card" does not include any license or permit issued pursuant to Chapter 4507. of the Revised Code.~~

~~(F) "Medical practitioner"~~ (G) "Incapacitated condition" means the condition of being unconscious, semiconscious, incoherent, or otherwise incapacitated to communicate.

(H) "Incapacitated person" means a person in an incapacitated condition.

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

~~(G) "Paramedic" has the meaning given in section 4765.01~~ (J) "Physician assistant" means an individual licensed under Chapter 4730. of the Revised Code to practice as a physician assistant.

Sec. 2305.42. (A) A person who has epilepsy, diabetes, a cardiac condition, or any other type of illness, whether physical or mental, that causes temporary blackouts, semiconscious periods, or complete unconsciousness, or who has a condition requiring specific medication or medical treatment, is allergic to certain medications or items used in medical treatment, wears contact lenses, has religious objections to certain forms of medication or medical treatment, or is unable to communicate coherently or effectively in the English language, is authorized and encouraged to wear an identifying device.

(B) Any person may carry an identification card.

(C) By wearing an identifying device, a person gives consent for any emergency medical service provider, health care practitioner, or law enforcement officer ~~or medical practitioner~~ who finds the person in a ~~disabled~~ incapacitated condition to make do either or both of the following:

(1) Make a reasonable search of the person's clothing or other effects for an identification card;

(2) Scan the person's identifying device, if it contains a bar code or quick response code.

Sec. 2305.43. (A) A law enforcement officer who finds an incapacitated person shall make a diligent effort to determine whether ~~any disabled~~ the person the officer finds is an epileptic or a diabetic, or has some other type of a physical or mental illness that would cause the incapacitated condition. Whenever feasible, this effort shall be made before the person is charged with a crime or taken to a place of detention.

(B) In seeking to determine whether a ~~disabled~~ incapacitated person has an illness, a law enforcement officer may make a prompt and reasonable search for an identifying device and an identification card ~~and examine them for emergency information~~. The law enforcement officer may not search for an identifying device or an identification card in a manner or to an extent that would appear to a reasonable person in the circumstances to cause an unreasonable risk of worsening the ~~disabled~~ incapacitated person's condition.

If an identifying device or identification card is found, the law enforcement officer may scan or examine it for emergency information. In doing so, the law enforcement officer may inspect both sides of the device or card.

(C) A law enforcement officer who finds a ~~disabled~~ incapacitated person without an identifying device or identification card is not relieved of the duty to that person to make a diligent effort to ascertain the existence of any illness causing the ~~disabled~~ incapacitated condition.

(D) A cause of action against a law enforcement officer does not arise from the officer making a reasonable search of the ~~disabled~~ incapacitated person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

(E) A law enforcement officer who determines or has reason to believe that a ~~disabled~~ incapacitated person has an illness causing the person's condition shall promptly notify the person's physician, if practicable. If the officer is unable to ascertain the physician's identity or to communicate with the physician, the officer shall make a reasonable effort to cause the ~~disabled~~ incapacitated person to be transported immediately to a ~~medical~~ health care practitioner or ~~to a~~ facility where medical treatment is available. If the officer believes it unduly dangerous to move the ~~disabled~~ incapacitated person, the officer shall make a reasonable effort to obtain the assistance of a ~~medical~~ an emergency medical service provider or health care practitioner.

Sec. 2305.44. (A) ~~A medical practitioner or a trained paramedic, in discharging his duty to a disabled person whom he has undertaken to examine or treat, shall~~ When examining or treating an incapacitated person, an emergency medical service provider or health care practitioner may make a



prompt and reasonable search for an identifying device or identification card and, if found, the emergency medical service provider or health care practitioner may scan or examine them it for emergency information, including by inspecting both sides of the identifying device or identification card.

(B) A cause of action against ~~a medical practitioner or a trained paramedic~~ an emergency medical service provider or health care practitioner does not arise from ~~his~~ making a reasonable search of ~~a disabled~~ an incapacitated person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

Sec. 2305.45. (A) A person, other than ~~a~~ an emergency medical service provider, health care practitioner, or law enforcement officer, ~~medical practitioner, or a trained paramedic,~~ who finds a ~~disabled~~ an incapacitated person shall make a reasonable effort to notify ~~a~~ an emergency medical service provider, health care practitioner, or law enforcement officer ~~or medical practitioner.~~ If ~~a~~ an emergency medical service provider, health care practitioner, or law enforcement officer ~~or medical practitioner~~ is not present, a person who finds ~~a disabled~~ an incapacitated person may do either or both of the following:

- (1) Make a reasonable search for an identifying device;
- (2) If the identifying device is found, make do all of the following:
  - (a) Inspect both sides of the identifying device;
  - (b) Scan the identifying device, if it contains a bar code or quick response code;
  - (c) Make a reasonable search for an identification card and, if found, inspect both sides of the card.

If a device or card is located, the person making the search shall attempt promptly to bring the device or card and its contents to the attention of ~~a~~ an emergency medical service provider, health care practitioner, or law enforcement officer ~~or medical practitioner.~~

(B) A cause of action does not arise from a reasonable search to locate an identifying device or identification card as authorized by division (A) of this section.

Sec. 2305.48. Sections 2305.41 to 2305.49 of the Revised Code shall be so applied and construed as to effectuate its general purpose to make uniform among the states the law with respect to duties to ~~disabled~~ incapacitated persons.

Sec. 2305.49. Sections 2305.41 to 2305.49 of the Revised Code may be cited as the "~~uniform duties to disabled persons act~~ Uniform Duties to Incapacitated Persons Act."

Sec. 2305.51. (A)(1) As used in this section:

- (a) "Civil Rights" has the same meaning as in section 5122.301 of the Revised Code.
- (b) "Mental health client or patient" means an individual who is receiving mental health services from a mental health professional or organization.
- (c) "Mental health organization" means an organization that engages one or more mental health professionals to provide mental health services to one or more mental health clients or patients.

(d) "Mental health professional" means an individual who is licensed, certified, or registered under the Revised Code, or otherwise authorized in this state, to provide mental health services for compensation, remuneration, or other personal gain.

(e) "Mental health service" means a service provided to an individual or group of individuals involving the application of medical, psychiatric, psychological, professional counseling, social work, marriage and family therapy, or nursing principles or procedures to either of the following:

(i) The assessment, diagnosis, prevention, treatment, or amelioration of mental, emotional, psychiatric, psychological, or psychosocial disorders or diseases, as described in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association;

(ii) The assessment or improvement of mental, emotional, psychiatric, psychological, or psychosocial adjustment or functioning, regardless of whether there is a diagnosable, pre-existing disorder or disease.

(f) "Knowledgeable person" means an individual who has reason to believe that a mental health client or patient has the intent and ability to carry out an explicit threat of inflicting imminent and serious physical harm to or causing the death of a clearly identifiable potential victim or victims and who is either an immediate family member of the client or patient or an individual who otherwise personally knows the client or patient.

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

(h) "Hospital" has the same meaning as in section 2305.25 of the Revised Code.

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

(j) "Physician assistant" has the same meaning as in section 4730.01 of the Revised Code.

(k) "Certified mental health assistant" has the same meaning as in section 4772.01 of the Revised Code.

(2) For the purpose of this section, in the case of a threat to a readily identifiable structure, "clearly identifiable potential victim" includes any potential occupant of the structure.

(B) A mental health professional or mental health organization may be held liable in damages in a civil action, or may be made subject to disciplinary action by an entity with licensing or other regulatory authority over the professional or organization, for serious physical harm or death resulting from failing to predict, warn of, or take precautions to provide protection from the violent behavior of a mental health client or patient, only if the client or patient or a knowledgeable person has communicated to the professional or organization an explicit threat of inflicting imminent and serious physical harm to or causing the death of one or more clearly identifiable potential victims, the professional or organization has reason to believe that the client or patient has the intent and ability to carry out the threat, and the professional or organization fails to take one or more of the following actions in a timely manner:

(1) Exercise any authority the professional or organization possesses to hospitalize the client or patient on an emergency basis pursuant to section 5122.10 of the Revised Code;

(2) Exercise any authority the professional or organization possesses to have the client or patient involuntarily or voluntarily hospitalized under Chapter 5122. of the Revised Code;

(3) Establish and undertake a documented treatment plan that is reasonably calculated, according to appropriate standards of professional practice, to eliminate the possibility that the client or patient will carry out the threat, and, concurrent with establishing and undertaking the treatment plan, initiate arrangements for a second opinion risk assessment through a management consultation about the treatment plan with, in the case of a mental health organization, the clinical director of the organization, or, in the case of a mental health professional who is not acting as part of a mental health organization, any mental health professional who is licensed to engage in independent practice;

(4) Communicate to a law enforcement agency with jurisdiction in the area where each potential victim resides, where a structure threatened by a mental health client or patient is located, or where the mental health client or patient resides, and if feasible, communicate to each potential victim or a potential victim's parent or guardian if the potential victim is a minor or has been adjudicated incompetent, all of the following information:

(a) The nature of the threat;

(b) The identity of the mental health client or patient making the threat;

(c) The identity of each potential victim of the threat.

(C) All of the following apply when a mental health professional or organization takes one or more of the actions set forth in divisions (B)(1) to (4) of this section:

(1) The mental health professional or organization shall consider each of the alternatives set forth and shall document the reasons for choosing or rejecting each alternative.

(2) The mental health professional or organization may give special consideration to those alternatives which, consistent with public safety, would least abridge the rights of the mental health client or patient established under the Revised Code, including the rights specified in sections 5122.27 to 5122.31 of the Revised Code.

(3) The mental health professional or organization is not required to take an action that, in the exercise of reasonable professional judgment, would physically endanger the professional or organization, increase the danger to a potential victim, or increase the danger to the mental health client or patient.

(4) The mental health professional or organization is not liable in damages in a civil action, and shall not be made subject to disciplinary action by any entity with licensing or other regulatory authority over the professional or organization, for disclosing any confidential information about a mental health client or patient that is disclosed for the purpose of taking any of the actions.

(D) Notwithstanding any other provision of the Revised Code, a physician, physician assistant, advanced practice registered nurse, certified mental health assistant, or hospital is not

liable in damages in a civil action, and shall not be made subject to disciplinary action by any entity with licensing or other regulatory authority, for doing either of the following:

(1) Failing to discharge or to allow a patient to leave the facility if the physician, physician assistant, advanced practice registered nurse, certified mental health assistant, or hospital believes in the good faith exercise of professional medical, advanced practice registered nursing, ~~or physician assistant~~, or certified mental health assistant judgment according to appropriate standards of professional practice that the patient has a mental health condition that threatens the safety of the patient or others;

(2) Discharging a patient whom the physician, physician assistant, advanced practice registered nurse, certified mental health assistant, or hospital believes in the good faith exercise of professional medical, advanced practice registered nursing, ~~or physician assistant~~, or certified mental health assistant judgment according to appropriate standards of professional practice not to have a mental health condition that threatens the safety of the patient or others.

(E) The immunities from civil liability and disciplinary action conferred by this section are in addition to and not in limitation of any immunity conferred on a mental health professional or organization or on a physician, physician assistant, advanced practice registered nurse, certified mental health assistant, or hospital by any other section of the Revised Code or by judicial precedent.

(F) This section does not affect the civil rights of a mental health client or patient under Ohio or federal law.

Sec. 2925.01. As used in this chapter:

(A) "Administer," "controlled substance," "controlled substance analog," "dispense," "distribute," "hypodermic," "manufacturer," "official written order," "person," "pharmacist," "pharmacy," "sale," "schedule I," "schedule II," "schedule III," "schedule IV," "schedule V," and "wholesaler" have the same meanings as in section 3719.01 of the Revised Code.

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

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

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

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

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

(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or

substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a schedule I stimulant or depressant;

(d) 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 II opiate or opium derivative;

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

(f) An amount equal to or exceeding one hundred twenty 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 II stimulant that is in a final dosage form manufactured by a person authorized by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the federal drug abuse control laws, as defined in section 3719.01 of the Revised Code, that is or contains any amount of a schedule II depressant substance or a schedule II hallucinogenic substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Any aerosol propellant;

(c) Any fluorocarbon refrigerant;

(d) Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise

engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

(K) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

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

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

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

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

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

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

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

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

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

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

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

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

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Chapter 3314. of the Revised Code, or the governing body of a nonpublic school for which the director of education and workforce prescribes minimum standards under section 3301.07 of the Revised Code and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

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

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

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

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

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

(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;

(2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Chapter 4703. of the Revised Code;

(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;

(4) A person licensed under Chapter 4707. of the Revised Code;

(5) A person who has been issued a barber's license, barber instructor's license, assistant barber instructor's license, or independent contractor's license under Chapter 4709. of the Revised Code;

(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;

(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 license to practice



cosmetology, advanced license to practice hair design, advanced license to practice manicuring, advanced license to practice esthetics, advanced license to practice natural hair styling, 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 4713. of the Revised Code;

(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;

(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;

(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;

(11) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;

(12) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;

(13) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;

(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;

(15) A person licensed under Chapter 4729. of the Revised Code as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;

(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;

(17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Chapter 4731. of the Revised Code or has been issued a certificate to practice a limited branch of medicine under that chapter;

(18) A person licensed as a psychologist, independent school psychologist, or school psychologist under Chapter 4732. of the Revised Code;

(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;

(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;

(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter

4735. of the Revised Code;

(22) A person registered as a registered environmental health specialist under Chapter 3776. of the Revised Code;

(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;

(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;

(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;

(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;

(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;

(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;

(29) A person licensed to practice as a nursing home administrator under Chapter 4751. of the Revised Code;

(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;

(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;

(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;

(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;

(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;

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

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

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

(38) A person who has been issued a license to practice as a certified mental health assistant under Chapter 4772. of the Revised Code.

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

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

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

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

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

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

(1) It is contained in or derived from any part of the plant of the genus *cannabis*, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

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

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

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

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

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

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

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

(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;

(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.

(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.

(GG) "Adulterate" means to cause a drug to be adulterated as described in section 3715.63 of the Revised Code.

(HH) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place

of public accommodation, business, amusement, or resort.

(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.

(JJ) "Deception" has the same meaning as in section 2913.01 of the Revised Code.

(KK) "Fentanyl-related compound" means any of the following:

- (1) Fentanyl;
- (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);
- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidiny)]-N-phenylpropanamide);
- (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);
- (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidiny]-N-phenylpropanamide);
- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide);
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide);
- (10) Alfentanil;
- (11) Carfentanil;
- (12) Remifentanil;
- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide); and
- (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:
  - (a) A chemical scaffold consisting of both of the following:
    - (i) A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
    - (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.
  - (b) A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
  - (c) An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and

(d) The compound has not been approved for medical use by the United States food and drug administration.

(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.

(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.

(NN) "Maximum first degree felony mandatory prison term" means the maximum definite prison term 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 the longest minimum prison term prescribed in division (A)(1)(a) of that section for a felony of the first degree.

(OO) "Maximum second degree felony mandatory prison term" means the maximum definite prison term 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 the longest minimum prison term prescribed in division (A)(2)(a) of that section for a felony of the second degree.

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

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

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

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

(RR) "Substance addiction services provider" means an agency, association, corporation or

other legal entity, individual, or program that provides one or more of the following at a facility:

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

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

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

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

Sec. 2925.02. (A) No person shall knowingly do any of the following:

(1) By force, threat, or deception, administer to another or induce or cause another to use a controlled substance;

(2) By any means, administer or furnish to another or induce or cause another to use a controlled substance with purpose to cause serious physical harm to the other person, or with purpose to cause the other person to become a person with drug dependency;

(3) By any means, administer or furnish to another or induce or cause another to use a controlled substance, and thereby cause serious physical harm to the other person, or cause the other person to become a person with drug dependency;

(4) By any means, do any of the following:

(a) Furnish or administer a controlled substance to a juvenile who is at least two years the offender's junior, when the offender knows the age of the juvenile or is reckless in that regard;

(b) Induce or cause a juvenile who is at least two years the offender's junior to use a controlled substance, when the offender knows the age of the juvenile or is reckless in that regard;

(c) Induce or cause a juvenile who is at least two years the offender's junior to commit a felony drug abuse offense, when the offender knows the age of the juvenile or is reckless in that regard;

(d) Use a juvenile, whether or not the offender knows the age of the juvenile, to perform any surveillance activity that is intended to prevent the detection of the offender or any other person in the commission of a felony drug abuse offense or to prevent the arrest of the offender or any other person for the commission of a felony drug abuse offense.

(5) By any means, furnish or administer a controlled substance to a pregnant woman or induce or cause a pregnant woman to use a controlled substance, when the offender knows that the woman is pregnant or is reckless in that regard.

(B) Division (A)(1), (3), (4), or (5) of this section does not apply to manufacturers, wholesalers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of

pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., ~~and 4741.~~ and 4772. of the Revised Code.

(C) Whoever violates this section is guilty of corrupting another with drugs. The penalty for the offense shall be determined as follows:

(1) If the offense is a violation of division (A)(1), (2), (3), or (4) of this section and the drug involved is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, the offender shall be punished as follows:

(a) Except as otherwise provided in division (C)(1)(b) of this section, corrupting another with drugs committed in those circumstances is a felony of the second degree and, subject to division (E) of this section, the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(b) If the offense was committed in the vicinity of a school, corrupting another with drugs committed in those circumstances is a felony of the first degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(2) If the offense is a violation of division (A)(1), (2), (3), or (4) of this section and the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, the offender shall be punished as follows:

(a) Except as otherwise provided in division (C)(2)(b) of this section, corrupting another with drugs committed in those circumstances is a felony of the second degree and there is a presumption for a prison term for the offense.

(b) If the offense was committed in the vicinity of a school, corrupting another with drugs committed in those circumstances is a felony of the second degree and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(3) If the offense is a violation of division (A)(1), (2), (3), or (4) of this section and the drug involved is marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, the offender shall be punished as follows:

(a) Except as otherwise provided in division (C)(3)(b) of this section, corrupting another with drugs committed in those circumstances is a felony of the fourth degree and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) If the offense was committed in the vicinity of a school, corrupting another with drugs committed in those circumstances is a felony of the third degree and division (C) of section 2929.13

of the Revised Code applies in determining whether to impose a prison term on the offender.

(4) If the offense is a violation of division (A)(5) of this section and the drug involved is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, corrupting another with drugs is a felony of the first degree and, subject to division (E) of this section, the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(5) If the offense is a violation of division (A)(5) of this section and the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, corrupting another with drugs is a felony of the second degree and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(6) If the offense is a violation of division (A)(5) of this section and the drug involved is marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, corrupting another with drugs is a felony of the third degree and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(D) In addition to any prison term authorized or required by division (C) or (E) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. The court also shall do all of the following that are applicable regarding the offender:

(1)(a) If the violation is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent.

(b) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, any mandatory fine imposed pursuant to division (D)(1)(a) of this section and any fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, division (F) of section 2925.03 of the Revised Code.



(c) If a person is charged with any violation of this section that is a felony of the first, second, or third degree, posts bail, and forfeits the bail, the forfeited bail shall be paid by the clerk of the court pursuant to division (D)(1)(b) of this section as if it were a fine imposed for a violation of this section.

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

(E) Notwithstanding the prison term otherwise authorized or required for the offense under division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, if the violation of division (A) of this section involves the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and if the court imposing sentence upon the offender finds that the offender as a result of the violation is a major drug offender and is guilty of a specification of the type described in division (A) of section 2941.1410 of the Revised Code, the court, in lieu of the prison term that otherwise is authorized or required, shall impose upon the offender the mandatory prison term specified in division (B)(3)(a) of section 2929.14 of the Revised Code.

(F)(1) If the sentencing court suspends the offender's driver's or commercial driver's license or permit under division (D) of this section, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed or from the day on which the offender finally was released from a prison term under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the suspension. Upon the filing of the motion and the court's finding of good cause for the determination, the court may terminate the suspension.

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

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

Sec. 2925.03. (A) No person shall knowingly do any of the following:

- (1) Sell or offer to sell a controlled substance or a controlled substance analog;
- (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable

cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.

(B) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., ~~and 4741.~~ and 4772. of the Revised Code;

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States food and drug administration;

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act.

(C) Whoever violates division (A) of this section is guilty of one of the following:

(1) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule I or schedule II, with the exception of marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, hashish, and any controlled substance analog, whoever violates division (A) of this section is guilty of aggravated trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(1)(b), (c), (d), (e), or (f) of this section, aggravated trafficking in drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(1)(c), (d), (e), or (f) of this section, if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, aggravated trafficking in drugs is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, aggravated trafficking in drugs is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If aggravated trafficking in drugs is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as

a mandatory prison term a second degree felony mandatory prison term.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(e) If the amount of the drug involved equals or exceeds fifty times the bulk amount but is less than one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of the drug involved equals or exceeds one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, aggravated trafficking in drugs is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(2) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates division (A) of this section is guilty of trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b), (c), (d), or (e) of this section, trafficking in drugs is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(2)(c), (d), or (e) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, trafficking in drugs is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty times the bulk amount, trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term. If the amount of the drug involved equals or exceeds fifty times the bulk amount and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of trafficking in marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), (g), or (h) of this section, trafficking in marihuana is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(3)(c), (d), (e), (f), (g), or (h) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred grams but is less than one thousand grams, trafficking in marihuana is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals

or exceeds five thousand grams but is less than twenty thousand grams, trafficking in marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty thousand grams but is less than forty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term of five, six, seven, or eight years. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(g) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds forty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term a maximum second degree felony mandatory prison term. If the amount of the drug involved equals or exceeds forty thousand grams and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(h) Except as otherwise provided in this division, if the offense involves a gift of twenty grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of twenty grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of trafficking in cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), (f), or (g) of this section, trafficking in cocaine is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(4)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in cocaine is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five grams but is less than ten grams of cocaine, trafficking in cocaine is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining

whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in cocaine is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than twenty grams of cocaine, trafficking in cocaine is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If trafficking in cocaine is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty grams but is less than twenty-seven grams of cocaine, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of the drug involved equals or exceeds twenty-seven grams but is less than one hundred grams of cocaine and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(g) If the amount of the drug involved equals or exceeds one hundred grams of cocaine and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in cocaine is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(5) If the drug involved in the violation is L.S.D. or a compound, mixture, preparation, or substance containing L.S.D., whoever violates division (A) of this section is guilty of trafficking in L.S.D. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(5)(b), (c), (d), (e), (f), or (g) of this section,

trafficking in L.S.D. is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(5)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in L.S.D. is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses of L.S.D. in a solid form or equals or exceeds one gram but is less than five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than two hundred fifty unit doses of L.S.D. in a solid form or equals or exceeds five grams but is less than twenty-five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If trafficking in L.S.D. is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty unit doses but is less than one thousand unit doses of L.S.D. in a solid form or equals or exceeds twenty-five grams but is less than one hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of the drug involved equals or exceeds one thousand unit doses but is less than five thousand unit doses of L.S.D. in a solid form or equals or exceeds one hundred grams but is less than five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(g) If the amount of the drug involved equals or exceeds five thousand unit doses of L.S.D. in a solid form or equals or exceeds five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in L.S.D. is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of trafficking in heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), (f), or (g) of this section, trafficking in heroin is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(6)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in heroin is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, trafficking in heroin is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than one hundred unit doses or equals or exceeds five grams but is less than ten grams, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the



vicinity of a substance addiction services provider or a recovering addict, trafficking in heroin is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one hundred unit doses but is less than five hundred unit doses or equals or exceeds ten grams but is less than fifty grams, trafficking in heroin is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than one thousand unit doses or equals or exceeds fifty grams but is less than one hundred grams and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(g) If the amount of the drug involved equals or exceeds one thousand unit doses or equals or exceeds one hundred grams and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in heroin is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(7) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (A) of this section is guilty of trafficking in hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(7)(b), (c), (d), (e), (f), or (g) of this section, trafficking in hashish is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(7)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in hashish is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than fifty grams of hashish in a solid form or equals or exceeds two grams but is less than ten grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the

amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty grams but is less than two hundred fifty grams of hashish in a solid form or equals or exceeds ten grams but is less than fifty grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty grams but is less than one thousand grams of hashish in a solid form or equals or exceeds fifty grams but is less than two hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than two thousand grams of hashish in a solid form or equals or exceeds two hundred grams but is less than four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term of five, six, seven, or eight years. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in hashish is a felony of the first degree, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(g) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two thousand grams of hashish in a solid form or equals or exceeds four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the second degree, and the court shall impose as a mandatory prison term a maximum second degree felony mandatory prison term. If the amount of the drug involved equals or exceeds

two thousand grams of hashish in a solid form or equals or exceeds four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in hashish is a felony of the first degree, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(8) If the drug involved in the violation is a controlled substance analog or compound, mixture, preparation, or substance that contains a controlled substance analog, whoever violates division (A) of this section is guilty of trafficking in a controlled substance analog. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(8)(b), (c), (d), (e), (f), or (g) of this section, trafficking in a controlled substance analog is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(8)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a controlled substance analog is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than twenty grams, trafficking in a controlled substance analog is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty grams but is less than thirty grams, trafficking in a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a controlled substance analog is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds thirty grams but is less than forty grams, trafficking in a controlled substance analog is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a

substance addiction services provider or a recovering addict, trafficking in a controlled substance analog is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of the drug involved equals or exceeds forty grams but is less than fifty grams and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a controlled substance analog is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(g) If the amount of the drug involved equals or exceeds fifty grams and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a controlled substance analog is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(9) If the drug involved in the violation is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound and division (C)(10)(a) of this section does not apply to the drug involved, whoever violates division (A) of this section is guilty of trafficking in a fentanyl-related compound. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(9)(b), (c), (d), (e), (f), (g), or (h) of this section, trafficking in a fentanyl-related compound is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(9)(c), (d), (e), (f), (g), or (h) of this section, if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a fentanyl-related compound is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, trafficking in a fentanyl-related compound is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a fentanyl-related compound is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than one hundred unit doses or equals or exceeds five grams

but is less than ten grams, trafficking in a fentanyl-related compound is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a fentanyl-related compound is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one hundred unit doses but is less than two hundred unit doses or equals or exceeds ten grams but is less than twenty grams, trafficking in a fentanyl-related compound is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a fentanyl-related compound is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds two hundred unit doses but is less than five hundred unit doses or equals or exceeds twenty grams but is less than fifty grams and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a fentanyl-related compound is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than one thousand unit doses or equals or exceeds fifty grams but is less than one hundred grams and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a fentanyl-related compound is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(h) If the amount of the drug involved equals or exceeds one thousand unit doses or equals or exceeds one hundred grams and regardless of whether the offense was committed in the vicinity of a school, in the vicinity of a juvenile, or in the vicinity of a substance addiction services provider or a recovering addict, trafficking in a fentanyl-related compound is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(10) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one of the following applies:

(a) Except as otherwise provided in division (C)(10)(b) of this section, the offender is guilty of trafficking in marihuana and shall be punished under division (C)(3) of this section. The offender is not guilty of trafficking in a fentanyl-related compound and shall not be charged with, convicted

of, or punished under division (C)(9) of this section for trafficking in a fentanyl-related compound.

(b) If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of trafficking in a fentanyl-related compound and shall be punished under division (C)(9) of this section.

(D) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may suspend the driver's or commercial driver's license or permit of the offender in accordance with division (G) of this section. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of this section. If applicable, the court also shall do the following:

(1) If the violation of division (A) of this section is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent. Except as otherwise provided in division (H)(1) of this section, a mandatory fine or any other fine imposed for a violation of this section is subject to division (F) of this section. If a person is charged with a violation of this section that is a felony of the first, second, or third degree, posts bail, and forfeits the bail, the clerk of the court shall pay the forfeited bail pursuant to divisions (D)(1) and (F) of this section, as if the forfeited bail was a fine imposed for a violation of this section. If any amount of the forfeited bail remains after that payment and if a fine is imposed under division (H)(1) of this section, the clerk of the court shall pay the remaining amount of the forfeited bail pursuant to divisions (H)(2) and (3) of this section, as if that remaining amount was a fine imposed under division (H)(1) of this section.

(2) If the offender is a professionally licensed person, the court immediately shall comply with section 2925.38 of the Revised Code.

(E) When a person is charged with the sale of or offer to sell a bulk amount or a multiple of a bulk amount of a controlled substance, the jury, or the court trying the accused, shall determine the amount of the controlled substance involved at the time of the offense and, if a guilty verdict is returned, shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance involved, and it is sufficient if the finding and return is to the effect that the amount of the controlled substance involved is the requisite amount, or that the amount of the controlled substance involved is less than the requisite amount.

(F)(1) Notwithstanding any contrary provision of section 3719.21 of the Revised Code and

except as provided in division (H) of this section, the clerk of the court shall pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county, township, municipal corporation, park district, as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of this section.

(2) Prior to receiving any fine moneys under division (F)(1) of this section or division (B) of section 2925.42 of the Revised Code, a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under section 149.43 of the Revised Code. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

(3) As used in division (F) of this section:

(a) "Law enforcement agencies" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.

(b) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(G)(1) If the sentencing court suspends the offender's driver's or commercial driver's license or permit under division (D) of this section or any other provision of this chapter, the court shall suspend the license, by order, for not more than five years. If an offender's driver's or commercial driver's license or permit is suspended pursuant to this division, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed or from the day on which the offender finally was released from a prison term under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.

(2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a

motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

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

(H)(1) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, in addition to any other penalty or sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, and in addition to the forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may impose upon the offender an additional fine specified for the offense in division (B)(4) of section 2929.18 of the Revised Code. A fine imposed under division (H)(1) of this section is not subject to division (F) of this section and shall be used solely for the support of one or more eligible community addiction services providers in accordance with divisions (H)(2) and (3) of this section.

(2) The court that imposes a fine under division (H)(1) of this section shall specify in the judgment that imposes the fine one or more eligible community addiction services providers for the support of which the fine money is to be used. No community addiction services provider shall receive or use money paid or collected in satisfaction of a fine imposed under division (H)(1) of this section unless the services provider is specified in the judgment that imposes the fine. No community addiction services provider shall be specified in the judgment unless the services provider is an eligible community addiction services provider and, except as otherwise provided in division (H)(2) of this section, unless the services provider is located in the county in which the court that imposes the fine is located or in a county that is immediately contiguous to the county in which that court is located. If no eligible community addiction services provider is located in any of those counties, the judgment may specify an eligible community addiction services provider that is located anywhere within this state.

(3) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of the court shall pay any fine imposed under division (H)(1) of this section to the eligible community addiction services provider specified pursuant to division (H)(2) of this section in the judgment. The eligible community addiction services provider that receives the fine moneys shall use the moneys only for the alcohol and drug addiction services identified in the application for certification of services under section 5119.36 of the Revised Code or in the application for a license under section 5119.37 of the Revised Code filed with the department of mental health and addiction services by the community addiction services provider specified in the judgment.

(4) Each community addiction services provider that receives in a calendar year any fine



moneys under division (H)(3) of this section shall file an annual report covering that calendar year with the court of common pleas and the board of county commissioners of the county in which the services provider is located, with the court of common pleas and the board of county commissioners of each county from which the services provider received the moneys if that county is different from the county in which the services provider is located, and with the attorney general. The community addiction services provider shall file the report no later than the first day of March in the calendar year following the calendar year in which the services provider received the fine moneys. The report shall include statistics on the number of persons served by the community addiction services provider, identify the types of alcohol and drug addiction services provided to those persons, and include a specific accounting of the purposes for which the fine moneys received were used. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the community addiction services provider. Each report received by a court of common pleas, a board of county commissioners, or the attorney general is a public record open for inspection under section 149.43 of the Revised Code.

(5) As used in divisions (H)(1) to (5) of this section:

(a) "Community addiction services provider" and "alcohol and drug addiction services" have the same meanings as in section 5119.01 of the Revised Code.

(b) "Eligible community addiction services provider" means a community addiction services provider, including a community addiction services provider that operates an opioid treatment program licensed under section 5119.37 of the Revised Code.

(I) As used in this section, "drug" includes any substance that is represented to be a drug.

(J) It is an affirmative defense to a charge of trafficking in a controlled substance analog under division (C)(8) of this section that the person charged with violating that offense sold or offered to sell, or prepared for shipment, shipped, transported, delivered, prepared for distribution, or distributed one of the following items that are excluded from the meaning of "controlled substance analog" under section 3719.01 of the Revised Code:

(1) A controlled substance;

(2) Any substance for which there is an approved new drug application;

(3) With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption.

Sec. 2925.11. (A) No person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog.

(B)(1) This section does not apply to any of the following:

(a) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., ~~and 4741.~~ and 4772. of the Revised Code;

(b) If the offense involves an anabolic steroid, any person who is conducting or participating

in a research project involving the use of an anabolic steroid if the project has been approved by the United States food and drug administration;

(c) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act;

(d) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged, or obtained through deception or commission of a theft offense.

As used in division (B)(1)(d) of this section, "deception" and "theft offense" have the same meanings as in section 2913.01 of the Revised Code.

(2)(a) As used in division (B)(2) of this section:

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

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

(iii) "Health care facility" has the same meaning as in section 2919.16 of the Revised Code.

(iv) "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.

(v) "Post-release control sanction" has the same meaning as in section 2967.28 of the Revised Code.

(vi) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(vii) "Public agency" has the same meaning as in section 2930.01 of the Revised Code.

(viii) "Qualified individual" means a person who is acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in division (B)(2)(b) of this section.

(ix) "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.

(b) Subject to division (B)(2)(e) of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted, or penalized pursuant to this chapter for a minor drug possession offense or a violation of section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 of the Revised Code if all of the following apply:

(i) The evidence of the obtaining, possession, or use of the controlled substance or controlled

substance analog, drug abuse instruments, or drug paraphernalia that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.

(ii) Subject to division (B)(2)(f) of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

(iii) Subject to division (B)(2)(f) of this section, the qualified individual who obtains a screening and receives a referral for treatment under division (B)(2)(b)(ii) of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that division. The documentation shall be limited to the date and time of the screening obtained and referral received.

(c) If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to division (B)(2)(b) of this section, then division (B) of section 2929.141, division (B)(2) of section 2929.15, division (D)(3) of section 2929.25, or division (F)(3) of section 2967.28 of the Revised Code applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in section 2925.11 of the Revised Code, or a violation of section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 of the Revised Code.

(d) Nothing in division (B)(2)(b) of this section shall be construed to do any of the following:

(i) Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of division (B)(2)(b) of this section or with regards to any crime other than a minor drug possession offense or a violation of section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 of the Revised Code committed by a person who qualifies for protection pursuant to division (B)(2)(b) of this section;

(ii) Limit any seizure of evidence or contraband otherwise permitted by law;

(iii) Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;

(iv) Limit, modify, or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016, to any public agency or to an employee of any public agency.

(e) Division (B)(2)(b) of this section does not apply to any person who twice previously has been granted an immunity under division (B)(2)(b) of this section. No person shall be granted an immunity under division (B)(2)(b) of this section more than two times.

(f) Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and

Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States department of health and human services to implement the act or the requirements of 42 C.F.R. Part 2.

(C) Whoever violates division (A) of this section is guilty of one of the following:

(1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, hashish, and any controlled substance analog, whoever violates division (A) of this section is guilty of aggravated possession of drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(1)(b), (c), (d), or (e) of this section, aggravated possession of drugs is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) If the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, aggravated possession of drugs is a felony of the third degree, and there is a presumption for a prison term for the offense.

(c) If the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated possession of drugs is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(d) If the amount of the drug involved equals or exceeds fifty times the bulk amount but is less than one hundred times the bulk amount, aggravated possession of drugs is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(e) If the amount of the drug involved equals or exceeds one hundred times the bulk amount, aggravated possession of drugs is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(2) If the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates division (A) of this section is guilty of possession of drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b), (c), or (d) of this section, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony of the fifth degree.

(b) If the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, possession of drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) If the amount of the drug involved equals or exceeds five times the bulk amount but is

less than fifty times the bulk amount, possession of drugs is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) If the amount of the drug involved equals or exceeds fifty times the bulk amount, possession of drugs is a felony of the second degree, and the court shall impose upon the offender as a mandatory prison term a second degree felony mandatory prison term.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), or (g) of this section, possession of marihuana is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds one hundred grams but is less than two hundred grams, possession of marihuana is a misdemeanor of the fourth degree.

(c) If the amount of the drug involved equals or exceeds two hundred grams but is less than one thousand grams, possession of marihuana is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) If the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, possession of marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(e) If the amount of the drug involved equals or exceeds five thousand grams but is less than twenty thousand grams, possession of marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) If the amount of the drug involved equals or exceeds twenty thousand grams but is less than forty thousand grams, possession of marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term of five, six, seven, or eight years.

(g) If the amount of the drug involved equals or exceeds forty thousand grams, possession of marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term a maximum second degree felony mandatory prison term.

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of possession of cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), or (f) of this section, possession of cocaine is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) If the amount of the drug involved equals or exceeds five grams but is less than ten grams of cocaine, possession of cocaine is a felony of the fourth degree, and division (B) of section

2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) If the amount of the drug involved equals or exceeds ten grams but is less than twenty grams of cocaine, possession of cocaine is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If possession of cocaine is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree.

(d) If the amount of the drug involved equals or exceeds twenty grams but is less than twenty-seven grams of cocaine, possession of cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(e) If the amount of the drug involved equals or exceeds twenty-seven grams but is less than one hundred grams of cocaine, possession of cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of the drug involved equals or exceeds one hundred grams of cocaine, possession of cocaine is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(5) If the drug involved in the violation is L.S.D., whoever violates division (A) of this section is guilty of possession of L.S.D. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(5)(b), (c), (d), (e), or (f) of this section, possession of L.S.D. is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) If the amount of L.S.D. involved equals or exceeds ten unit doses but is less than fifty unit doses of L.S.D. in a solid form or equals or exceeds one gram but is less than five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) If the amount of L.S.D. involved equals or exceeds fifty unit doses, but is less than two hundred fifty unit doses of L.S.D. in a solid form or equals or exceeds five grams but is less than twenty-five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) If the amount of L.S.D. involved equals or exceeds two hundred fifty unit doses but is less than one thousand unit doses of L.S.D. in a solid form or equals or exceeds twenty-five grams but is less than one hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the second degree, and the court shall impose as a

mandatory prison term a second degree felony mandatory prison term.

(e) If the amount of L.S.D. involved equals or exceeds one thousand unit doses but is less than five thousand unit doses of L.S.D. in a solid form or equals or exceeds one hundred grams but is less than five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of L.S.D. involved equals or exceeds five thousand unit doses of L.S.D. in a solid form or equals or exceeds five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of possession of heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), or (f) of this section, possession of heroin is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) If the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, possession of heroin is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) If the amount of the drug involved equals or exceeds fifty unit doses but is less than one hundred unit doses or equals or exceeds five grams but is less than ten grams, possession of heroin is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) If the amount of the drug involved equals or exceeds one hundred unit doses but is less than five hundred unit doses or equals or exceeds ten grams but is less than fifty grams, possession of heroin is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(e) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than one thousand unit doses or equals or exceeds fifty grams but is less than one hundred grams, possession of heroin is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of the drug involved equals or exceeds one thousand unit doses or equals or exceeds one hundred grams, possession of heroin is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(7) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (A) of this section is guilty of possession of

hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(7)(b), (c), (d), (e), (f), or (g) of this section, possession of hashish is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(c) If the amount of the drug involved equals or exceeds ten grams but is less than fifty grams of hashish in a solid form or equals or exceeds two grams but is less than ten grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) If the amount of the drug involved equals or exceeds fifty grams but is less than two hundred fifty grams of hashish in a solid form or equals or exceeds ten grams but is less than fifty grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(e) If the amount of the drug involved equals or exceeds two hundred fifty grams but is less than one thousand grams of hashish in a solid form or equals or exceeds fifty grams but is less than two hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) If the amount of the drug involved equals or exceeds one thousand grams but is less than two thousand grams of hashish in a solid form or equals or exceeds two hundred grams but is less than four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term of five, six, seven, or eight years.

(g) If the amount of the drug involved equals or exceeds two thousand grams of hashish in a solid form or equals or exceeds four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony of the second degree, and the court shall impose as a mandatory prison term a maximum second degree felony mandatory prison term.

(8) If the drug involved is a controlled substance analog or compound, mixture, preparation, or substance that contains a controlled substance analog, whoever violates division (A) of this section is guilty of possession of a controlled substance analog. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(8)(b), (c), (d), (e), or (f) of this section, possession of a controlled substance analog is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the



offender.

(b) If the amount of the drug involved equals or exceeds ten grams but is less than twenty grams, possession of a controlled substance analog is a felony of the fourth degree, and there is a presumption for a prison term for the offense.

(c) If the amount of the drug involved equals or exceeds twenty grams but is less than thirty grams, possession of a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) If the amount of the drug involved equals or exceeds thirty grams but is less than forty grams, possession of a controlled substance analog is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(e) If the amount of the drug involved equals or exceeds forty grams but is less than fifty grams, possession of a controlled substance analog is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of the drug involved equals or exceeds fifty grams, possession of a controlled substance analog is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(9) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one of the following applies:

(a) Except as otherwise provided in division (C)(9)(b) of this section, the offender is guilty of possession of marihuana and shall be punished as provided in division (C)(3) of this section. Except as otherwise provided in division (C)(9)(b) of this section, the offender is not guilty of possession of a fentanyl-related compound under division (C)(11) of this section and shall not be charged with, convicted of, or punished under division (C)(11) of this section for possession of a fentanyl-related compound.

(b) If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under division (C)(11) of this section.

(10) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any schedule III, schedule IV, or schedule V controlled substance that is not a fentanyl-related compound, one of the following applies:

(a) Except as otherwise provided in division (C)(10)(b) of this section, the offender is guilty of possession of drugs and shall be punished as provided in division (C)(2) of this section. Except as otherwise provided in division (C)(10)(b) of this section, the offender is not guilty of possession of a fentanyl-related compound under division (C)(11) of this section and shall not be charged with, convicted of, or punished under division (C)(11) of this section for possession of a fentanyl-related compound.

(b) If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under division (C)(11) of this section.

(11) If the drug involved in the violation is a fentanyl-related compound and neither division (C)(9)(a) nor division (C)(10)(a) of this section applies to the drug involved, or is a compound, mixture, preparation, or substance that contains a fentanyl-related compound or is a combination of a fentanyl-related compound and any other controlled substance and neither division (C)(9)(a) nor division (C)(10)(a) of this section applies to the drug involved, whoever violates division (A) of this section is guilty of possession of a fentanyl-related compound. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(11)(b), (c), (d), (e), (f), or (g) of this section, possession of a fentanyl-related compound is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) If the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, possession of a fentanyl-related compound is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) If the amount of the drug involved equals or exceeds fifty unit doses but is less than one hundred unit doses or equals or exceeds five grams but is less than ten grams, possession of a fentanyl-related compound is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) If the amount of the drug involved equals or exceeds one hundred unit doses but is less than two hundred unit doses or equals or exceeds ten grams but is less than twenty grams, possession of a fentanyl-related compound is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) If the amount of the drug involved equals or exceeds two hundred unit doses but is less than five hundred unit doses or equals or exceeds twenty grams but is less than fifty grams, possession of a fentanyl-related compound is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than one thousand unit doses or equals or exceeds fifty grams but is less than one hundred grams, possession of a fentanyl-related compound is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds one thousand unit doses or equals or exceeds one hundred grams, possession of a fentanyl-related compound is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term

the maximum prison term prescribed for a felony of the first degree.

(D) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(E) In addition to any prison term or jail term authorized or required by division (C) of this section and sections 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 of the Revised Code and in addition to any other sanction that is imposed for the offense under this section, sections 2929.11 to 2929.18, or sections 2929.21 to 2929.28 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may suspend the offender's driver's or commercial driver's license or permit for not more than five years. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If applicable, the court also shall do the following:

(1)(a) If the violation is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent.

(b) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of the court shall pay a mandatory fine or other fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code.

(c) If a person is charged with a violation of this section that is a felony of the first, second, or third degree, posts bail, and forfeits the bail, the clerk shall pay the forfeited bail pursuant to division (E)(1)(b) of this section as if it were a mandatory fine imposed under division (E)(1)(a) of this section.

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

(F) It is an affirmative defense, as provided in section 2901.05 of the Revised Code, to a charge of a fourth degree felony violation under this section that the controlled substance that gave rise to the charge is in an amount, is in a form, is prepared, compounded, or mixed with substances that are not controlled substances in a manner, or is possessed under any other circumstances, that indicate that the substance was possessed solely for personal use. Notwithstanding any contrary

provision of this section, if, in accordance with section 2901.05 of the Revised Code, an accused who is charged with a fourth degree felony violation of division (C)(2), (4), (5), or (6) of this section sustains the burden of going forward with evidence of and establishes by a preponderance of the evidence the affirmative defense described in this division, the accused may be prosecuted for and may plead guilty to or be convicted of a misdemeanor violation of division (C)(2) of this section or a fifth degree felony violation of division (C)(4), (5), or (6) of this section respectively.

(G) When a person is charged with possessing a bulk amount or multiple of a bulk amount, division (E) of section 2925.03 of the Revised Code applies regarding the determination of the amount of the controlled substance involved at the time of the offense.

(H) It is an affirmative defense to a charge of possession of a controlled substance analog under division (C)(8) of this section that the person charged with violating that offense obtained, possessed, or used one of the following items that are excluded from the meaning of "controlled substance analog" under section 3719.01 of the Revised Code:

- (1) A controlled substance;
- (2) Any substance for which there is an approved new drug application;
- (3) With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption.

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

Upon the filing of a motion under division (I) of this section, the sentencing court, in its discretion, may terminate the suspension.

Sec. 2925.12. (A) No person shall knowingly make, obtain, possess, or use any instrument, article, or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article, or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(B)(1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., ~~and 4741.~~ and 4772. of the Revised Code.

(2) Division (B)(2) of section 2925.11 of the Revised Code applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(C) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, a violation of this section is a misdemeanor of the first degree.

(D)(1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with section 2925.38 of the Revised Code.

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

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

Sec. 2925.14. (A) As used in this section, "drug paraphernalia" means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance in violation of this chapter. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:

(1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;

(2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

(3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;

(4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;

(5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance, except for those exempted in division (D)(4) of this section;

(6) A scale or balance for weighing or measuring a controlled substance;

(7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance;

(8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;

(9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance;

(10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance;

(11) A container or device for storing or concealing a controlled substance;

(12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body;

(13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marijuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(B) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

(1) Any statement by the owner, or by anyone in control, of the equipment, product, or material, concerning its use;

(2) The proximity in time or space of the equipment, product, or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter;

(3) The proximity of the equipment, product, or material to any controlled substance;

(4) The existence of any residue of a controlled substance on the equipment, product, or material;

(5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom the owner or person in control of the equipment, product, or material knows intends to use the object to facilitate a violation of any provision of this chapter. A finding that the owner, or anyone in control, of the equipment, product,

or material, is not guilty of a violation of any other provision of this chapter does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.

(6) Any oral or written instruction provided with the equipment, product, or material concerning its use;

(7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use;

(8) National or local advertising concerning the use of the equipment, product, or material;

(9) The manner and circumstances in which the equipment, product, or material is displayed for sale;

(10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise;

(11) The existence and scope of legitimate uses of the equipment, product, or material in the community;

(12) Expert testimony concerning the use of the equipment, product, or material.

(C)(1) Subject to divisions (D)(2), (3), and (4) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this state, if the person knows that the purpose of the advertisement is to promote the illegal sale in this state of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.

(D)(1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., ~~and 4741.~~, and 4772. of the Revised Code. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by section 3719.172 of the Revised Code.

(2) Division (C)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana.

(3) Division (B)(2) of section 2925.11 of the Revised Code applies with respect to a violation of division (C)(1) of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(4) Division (C)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.

(E) Notwithstanding Chapter 2981. of the Revised Code, any drug paraphernalia that was used, possessed, sold, or manufactured in a violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to division (B) of section 2981.12 of the Revised Code.

(F)(1) Whoever violates division (C)(1) of this section is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.

(2) Except as provided in division (F)(3) of this section, whoever violates division (C)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.

(3) Whoever violates division (C)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.

(4) Whoever violates division (C)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(G)(1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with section 2925.38 of the Revised Code.

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

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

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

(B) No person shall intentionally make, utter, or sell, or knowingly possess any of the following that is a false or forged:

(1) Prescription;



(2) Uncompleted preprinted prescription blank used for writing a prescription;

(3) Official written order;

(4) License for a terminal distributor of dangerous drugs, as defined in section 4729.01 of the Revised Code;

(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.

(C) No person, by theft as defined in section 2913.02 of the Revised Code, shall acquire any of the following:

(1) A prescription;

(2) An uncompleted preprinted prescription blank used for writing a prescription;

(3) An official written order;

(4) A blank official written order;

(5) A license or blank license for a terminal distributor of dangerous drugs, as defined in section 4729.01 of the Revised Code;

(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 the Revised Code.

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

(E) Divisions (A) and (D) of this section do not apply to licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., ~~and 4741., 4772.~~ of the Revised Code.

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

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

(2) If the drug involved is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV, or V or is marihuana, illegal processing of drug documents is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(G)(1) In addition to any prison term authorized or required by division (F) of this section

and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to any violation of divisions (A) to (D) of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

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

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

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

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

Sec. 2925.36. (A) No person shall knowingly furnish another a sample drug.

(B) Division (A) of this section does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741., and 4772. of the Revised Code.

(C)(1) Whoever violates this section is guilty of illegal dispensing of drug samples.

(2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, the penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b) of this section, illegal dispensing of drug samples is a felony of the fifth degree, and, subject to division (E) of this section, division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on

the offender.

(b) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a felony of the fourth degree, and, subject to division (E) of this section, division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b) of this section, illegal dispensing of drug samples is a misdemeanor of the second degree.

(b) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

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

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

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

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

(E) Notwithstanding the prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, if the violation of division (A) of this section involves the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and if the court imposing sentence upon the offender finds that the offender

as a result of the violation is a major drug offender and is guilty of a specification of the type described in division (A) of section 2941.1410 of the Revised Code, the court, in lieu of the prison term otherwise authorized or required, shall impose upon the offender the mandatory prison term specified in division (B)(3)(a) of section 2929.14 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

(B)(1) No individual shall knowingly purchase, receive, or otherwise acquire an amount of pseudoephedrine product or ephedrine product that is greater than either of the following unless the pseudoephedrine product or ephedrine product is dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and 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 4772. of the Revised Code:

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

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

The limits specified in divisions (B)(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 limits do not apply to the product's overall weight.

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

(a) or (b) of this section if the individual is an employee of a retailer or terminal distributor of dangerous drugs, and the employee receives or accepts from the retailer or terminal distributor of dangerous drugs the pseudoephedrine product or ephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

(C)(1) No individual under eighteen years of age shall knowingly purchase, receive, or otherwise acquire a pseudoephedrine product or ephedrine product unless the pseudoephedrine product or ephedrine product is dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and 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 4772. of the Revised Code.

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

(a) A licensed health professional authorized to prescribe drugs or pharmacist who dispenses, sells, or otherwise provides the pseudoephedrine product or ephedrine product to that individual and whose conduct is in accordance with Chapter 3719., 4715., 4723., 4729., 4730., 4731., ~~or 4741.~~ or 4772. of the Revised Code;

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

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

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

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

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

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

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

(H) Whoever violates division (D) of this section is 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 ~~sixtenths~~ 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 4772. of the Revised Code.

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

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

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

(B)(1) Except as provided in division (B)(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 sell, offer to sell, hold for sale, deliver, or otherwise provide a pseudoephedrine product or ephedrine product to an individual who is under eighteen years of age.

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

- (a) A licensed health professional authorized to prescribe drugs or pharmacist who

dispenses, sells, or otherwise provides a pseudoephedrine product or ephedrine product to an individual under eighteen years of age and whose conduct is in accordance with Chapter 3719., 4715., 4723., 4729., 4730., 4731., ~~or 4741.~~ or 4772. of the Revised Code;

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

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

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

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

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

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

(F) Whoever violates division (B)(1) of this section is guilty of unlawfully selling a pseudoephedrine product or ephedrine product to a minor, a misdemeanor of the fourth degree.

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

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

Sec. 2929.42. (A) The prosecutor in any case against any person licensed, certified, registered, or otherwise authorized to practice under Chapter 3719., 4715., 4723., 4729., 4730., 4731., 4734., ~~or 4741.~~ or 4772. of the Revised Code shall notify the appropriate licensing board, on forms provided by the board, of any of the following regarding the person:

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

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

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

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

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

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

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

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

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

(B) In consultation with the appropriate professional regulatory boards of this state, the director of health shall develop one or more protocols that authorize the following individuals to administer, 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 administration, delivery, or distribution of drugs by those individuals:

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

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

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

(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;

(5) A licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(6) An optometrist licensed under Chapter 4725. of the Revised Code;

(7) A pharmacist or pharmacy intern licensed under Chapter 4729. of the Revised Code;

(8) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(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;

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

(11) A certified mental health assistant licensed under Chapter 4772. of the Revised Code.

(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.

(D) In consultation with the state board of pharmacy, the director of health shall develop one



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

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

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

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

Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:

(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(4) "Health care practitioner" means all of the following:

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

(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(c) An optometrist licensed under Chapter 4725. of the Revised Code;

(d) A dispensing optician, spectacle dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;

(e) A pharmacist licensed under Chapter 4729. of the Revised Code;

- (f) A physician;
- (g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;
- (h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;
- (i) A psychologist licensed under Chapter 4732. of the Revised Code;
- (j) A chiropractor;
- (k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;
- (l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
- (m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;
- (n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;
- (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;
- (p) A dietitian licensed under Chapter 4759. of the Revised Code;
- (q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;
- (r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code;
- (s) A certified mental health assistant licensed under Chapter 4772. of the Revised Code.
- (5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.
- (6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.
- (7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility, as defined in section 5165.01 of the Revised Code; a skilled nursing facility, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.
- (8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.
- (9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and

charges a fee for providing medical records to a patient or patient's representative.

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

(a) An individual who received health care treatment from a health care provider;

(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.

(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.

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(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.

(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.

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

(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may

bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347., 5119., or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Sec. 3709.161. (A) The board of health of a city or general health district may procure a policy or policies of insurance insuring the members of the board, the health commissioner, and the employees of the board against liability on account of damage or injury to persons and property resulting from any act or omission that occurs in the individual's official capacity as a member or employee of the board or resulting solely out of such membership or employment.

(B)(1) As used in this division, "health care professional" means all of the following:

- (a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;
- (b) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;
- (c) A person licensed under Chapter 4729. of the Revised Code to practice as a pharmacist;
- (d) A person authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;
- (e) A person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;
- (f) A psychologist licensed under Chapter 4732. of the Revised Code;
- (g) A veterinarian licensed under Chapter 4741. of the Revised Code;
- (h) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
- (i) An occupational therapist, physical therapist, physical therapist assistant, or athletic trainer licensed under Chapter 4755. of the Revised Code;
- (j) A licensed professional clinical counselor, licensed professional counselor, independent social worker, or social worker licensed under Chapter 4757. of the Revised Code;
- (k) A dietitian licensed under Chapter 4759. of the Revised Code;
- (l) A certified mental health assistant licensed under Chapter 4772. of the Revised Code.

(2) The board of health of a city or general health district may purchase liability insurance for a health care professional with whom the board contracts for the provision of health care services against liability on account of damage or injury to persons and property arising from the health care professional's performance of services under the contract. The policy shall be purchased from an insurance company licensed to do business in this state, if such a policy is available from such a company. The board of health of a city or general health district shall report the cost of the liability insurance policy and subsequent increases in the cost to the director of health on a form prescribed

by the director.

Sec. 3715.50. (A) As used in this section and in sections 3715.501 to 3715.505 of the Revised Code:

(1) "Advanced practice registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code and is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.

(2) "Overdose reversal drug" has the same meaning as in section 4729.01 of the Revised Code.

(3) "Pharmacist" means an individual licensed under Chapter 4729. of the Revised Code to practice as a pharmacist.

(4) "Pharmacy intern" means an individual licensed under Chapter 4729. of the Revised Code to practice as a pharmacy intern.

(5) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(6) "Physician assistant" means an individual who is licensed 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) "Certified mental health assistant" means an individual who is licensed under Chapter 4772. of the Revised Code and has been granted physician-delegated prescriptive authority.

(B) Notwithstanding any conflicting provision of the Revised Code, any person or government entity may purchase, possess, distribute, dispense, personally furnish, sell, or otherwise obtain or provide an overdose reversal drug, which includes any instrument or device used to administer the drug, if all of the following conditions are met:

(1) The overdose reversal drug is in its original manufacturer's packaging.

(2) The overdose reversal drug's packaging contains the manufacturer's instructions for use.

(3) The overdose reversal drug is stored in accordance with the manufacturer's or distributor's instructions.

(C) In addition to actions authorized by division (B) of this section, any person or government entity may obtain and maintain a supply of an overdose reversal drug for either or both of the following purposes: for use in an emergency situation and for distribution through an automated mechanism.

(1) In the case of a supply of an overdose reversal drug obtained and maintained for use in an emergency situation, a person or government entity shall do all of the following:

(a) Provide to any individual who accesses the supply instructions regarding emergency administration of the drug, including a specific instruction to summon emergency services as necessary;

(b) Establish a process for replacing within a reasonable time period any overdose reversal drug that has been accessed;

(c) Store the overdose reversal drug in accordance with the manufacturer's or distributor's instructions.

(2) In the case of a supply of an overdose reversal drug obtained and maintained for distribution through an automated mechanism, a person or government entity shall do all of the following:

(a) Ensure that the mechanism is securely fastened to a permanent structure or is of an appropriate size and weight to reasonably prevent it from being removed from its intended location;

(b) Provide to any individual who accesses the supply instructions regarding emergency administration of the drug, including a specific instruction to summon emergency services as necessary;

(c) Develop a process for monitoring and replenishing the supply maintained in the automated mechanism;

(d) Store the overdose reversal drug in accordance with the manufacturer's or distributor's instructions.

(D) If the authority granted by division (B) or (C) of this section is exercised in good faith, the following immunities apply:

(1) The person or government entity exercising the authority is not subject to administrative action or criminal prosecution and is not liable for damages in a civil action for injury, death, or loss to person or property for an act or omission that arises from exercising that authority.

(2) After an overdose reversal drug has been dispensed or personally furnished, the person or government entity is not liable for or subject to any of the following for any act or omission of the individual to whom the drug is dispensed or personally furnished: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

(E)(1) This section does not affect any other authority to issue a prescription for, or personally furnish a supply of, an overdose reversal drug.

(2) This section does not eliminate, limit, or reduce any other immunity or defense that a person or government entity may be entitled to under section 9.86, Chapter 2744., section 4765.49, or any other provision of the Revised Code or the common law of this state.

Sec. 3715.501. (A) Notwithstanding any conflicting provision of the Revised Code or of any rule adopted by the state board of pharmacy, state medical board, or board of nursing, both of the following apply:

(1) A physician, physician assistant, ~~or~~ advanced practice registered nurse, or certified mental health assistant may issue a prescription for an overdose reversal drug, or personally furnish a supply of the drug, without having examined the individual to whom it may be administered. The physician, physician assistant, ~~or~~ advanced practice registered nurse, or certified mental health assistant exercising this authority shall provide, to the individual receiving the prescription or supply, instructions regarding the emergency administration of the drug, including a specific instruction to summon emergency services as necessary.

(2) In the event that a prescription for an overdose reversal drug does not include the name of the individual to whom the drug may be administered, a pharmacist or pharmacy intern may dispense the drug to the individual who received the prescription.

(B)(1) A physician, physician assistant, ~~or~~ advanced practice registered nurse, or certified mental health assistant who in good faith exercises the authority conferred by division (A)(1) of this section is not liable for or subject to any of the following for any act or omission of the individual to whom a prescription for an overdose reversal drug is issued or the supply of such a drug is furnished: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

(2) A pharmacist or pharmacy intern who in good faith exercises the authority conferred by division (A)(2) of this section is not liable for or subject to any of the following: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

Sec. 3715.502. (A) A physician, physician assistant, ~~or~~ advanced practice registered nurse, or certified mental health assistant may authorize one or more pharmacists and any of the pharmacy interns supervised by the one or more pharmacists to use a protocol developed pursuant to rules adopted under this section for the purpose of dispensing overdose reversal drugs. If use of the protocol has been authorized, a pharmacist or pharmacy intern may dispense overdose reversal drugs without a prescription to either of the following in accordance with that protocol:

(1) An individual who there is reason to believe is experiencing or at risk of experiencing an opioid-related overdose;

(2) A family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.

(B) A pharmacist or pharmacy intern who dispenses overdose reversal drugs under this section shall instruct the individual to whom the drugs are dispensed to summon emergency services as soon as practicable either before or after administering the drugs.

(C) A pharmacist may document on a prescription form the dispensing of overdose reversal drugs by the pharmacist or a pharmacy intern supervised by the pharmacist. The form may be assigned a number for recordkeeping purposes.

(D) This section does not affect the authority of a pharmacist or pharmacy intern to fill or refill a prescription for overdose reversal drugs.

(E) A physician, physician assistant, ~~or~~ advanced practice registered nurse, or certified mental health assistant who in good faith authorizes a pharmacist or pharmacy intern to dispense overdose reversal drugs without a prescription, as provided in this section, is not liable for or subject to any of the following for any act or omission of the individual to whom the drugs are dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

A pharmacist or pharmacy intern authorized under this section to dispense overdose reversal drugs without a prescription who does so in good faith is not liable for or subject to any of the

following for any act or omission of the individual to whom the drugs are dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

(F) The state board of pharmacy, after consulting with the state medical board and board of nursing, shall adopt rules to implement this section. The rules shall specify a protocol under which pharmacists or pharmacy interns may dispense overdose reversal drugs without a prescription.

All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(G)(1) The state board of pharmacy shall develop a program to educate all of the following about the authority of a pharmacist or pharmacy intern to dispense overdose reversal drugs without a prescription:

(a) Holders of licenses issued under Chapter 4729. of the Revised Code that engage in the sale or dispensing of overdose reversal drugs pursuant to this section;

(b) Registered pharmacy technicians, certified pharmacy technicians, and pharmacy technician trainees registered under Chapter 4729. of the Revised Code who engage in the sale of overdose reversal drugs pursuant to this section;

(c) Individuals who are not licensed or registered under Chapter 4729. of the Revised Code but are employed by license holders described in division (G)(1)(a) of this section.

(2) As part of the program, the board also shall educate the license holders, pharmacy technicians, and employees described in division (G)(1) of this section about maintaining an adequate supply of overdose reversal drugs and methods for determining a pharmacy's stock of such drugs.

(3) The board may use its web site to share information under the program.

Sec. 3715.503. (A) In addition to the actions authorized by section 3715.50 of the Revised Code and subject to division (B) of this section, a physician, physician assistant, ~~or~~ advanced practice registered nurse, or certified mental health assistant may elect to establish a protocol authorizing any individual to personally furnish a supply of an overdose reversal drug to another individual pursuant to the protocol. A person authorized to personally furnish an overdose reversal drug pursuant to the protocol may do so without having examined the individual to whom the drug may be administered.

(B) A protocol established by a physician, physician assistant, ~~or~~ advanced practice registered nurse, or certified mental health assistant for purposes of this section shall include all of the following:

(1) Any limitations to be applied concerning the individuals to whom the overdose reversal drug may be personally furnished;

(2) The overdose reversal drug dosage that may be personally furnished and any variation in the dosage based on circumstances specified in the protocol;

(3) Any labeling, storage, recordkeeping, and administrative requirements;

(4) Training requirements that must be met before a person will be authorized to personally



furnish overdose reversal drugs;

(5) Any instructions or training that the authorized person must provide to an individual to whom an overdose reversal drug is personally furnished.

(C) A physician, physician assistant, ~~or~~ advanced practice registered nurse, or certified mental health assistant who in good faith authorizes an individual to personally furnish a supply of an overdose reversal drug in accordance with a protocol established under this section, and an individual who in good faith personally furnishes a supply under that authority, is not liable for or subject to any of the following for any act or omission of the individual to whom the overdose reversal drug is personally furnished: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

Sec. 3715.872. (A) As used in this section, "health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(1) Individuals authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(2) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(3) Physician assistants licensed under Chapter 4730. of the Revised Code;

(4) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(5) Optometrists licensed under Chapter 4725. of the Revised Code;

(6) Pharmacists licensed under Chapter 4729. of the Revised Code;

(7) Certified mental health assistants licensed under Chapter 4772. of the Revised Code.

(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, 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 criminal prosecution for matters related to activities that it conducts or another party conducts under the program, unless an action or omission of the party that donates, gives, or facilitates the donation or gift of the drugs does not comply with the provisions of this chapter or the rules adopted under it.

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

Sec. 3719.06. (A)(1) A licensed health professional authorized to prescribe drugs, if acting in the course of professional practice, in accordance with the laws regulating the professional's practice, and in accordance with rules adopted by the state board of pharmacy, may, except as provided in division (A)(2) ~~or (3)~~, or (4) of this section, do the following:

(a) Prescribe schedule II, III, IV, and V controlled substances;

(b) Administer or personally furnish to patients schedule II, III, IV, and V controlled substances;

(c) Cause schedule II, III, IV, and V controlled substances to be administered under the prescriber's direction and supervision.

(2) A licensed health professional authorized to prescribe drugs who is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is subject to both of the following:

(a) A schedule II controlled substance may be prescribed only in accordance with division (C) of section 4723.481 of the Revised Code.

(b) No schedule II controlled substance shall be personally furnished to any patient.

(3) A licensed health professional authorized to prescribe drugs who is a physician assistant is subject to all of the following:

(a) A controlled substance may be prescribed or personally furnished only if it is included in the physician-delegated prescriptive authority granted to the physician assistant in accordance with Chapter 4730. of the Revised Code.

(b) A schedule II controlled substance may be prescribed only in accordance with division (B)(4) of section 4730.41 and section 4730.411 of the Revised Code.

(c) No schedule II controlled substance shall be personally furnished to any patient.

(4) A licensed health professional authorized to prescribe drugs who is a certified mental

health assistant is subject to both of the following:

(a) A controlled substance may be prescribed or personally furnished only in accordance with sections 4772.12 and 4772.13 of the Revised Code.

(b) No schedule II controlled substance shall be personally furnished to any patient.

(B) No licensed health professional authorized to prescribe drugs shall prescribe, administer, or personally furnish a schedule III anabolic steroid for the purpose of human muscle building or enhancing human athletic performance and no pharmacist shall dispense a schedule III anabolic steroid for either purpose, unless it has been approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended.

(C) When issuing a prescription for a schedule II controlled substance, a licensed health professional authorized to prescribe drugs shall do so only upon an electronic prescription, except that the prescriber may issue a written prescription if any of the following apply:

(1) A temporary technical, electrical, or broadband failure occurs preventing the prescriber from issuing an electronic prescription.

(2) The prescription is issued for a nursing home resident or hospice care patient.

(3) The prescriber is employed by or under contract with the same entity that operates the pharmacy.

(4) The prescriber determines that an electronic prescription cannot be issued in a timely manner and the patient's medical condition is at risk.

(5) The prescriber issues the prescription from a health care facility, which may include an emergency department, and reasonably determines that an electronic prescription would be impractical for the patient or would cause a delay that may adversely impact the patient's medical condition.

(6) The prescriber issues per year not more than fifty prescriptions for schedule II controlled substances.

(7) The prescriber is a veterinarian licensed under Chapter 4741. of the Revised Code.

(D) Each written or electronic prescription for a controlled substance shall be properly executed, dated, and signed by the prescriber on the day when issued and shall bear the full name and address of the person for whom, or the owner of the animal for which, the controlled substance is prescribed and the full name, address, and registry number under the federal drug abuse control laws of the prescriber. If the prescription is for an animal, it shall state the species of the animal for which the controlled substance is prescribed.

Sec. 3719.064. (A) As used in this section:

(1) "Medication-assisted treatment" has the same meaning as in section 340.01 of the Revised Code.

(2) "Prescriber" means any of the following:

(a) An advanced practice registered nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code and is designated as a clinical nurse specialist, certified nurse-

midwife, or certified nurse practitioner;

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

(c) A physician assistant who is licensed 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;

(d) A certified mental health assistant who is licensed under Chapter 4772. of the Revised Code and has been granted physician-delegated prescriptive authority by the physician supervising the certified mental health assistant.

(3) "Qualifying practitioner" has the same meaning as in section 303(g)(2)(G)(iii) of the "Controlled Substances Act of 1970," 21 U.S.C. 823(g)(2)(G)(iii), as amended.

(B) Before initiating medication-assisted treatment, a prescriber shall give the patient or the patient's representative information about all drugs approved by the United States food and drug administration for use in medication-assisted treatment. The information must be provided both orally and in writing. The prescriber or the prescriber's delegate shall note in the patient's medical record when this information was provided and make the record available to employees of the board of nursing or state medical board on their request.

If the prescriber is not a qualifying practitioner and the patient's choice is opioid treatment and the prescriber determines that such treatment is clinically appropriate and meets generally accepted standards of medicine, the prescriber shall refer the patient to an opioid treatment program licensed under section 5119.37 of the Revised Code or a qualifying practitioner. The prescriber or the prescriber's delegate shall make a notation in the patient's medical record naming the program or practitioner to whom the patient was referred and specifying when the referral was made.

Sec. 3719.121. (A) Except as otherwise provided in section 4723.28, 4723.35, 4730.25, 4731.22, 4734.39, ~~or 4734.41~~, or 4772.20 of the Revised Code, the license, certificate, or registration of any dentist, chiropractor, physician, podiatrist, registered nurse, advanced practice registered nurse, licensed practical nurse, physician assistant, pharmacist, pharmacy intern, pharmacy technician trainee, registered pharmacy technician, certified pharmacy technician, optometrist, ~~or veterinarian~~, or certified mental health assistant who is or becomes addicted to the use of controlled substances shall be suspended by the board that authorized the person's license, certificate, or registration until the person offers satisfactory proof to the board that the person no longer is addicted to the use of controlled substances.

(B) If the board under which a person has been issued a license, certificate, or evidence of registration determines that there is clear and convincing evidence that continuation of the person's professional practice or method of administering, prescribing, preparing, distributing, dispensing, or personally furnishing controlled substances or other dangerous drugs presents a danger of immediate and serious harm to others, the board may suspend the person's license, certificate, or registration without a hearing. Except as otherwise provided in sections 4715.30, 4723.281, 4729.16, 4730.25,

4731.22, ~~and 4734.36~~, and 4772.20 of the Revised Code, the board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective, except that if the board does not issue its final adjudication order within ninety days after the hearing, the suspension shall be void on the ninety-first day after the hearing.

(C) On receiving notification pursuant to section 2929.42 or 3719.12 of the Revised Code, the board under which a person has been issued a license, certificate, or evidence of registration immediately shall suspend the license, certificate, or registration of that person on a plea of guilty to, a finding by a jury or court of the person's guilt of, or conviction of a felony drug abuse offense; a finding by a court of the person's eligibility for intervention in lieu of conviction; a plea of guilty to, or a finding by a jury or court of the person's guilt of, or the person's conviction of an offense in another jurisdiction that is essentially the same as a felony drug abuse offense; or a finding by a court of the person's eligibility for treatment or intervention in lieu of conviction in another jurisdiction. The board shall notify the holder of the license, certificate, or registration of the suspension, which shall remain in effect until the board holds an adjudicatory hearing under Chapter 119. of the Revised Code.

Sec. 3719.13. Prescriptions, orders, and records, required by Chapter 3719. of the Revised Code, and stocks of dangerous drugs and controlled substances, shall be open for inspection only to federal, state, county, and municipal officers, and employees of the state board of pharmacy whose duty it is to enforce the laws of this state or of the United States relating to controlled substances. Such prescriptions, orders, records, and stocks shall be open for inspection by employees of the state medical board for purposes of enforcing Chapters 4730. ~~and 4731.~~ and 4772. of the Revised Code, employees of the board of nursing for purposes of enforcing Chapter 4723. of the Revised Code, and employees of the department of mental health and addiction services for purposes of section 5119.37 of the Revised Code. No person having knowledge of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

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

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

(1) The sample drug is furnished free of charge by a manufacturer, manufacturer's representative, or wholesale dealer in pharmaceuticals to a licensed health professional authorized to prescribe drugs, or is furnished free of charge by such a professional to a patient for use as medication;

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

(3) Prior to its being furnished, the sample drug has been stored under the proper conditions

to prevent its deterioration or contamination;

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

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

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

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

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

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

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

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

Sec. 3959.22. No health plan issuer, pharmacy benefit manager, or any other administrator shall prohibit a pharmacy from mailing or delivering drugs to patients as an ancillary service.

Sec. 4729.01. As used in this chapter:

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

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

(1) Interpreting prescriptions;

(2) Dispensing drugs and drug therapy related devices;

(3) Compounding drugs;

(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;

(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;

(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;

(7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;

(8) Acting pursuant to a consult agreement, if an agreement has been established;

(9) Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code;

(10) Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code.

(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:

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

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

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

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

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

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

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

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

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

(E) "Drug" means:

(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;

(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;

(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.

"Drug" does not include "hemp" or a "hemp product" as those terms are defined in section 928.01 of the Revised Code.

(F) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

(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;

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

(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, gonorrhea, 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 to and in the name of a qualified entity, as defined in section 3728.01 of the Revised Code;

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

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

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

(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;

(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, but only to the extent of the nurse's authority under sections 4723.43 and 4723.434 of the Revised Code;

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

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

(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) A certified mental health assistant licensed under Chapter 4772. of the Revised Code who has been granted physician-delegated prescriptive authority by the physician supervising the certified mental health assistant.

(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:

(1) The proprietary name of the drug product;

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

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

(4) The dosage form;

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

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

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

(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 the Revised Code.

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

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

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

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

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

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

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

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

(1) Naloxone;

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

Sec. 4729.285. A pharmacist may provide telehealth services in accordance with section 4743.09 of the Revised Code, except that in the case of dispensing a dangerous drug, a pharmacist shall not use telehealth mechanisms or other virtual means to perform any of the actions involved in dispensing the dangerous drug unless the action is authorized by section 4729.554 of the Revised Code or by the state board of pharmacy through rules it adopts under this chapter or section 4743.09 of the Revised Code.

Sec. 4729.45. (A) As used in this section, "physician" means an individual authorized under

Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B)(1) Subject to division (C) of this section, a pharmacist licensed under this chapter may administer by injection any of the following drugs as long as the drug that is to be administered has been prescribed by a physician and the individual to whom the drug was prescribed has an ongoing physician-patient relationship with the physician:

- (a) An addiction treatment drug administered in a long-acting or extended-release form;
- (b) An antipsychotic drug administered in a long-acting or extended-release form;
- (c) A human immunodeficiency virus treatment drug administered in a long-acting or extended-release form;
- (d) Hydroxyprogesterone caproate;
- ~~(d)~~ ~~(e)~~ Medroxyprogesterone acetate;
- ~~(e)~~ ~~(f)~~ Cobalamin;
- (g) Any other drug that is specified in rules adopted under division (H)(2) of this section.

(2) As part of engaging in the administration of drugs by injection pursuant to this section, a pharmacist may administer epinephrine or diphenhydramine, or both, to an individual in an emergency situation resulting from an adverse reaction to a drug administered by the pharmacist.

(C) To be authorized to administer drugs pursuant to this section, a pharmacist must do all of the following:

(1) Successfully complete a course in the administration of drugs that satisfies the requirements established ~~by the state board of pharmacy~~ in rules adopted under division (H)(1)(a) of this section;

(2) Receive and maintain certification to perform basic life-support procedures by successfully completing a basic life-support training course that is certified by the American red cross or American heart association or approved by the state board of pharmacy;

(3) Practice in accordance with a protocol that meets the requirements of division (F) of this section.

(D) Each time a pharmacist administers a drug pursuant to this section, the pharmacist shall do all of the following:

(1) Obtain permission in accordance with the procedures specified in rules adopted under division (H) of this section and comply with the following requirements:

(a) Except as provided in division (D)(1)(c) of this section, for each drug administered by a pharmacist to an individual who is eighteen years of age or older, the pharmacist shall obtain permission from the individual.

(b) For each drug administered by a pharmacist to an individual who is under eighteen years of age, the pharmacist shall obtain permission from the individual's parent or other person having care or charge of the individual.

(c) For each drug administered by a pharmacist to an individual who lacks the capacity to

make informed health care decisions, the pharmacist shall obtain permission from the person authorized to make such decisions on the individual's behalf.

(2) In the case of an addiction treatment drug described in division (B)(1)(a) of this section, obtain in accordance with division (E) of this section test results indicating that it is appropriate to administer the drug to the individual if either of the following is to be administered:

(a) The initial dose of the drug;

(b) Any subsequent dose, if the administration occurs more than thirty days after the previous dose of the drug was administered.

(3) Observe the individual to whom the drug is administered to determine whether the individual has an adverse reaction to the drug;

(4) Notify the physician who prescribed the drug that the drug has been administered to the individual.

(E) A pharmacist may obtain the test results described in division (D)(2) of this section in either of the following ways:

(1) From the physician who prescribed the drug;

(2) By ordering blood and urine tests for the individual to whom the drug is to be administered.

If a pharmacist orders blood and urine tests, the pharmacist shall evaluate the results of the tests to determine whether they indicate that it is appropriate to administer the drug. A pharmacist's authority to evaluate test results under this division does not authorize the pharmacist to make a diagnosis.

(F) All of the following apply with respect to the protocol required by division (C)(3) of this section:

(1) The protocol must be established by a physician who has a scope of practice that includes treatment of the condition for which the individual has been prescribed the drug to be administered.

(2) The protocol must satisfy the requirements established in rules adopted under division (H)(1)(b) of this section.

(3) The protocol must do all of the following:

(a) Specify a definitive set of treatment guidelines;

(b) Specify the locations at which a pharmacist may engage in the administration of drugs pursuant to this section;

(c) Include provisions for implementing the requirements of division (D) of this section, including for purposes of division (D)(3) of this section provisions specifying the length of time and location at which a pharmacist must observe an individual who receives a drug to determine whether the individual has an adverse reaction to the drug;

(d) Specify procedures to be followed by a pharmacist when administering epinephrine, or diphenhydramine, or both, to an individual who has an adverse reaction to a drug administered by the pharmacist.

(G) A pharmacist shall not do either of the following:

(1) Engage in the administration of drugs pursuant to this section unless the requirements of division (C) of this section have been met;

(2) Delegate to any person the pharmacist's authority to engage in the administration of drugs pursuant to this section.

~~(H)(1) The~~ (H) With respect to the adoption of rules by the state board of pharmacy shall adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and, all of the following apply:

(1) The board shall adopt rules that include all of the following:

(a) Requirements for courses in administration of drugs;

(b) Requirements for protocols to be followed by pharmacists in administering drugs pursuant to this section;

(c) Procedures to be followed by a pharmacist in obtaining permission to administer a drug to an individual.

(2) The board may adopt rules that specify other drugs, as provided in division (B)(1)(g) of this section, that a pharmacist may administer by injection in accordance with this section.

(3) The board shall consult with the state medical board before adopting rules regarding requirements for protocols under divisions (H)(1)(b) and (2) of this section.

(4) All rules shall be adopted in accordance with Chapter 119. of the Revised Code.

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

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

(2) A licensed terminal distributor of dangerous drugs having more than one licensed location may transfer or deliver dangerous drugs from one licensed location to another licensed location owned by the terminal distributor if the license issued for each location is in effect at the time of the transfer or delivery.

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

(a) Overdose reversal drugs;

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

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

(B) No licensed manufacturer, outsourcing facility, third-party logistics provider,

repackager, or wholesale distributor shall possess for sale, sell, or distribute, at wholesale, dangerous drugs or investigational drugs or products to any person other than the following:

- (1) Subject to division (D) of this section, a licensed terminal distributor of dangerous drugs;
- (2) Subject to division (C) of this section, any person exempt from licensure as a terminal distributor of dangerous drugs under section 4729.541 of the Revised Code;
- (3) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;
- (4) A terminal distributor, manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor that is located in another state, is not engaged in the sale of dangerous drugs within this state, and is actively licensed to engage in the sale of dangerous drugs by the state in which the distributor conducts business.

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

- (1) A prescriber who is employed by a pain management clinic that is not licensed as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code;
- (2) A business entity described in division (A)(2) or (3) of section 4729.541 of the Revised Code that is, or is operating, a pain management clinic without a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code.

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

- (1) In the case of a terminal distributor with a category II license, only dangerous drugs in category II, as defined in division (A)(1) of section 4729.54 of the Revised Code;
- (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;
- (3) In the case of a terminal distributor with a limited category II or III license, only the dangerous drugs specified in the license.

(E)(1) Except as provided in division (E)(2) of this section, no person shall do any of the following:

- (a) Sell or distribute, at retail, dangerous drugs;
  - (b) Possess for sale, at retail, dangerous drugs;
  - (c) Possess dangerous drugs.
- (2)(a) Divisions (E)(1)(a), (b), and (c) of this section do not apply to any of the following:

(i) A licensed terminal distributor of dangerous drugs;

(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.~~, and 4772. of the Revised Code;

(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.

(b) Division (E)(1)(c) of this section does not apply to any of the following:

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

(ii) Any of the persons identified in divisions (A)(6) to (16) of section 4729.541 of the Revised Code, but only to the extent specified in that section.

(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:

(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.

(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.

(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.

(H) Nothing in this section shall be construed to interfere with the performance of official duties by any law enforcement official authorized by municipal, county, state, or federal law to collect samples of any drug, regardless of its nature or in whose possession it may be.

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

Sec. 4729.554. (A) As used in this section:

(1) "Remote dispensing pharmacy" means a pharmacy where the dispensing of drugs, patient



counseling, and other pharmacist care is provided through a telepharmacy system. The dispensing of drugs at a remote dispensing pharmacy may include the dispensing of drug therapy related devices.

(2) "Telepharmacy system" means a system that monitors the dispensing of drugs and provides for related drug utilization review and patient counseling services by an electronic method.

(B) The state board of pharmacy shall regulate remote dispensing pharmacies in accordance with this section. A remote dispensing pharmacy may operate only by using a telepharmacy system that meets standards established in rules adopted under this section and by complying with all other requirements of this section and the rules adopted under it for operating a remote dispensing pharmacy.

(C)(1) To be eligible to operate as a remote dispensing pharmacy, a pharmacy shall meet all of the following conditions:

(a) Be licensed under this chapter as a terminal distributor of dangerous drugs;

(b) Be located in this state, in a building that is zoned for commercial use, and in an area that meets the conditions of division (C)(2) of this section;

(c) Have a supervising pharmacy that meets the requirements of division (D) of this section and a supervising pharmacist that meets the requirements of division (E) of this section;

(d) Be staffed by two or more pharmacy interns or certified pharmacy technicians who meet qualifications and training requirements established in rules adopted under this section.

(2)(a) Except as provided in division (C)(2)(b) of this section, a remote dispensing pharmacy shall not be located within a ten-mile radius of a pharmacy that serves the public as an outpatient pharmacy.

(b) A remote dispensing pharmacy may be located within the ten-mile radius that constitutes an excluded area for location, as described in division (C)(2)(a) of this section, if either of the following is the case:

(i) The remote dispensing pharmacy is part of a federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code, and the remote dispensing pharmacy is located on the same property as, or on a campus contiguous to, the health center or look-alike.

(ii) The board, based on a demonstration of need that meets the standards established in rules adopted under this section, approves a request submitted to the board to allow the remote dispensing pharmacy to be located within the ten-mile radius.

(c) As part of the process the board uses to consider requests received under division (C)(2)(b)(ii) of this section, the board shall establish a method by which persons may register to receive notice from the board of requests received under that division. The board also shall establish a system for accepting comments from the public regarding the requests.

When the board receives a request under division (C)(2)(b)(ii) of this section, it shall electronically notify any person who has registered to be notified. During the sixty-day period that begins on the date that the board sends the electronic notices, a pharmacy may submit a request to

the board for approval as a location for operation of a remote dispensing pharmacy.

On the same date that the electronic notices are sent, the board shall post notice on its internet web site that comments from the public will be accepted regarding the request received under division (C)(2)(b)(ii) of this section. The board shall accept the comments only during the sixty-day period that begins on the date the electronic notices are sent.

At the board's next regularly scheduled meeting that occurs on or after the date that is ninety days after the electronic notices are sent, the board shall review all of the requests received and make its determination of whether any should be approved. As part of the board's determination, the board shall consider the following:

(i) Any comments received from the public;

(ii) The geographic proximity of a supervising pharmacy to a proposed remote dispensing pharmacy;

(iii) Any other standards specified in rules adopted under division (H) of this section.

(D)(1) To be eligible to serve as the supervising pharmacy of a remote dispensing pharmacy, a pharmacy shall meet all of the following conditions:

(a) Be licensed under this chapter as a terminal distributor of dangerous drugs;

(b) Be physically located in this state;

(c) Be under common ownership and control with the remote dispensing pharmacy or, pursuant to a contract that meets requirements specified in rules adopted under this section, operate under contract with the remote dispensing pharmacy.

(2) In serving as a supervising pharmacy, the supervising pharmacy shall control the telepharmacy system used by the remote dispensing pharmacy and shall employ or contract with the supervising pharmacist of the remote dispensing pharmacy.

(E)(1) To be eligible to serve as the supervising pharmacist of a remote dispensing pharmacy, a pharmacist shall meet all of the following conditions:

(a) Be licensed under this chapter as a pharmacist;

(b) Be physically located in this state when acting as the supervising pharmacist;

(c) Be employed by or under contract with the supervising pharmacy.

(2) In serving as a supervising pharmacist, the supervising pharmacist shall do all of the following:

(a) Be in full and actual charge of the remote dispensing pharmacy by using the pharmacy's telepharmacy system and by using a surveillance system that meets standards established in rules adopted under this section;

(b) Through the telepharmacy system and surveillance system, oversee the pharmacy interns and certified pharmacy technicians who are staffing the remote dispensing pharmacy;

(c) Verify each prescription and drug dispensed pursuant to the prescription before the drug leaves the remote dispensing pharmacy and provide the verification through visual review and the use of barcoding and any other technology required in rules adopted under this section;

(d) Offer to provide the service of counseling for each drug dispensed pursuant to a new prescription for a patient at the remote dispensing pharmacy.

(3) Unless otherwise approved by the board in accordance with standards established in rules adopted under this section, a supervising pharmacist shall not simultaneously oversee the activities of more than one remote dispensing pharmacy.

(F) All of the following apply to the operation of a remote dispensing pharmacy:

(1) Unless otherwise approved by the board, a remote dispensing pharmacy shall not dispense drugs pursuant to more than an average of one hundred fifty prescriptions per day during a ninety-day period.

(2) A remote dispensing pharmacy shall implement a quality assurance plan to ensure that there is a planned and systematic process for monitoring and evaluating the quality and appropriateness of the pharmacy services being provided and for identifying and resolving problems.

(3) A remote dispensing pharmacy that holds a category III terminal distributor of dangerous drugs license shall maintain a perpetual controlled substance inventory, as specified in rules adopted under this section.

(G) Notwithstanding section 4729.91 of the Revised Code or any other section of this chapter to the contrary, both of the following apply to a pharmacy intern or certified pharmacy technician staffing a remote dispensing pharmacy:

(1) The intern or technician may assist in the process of dispensing drugs at the pharmacy.

(2) The intern or technician shall not do any of the following:

(a) Counsel an individual regarding drugs that are dispensed, recommend drugs and drug therapy related devices or otherwise provide advice regarding drug therapy, or assist with selecting drugs and drug therapy related devices for treatment of common diseases and injuries or assist with providing instruction on their use;

(b) Perform compounding of sterile or nonsterile drugs, except for the reconstitution of prepackaged dangerous drugs;

(c) Engage in the repackaging of dangerous drugs;

(d) Administer immunizations or perform diagnostic testing, unless a pharmacist is onsite to provide direct supervision;

(e) Perform any other activity prohibited by rules adopted under this section.

(H) The board shall adopt rules for purposes of its regulation of remote dispensing pharmacies. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and include all of the following:

(1) Standards for a system of continuous video surveillance and recording of remote dispensing pharmacies, including standards for both of the following:

(a) An adequate number of views of the entire remote dispensing pharmacy to ensure that the supervising pharmacist can maintain oversight;

(b) Retention of each recording made by the system for at least sixty days after the date of

the recording.

(2) Standards for telepharmacy systems and surveillance systems used by remote dispensing pharmacies, supervising pharmacies, and supervising pharmacists, including standards to ensure that the systems are capable of all of the following:

(a) Facilitating a safe and secured method for appropriate pharmacist supervision;

(b) Allowing an appropriate exchange of visual, verbal, and written communications for patient counseling and other pharmacy services;

(c) Being secure and compliant with the "Health Insurance Portability and Accountability Act of 1996," 42 U.S.C. 1320d et seq.

(3) Requirements for any contract between a supervising pharmacy and a remote dispensing pharmacy;

(4) Standards that must be met to make a demonstration of need for purposes of division (C) (2)(b)(ii) of this section;

(5) Requirements for the implementation of a quality assurance plan by a remote dispensing pharmacy;

(6) The qualifications and training necessary for pharmacy interns and certified pharmacy technicians who staff remote dispensing pharmacies, including the number of experiential hours required;

(7) Any additional activities that pharmacy interns and certified pharmacy technicians staffing remote dispensing pharmacies are prohibited from performing;

(8) The number of pharmacy interns and certified pharmacy technicians that a supervising pharmacist may supervise at any given time;

(9) The maximum distance a supervising pharmacist may be physically located from the remote dispensing pharmacy;

(10) Standards for remote patient counseling by a supervising pharmacist, including the counseling that is required to be offered for each drug dispensed pursuant to a new prescription for a patient by the remote dispensing pharmacy;

(11) Standards for and frequency of inspection of a remote dispensing pharmacy by the supervising pharmacist;

(12) Requirements for the closure of a remote dispensing pharmacy if the required telepharmacy system or surveillance system, or any related security system used by or for the pharmacy, is malfunctioning;

(13) Requirements related to perpetual controlled substance inventories;

(14) Security requirements for remote dispensing pharmacies that include methods for supervising pharmacists to determine who has accessed the pharmacy;

(15) Standards by which a supervising pharmacist may be approved by the board to oversee simultaneously more than one remote dispensing pharmacy;

(16) Requirements for a remote dispensing pharmacy's responsible person, as that term is

defined in rules adopted by the board:

(17) Any other standards or procedures the board considers necessary to implement this section.

Sec. 4729.921. (A) An applicant for registration as a pharmacy technician trainee shall file with the state board of pharmacy an application in the form and manner prescribed in rules adopted under section 4729.94 of the Revised Code. The application shall be accompanied by an application fee of twenty-five dollars, which shall not be returned if the applicant fails to qualify for registration.

If the board is satisfied that an applicant meets the requirements of section 4729.92 of the Revised Code and any additional requirements established by the board and determines that the results of a criminal records check do not make the applicant ineligible, the board shall register the applicant as a pharmacy technician trainee.

(B)(1) The board shall register as a pharmacy technician trainee in accordance with Chapter 4796. of the Revised Code an applicant who either holds a license or is registered in another state or has satisfactory work experience, a government certification, or a private certification as described in that chapter as a pharmacy technician trainee in a state that does not issue that license or registration.

(2) The board may register as a pharmacy technician trainee an applicant who is seventeen years of age ~~and if either of the following apply:~~

(a) The applicant possesses a high school diploma or certificate of high school equivalence;

(b) The applicant does not possess a high school diploma or certificate of high school equivalence if the applicant but is enrolled in a career-technical school program that is approved by the board and conducted by a city, exempted village, local, or joint vocational school district.

(C) The board shall not refuse to register an applicant as a pharmacy technician trainee because of a conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) Registration is valid for one year from the date of registration, except that the board may extend the time period for which registration is valid. Registration is not renewable, but an individual may reapply for registration if the individual's previous registration has lapsed for more than five years or the board grants its approval.

Sec. 4731.051. The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing universal blood and body fluid precautions that shall be used by each person who performs exposure prone invasive procedures and is authorized to practice by this chapter or Chapter 4730., 4759., 4760., 4761., 4762., ~~4772.,~~ or 4774. of the Revised Code. The rules shall define and establish requirements for universal blood and body fluid precautions that include the following:

(A) Appropriate use of hand washing;

(B) Disinfection and sterilization of equipment;

(C) Handling and disposal of needles and other sharp instruments;

(D) Wearing and disposal of gloves and other protective garments and devices.

Sec. 4731.07. (A) The state medical board shall keep a record of its proceedings. The minutes of a meeting of the board shall, on approval by the board, constitute an official record of its proceedings.

(B) The board shall keep a register of applicants for licenses and certificates issued under this chapter; licenses issued under Chapters 4730., 4760., 4762., 4772., 4774., and 4778.; and licenses and limited permits issued under Chapters 4759. and 4761. of the Revised Code. The register shall show the name of the applicant and whether the applicant was granted or refused the license, certificate, or limited permit being sought.

With respect to applicants to practice medicine and surgery or osteopathic medicine and surgery, the register shall show the name of the institution that granted the applicant the degree of doctor of medicine or osteopathic medicine. With respect to applicants to practice respiratory care, the register shall show the addresses of the person's last known place of business, the effective date and identification number of the license or limited permit, and, if applicable, the name and location of the institution that granted the person's degree or certificate of completion of respiratory care educational requirements and the date the degree or certificate of completion was issued.

(C) The books and records of the board shall be prima-facie evidence of matters therein contained.

Sec. 4731.071. The state medical board shall develop and publish on its internet web site a directory containing the names of, and business address for, all persons who hold current, valid certificates or licenses issued by the board under this chapter or Chapter 4730., 4759., 4760., 4761., 4762., 4772., 4774., or 4778. of the Revised Code. Except as provided in section 4731.10 of the Revised Code, the directory shall be the sole source for verifying that a person holds a current, valid certificate or license issued by the board.

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

(B) Except as provided in division (P) of this section, the board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to issue a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate for one or more of the following reasons:

(1) Permitting one's name or one's license or certificate to practice to be used by a person,

group, or corporation when the individual concerned is not actually directing the treatment given;

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

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

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports under sections 307.621 to 307.629 of the Revised Code to a child fatality review board; does not include providing any information, documents, or reports under sections 307.631 to 307.6410 of the Revised Code to a drug overdose fatality review committee, a suicide fatality review committee, or hybrid drug overdose fatality and suicide fatality review committee; does not include providing any information, documents, or reports under sections 307.651 to 307.659 of the Revised Code to a domestic violence fatality review board; does not include providing any information, documents, or reports to the director of health pursuant to guidelines established under section 3701.70 of the Revised Code; does not include written notice to a mental health professional under section 4731.62 of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

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

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

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

established;

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

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

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

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

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

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

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

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

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

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

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

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

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



have the same meanings as in section 2305.33 of the Revised Code.

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

In enforcing this division, the board, upon a showing of a possible violation, shall refer any individual who is authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or certificate. For the purpose of this division, any individual who applies for or receives a license or certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

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

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

2305.33 of the Revised Code.

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

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

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

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

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

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

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

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is approved under section 4731.251 of the Revised

Code.

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

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

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

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

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

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

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.

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

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

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

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted

under section 4731.051 of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's medical record;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

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

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

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

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

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

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

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

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

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

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

(43) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of

the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;

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

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

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

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

(48) Failure to comply with the requirements of section 4731.30 of the Revised Code or rules adopted under section 4731.301 of the Revised Code when recommending treatment with medical marijuana;

(49) A pattern of continuous or repeated violations of division (E)(2) or (3) of section 3963.02 of the Revised Code;

(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;

(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;

(52) Failure of a physician supervising a certified mental health assistant to maintain supervision in accordance with the requirements of Chapter 4772. of the Revised Code and the rules adopted under that chapter.

(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.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or certificate to practice or certificate to recommend. The

telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

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

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

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

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

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

participate in further adjudication of the case.

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

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

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

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

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

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

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

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 or, in the case of a patient, a waiver of the patient privilege exists

under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

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

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

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) The disposition of the case.

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

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

- (1) That there is clear and convincing evidence that an individual has violated division (B) 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 certificate 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 seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

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

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

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

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

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 or 2919.124 of the Revised Code, the board shall enter an order suspending the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's license or certificate to practice.

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

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

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

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

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

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

(2) An application for a license or certificate made under the provisions of this chapter may

not be withdrawn without approval of the board.

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

(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:

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

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

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

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

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

An individual who participates in an individual educational program pursuant to this division

shall pay the financial obligations arising from that educational program.

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

Sec. 4731.224. (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, against any individual holding a valid license or certificate to practice issued pursuant to this chapter, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility. As used in this division, "formal disciplinary action" means any action resulting in the revocation, restriction, reduction, or termination of clinical privileges for violations of professional ethics, or for reasons of medical incompetence or medical malpractice. "Formal disciplinary action" includes a summary action, an action that takes effect notwithstanding any appeal rights that may exist, and an action that results in an individual surrendering clinical privileges while under investigation and during proceedings regarding the action being taken or in return for not being investigated or having proceedings held. "Formal disciplinary action" does not include any action taken for the sole reason of failure to maintain records on a timely basis or failure to attend staff or section meetings.

The filing or nonfiling of a report with the board, investigation by the board, or any disciplinary action taken by the board, shall not preclude any action by a health care facility to suspend, restrict, or revoke the individual's clinical privileges.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(B)(1) Except as provided in division (B)(2) of this section, if any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of any provision of this chapter, Chapter 4730., 4759., 4760., 4761., 4762., ~~4772.~~, 4774., or 4778. of the Revised Code, or any rule of the board has occurred, the individual, association, or society shall report to the board the information upon which the belief is based.

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of division (B)(19) or (26) of section 4731.22 of the Revised Code has occurred, the individual, association, or society shall report the information upon which the belief is based to the monitoring organization conducting the confidential monitoring program established under section 4731.25 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that

the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(C) Any professional association or society composed primarily of doctors of medicine and surgery, doctors of osteopathic medicine and surgery, doctors of podiatric medicine and surgery, or practitioners of limited branches of medicine that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against an individual.

(D) Any insurer providing professional liability insurance to an individual authorized to practice under this chapter, or any other entity that seeks to indemnify the professional liability of such an individual, shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for medical malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the practicing individual.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a health care professional or facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an individual whose practice is regulated under this chapter, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to

health care facility committees within or outside this state that are involved in credentialing or recredentialing the individual or in reviewing the individual's clinical privileges. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the individual who is the subject of the reports or summaries. The individual shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that, pursuant to this section, reports to the board, reports to the monitoring organization described in section 4731.25 of the Revised Code, or refers an impaired practitioner to a treatment provider approved by the board under section 4731.251 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, no professional association or society of individuals authorized to practice under this chapter that sponsors a committee or program to provide peer assistance to practitioners with substance abuse problems, no representative or agent of such a committee or program, no representative or agent of the monitoring organization described in section 4731.25 of the Revised Code, and no member of the state medical board shall be held liable in damages to any person by reason of actions taken to refer a practitioner to a treatment provider approved under section 4731.251 of the Revised Code for examination or treatment.

Sec. 4731.24. Except as provided in sections 4731.281 and 4731.40 of the Revised Code, all receipts of the state medical board, from any source, shall be deposited in the state treasury. The funds shall be deposited to the credit of the state medical board operating fund, which is hereby created. Except as provided in sections 4730.252, 4731.225, 4731.24, 4759.071, 4760.133, 4761.091, 4762.133, ~~4772.203~~, 4774.133, and 4778.141 of the Revised Code, all funds deposited into the state treasury under this section shall be used solely for the administration and enforcement of this chapter and Chapters 4730., 4759., 4760., 4761., 4762., ~~4772.~~, 4774., and 4778. of the Revised Code by the board.

Sec. 4731.25. (A) As used in this section and in sections 4731.251 to 4731.255 of the Revised Code:

(1) "Applicant" means an individual who has applied under Chapter 4730., 4731., 4759., 4760., 4761., 4762., ~~4772.~~, 4774., or 4778. of the Revised Code for a license, training or other certificate, limited permit, or other authority to practice as any one of the following practitioners: a physician assistant, physician, podiatrist, limited branch of medicine practitioner, dietitian, anesthesiologist assistant, respiratory care professional, acupuncturist, certified mental health assistant, radiologist assistant, or genetic counselor. "Applicant" may include an individual who has been granted authority by the state medical board to practice as one type of practitioner, but has

applied for authority to practice as another type of practitioner.

(2) "Impaired" or "impairment" means either or both of the following:

(a) Impairment of ability to practice as described in division (B)(5) of section 4730.25, division (B)(26) of section 4731.22, division (A)(18) of section 4759.07, division (B)(6) of section 4760.13, division (A)(18) of section 4761.09, division (B)(6) of section 4762.13, division (B)(6) of section 4772.20, division (B)(6) of section 4774.13, or division (B)(6) of section 4778.14 of the Revised Code;

(b) Inability to practice as described in division (B)(4) of section 4730.25, division (B)(19) of section 4731.22, division (A)(14) of section 4759.07, division (B)(5) of section 4760.13, division (A)(14) of section 4761.09, division (B)(5) of section 4762.13, division (B)(5) of section 4774.13, or division (B)(5) of section 4778.14 of the Revised Code.

(3) "Practitioner" means any of the following:

(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;

(b) An individual licensed under Chapter 4730. of the Revised Code to practice as a physician assistant;

(c) An individual authorized under Chapter 4759. of the Revised Code to practice as a dietitian;

(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;

(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care;

(f) An individual licensed under Chapter 4762. of the Revised Code to practice as an acupuncturist;

(g) An individual licensed under Chapter 4772. of the Revised Code to practice as a certified mental health assistant;

(h) An individual licensed under Chapter 4774. of the Revised Code to practice as a radiologist assistant;

~~(h)~~-(i) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.

(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.

The board shall contract with a monitoring organization to conduct the program and perform monitoring services. To be qualified to contract with the board, an organization shall meet all of the following requirements:

(1) Be a professionals health program sponsored by one or more professional associations or

societies of practitioners;

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

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

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

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

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

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

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

(4) Determine whether a practitioner reported or applicant referred to the monitoring organization is eligible to participate in the program, which in the case of an applicant may include evaluating records as described in division (E)(1)(d) of this section, and notify the practitioner or applicant of the determination;

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

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

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

(8) Monitor the evaluation of an eligible practitioner;

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

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

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

(12) Perform any other activities specified in the contract with the board or that the



monitoring organization considers necessary to comply with this section and sections 4731.251 to 4731.255 of the Revised Code.

(D) The monitoring organization shall not disclose to the board the name of a practitioner or applicant or any records relating to a practitioner or applicant, unless any of the following occurs:

- (1) The practitioner or applicant is determined to be ineligible to participate in the program.
- (2) The practitioner or applicant requests the disclosure.
- (3) The practitioner or applicant is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring.
- (4) The practitioner or applicant presents an imminent danger to oneself or the public, as a result of the practitioner's or applicant's impairment.
- (5) The practitioner's impairment has not been substantially alleviated by participation in the program.

(E)(1) The monitoring organization shall develop procedures governing each of the following:

- (a) Receiving reports of practitioner impairment;
- (b) Notifying practitioners of reports and eligibility determinations;
- (c) Receiving applicant referrals as described in section 4731.253 of the Revised Code;
- (d) Evaluating records of referred applicants, in particular records from other jurisdictions regarding prior treatment for impairment or current or continued monitoring;
- (e) Notifying applicants of eligibility determinations;
- (f) Referring eligible practitioners for evaluation or treatment;
- (g) Establishing individualized treatment plans for eligible practitioners, as recommended by treatment providers;
- (h) Establishing individualized terms and conditions with which eligible practitioners or applicants must comply for continued participation in and successful completion of the program.

(2) The monitoring organization, in consultation with the board, shall develop procedures governing each of the following:

- (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;
- (b) Reporting to the board any practitioner or applicant who due to impairment presents an imminent danger to oneself or the public;
- (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;
- (d) Reporting to the board any practitioner or applicant whose impairment was not substantially alleviated by participation in the program.

Sec. 4731.251. (A) In addition to the duties described in section 4731.25 of the Revised Code, the monitoring organization shall conduct a review of individuals and entities providing

impairment evaluation and treatment services to determine which should be approved as evaluators and treatment providers by the organization. The individuals and entities may include those with experience providing evaluation and treatment services as part of a professionals health program sponsored by one or more professional associations or societies of practitioners. The monitoring organization shall conduct its review in accordance with criteria developed under this section.

Following its review, the monitoring organization shall grant or deny approval to evaluators and treatment providers, which may include physicians and facilities. The monitoring organization shall prepare a list of evaluators approved to serve under the program and a list of treatment providers approved to serve under the program or as described in division (B)(5) of section 4730.25, division (B)(26) of section 4731.22, division (A)(18) of section 4759.07, division (B)(6) of section 4760.13, division (A)(18) of section 4761.09, division (B)(6) of section 4762.13, division (B)(6) of section 4772.20, division (B)(6) of section 4774.13, or division (B)(6) of section 4778.14 of the Revised Code.

In accordance with criteria developed under this section, the monitoring organization shall periodically review and update the list of approved evaluators and treatment providers, including by examining evaluator and treatment provider outcomes and operations. As part of its periodic review, the organization may approve additional evaluators or treatment providers and add them to the list. The organization also may withdraw approval for evaluators and treatment providers. Such additions and withdrawals shall be reflected in the list.

(B) The monitoring organization and state medical board together shall develop criteria and procedures for the review and approval of impairment evaluators and treatment providers. The criteria and procedures shall address reviews conducted on a periodic basis, including the examination of approved evaluator and treatment provider outcomes and operations.

(C) Separate from the confidential monitoring program established under section 4731.25 of the Revised Code, the board may contract with the monitoring organization to assist the board in monitoring impaired practitioners who are subject to formal disciplinary action by the board.

(D) Any practitioner who is evaluated or treated as part of the confidential monitoring program, who enters into a participation agreement with the monitoring organization, or who is treated by an approved treatment provider shall be deemed to have waived any confidentiality requirements that would otherwise prevent the monitoring organization or treatment provider from making reports required under sections 4731.25 to 4731.255 of the Revised Code.

Sec. 4734.99. (A) Whoever violates section 4734.14 or 4734.141 of the Revised Code is guilty of a felony of the fifth degree on a first offense, unless the offender previously has been convicted of or has pleaded guilty to a violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.40, 2913.47, 2913.48, 2913.51, 2921.13, 4715.09, 4723.03, 4725.02, 4725.41, 4729.27, 4729.28, 4729.36, 4729.51, 4729.61, 4730.02, 4731.41, 4731.43, 4731.46, 4731.47, 4731.60, 4732.21, 4741.18, 4741.19, 4755.48, 4757.02, 4759.02, 4761.10, 4772.02, or 4773.02 of the Revised Code or an offense under an existing or former law of this state, another

state, or the United States that is or was substantially equivalent to a violation of any of those sections, in which case the offender is guilty of a felony of the fourth degree. For each subsequent offense, the offender is guilty of a felony of the fourth degree.

(B) Whoever violates section 4734.161 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (A), (B), (C), or (D) of section 4734.32 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

Sec. 4743.09. (A) As used in this section:

(1) "Durable medical equipment" means a type of equipment, such as a remote monitoring device utilized by a physician, physician assistant, or advanced practice registered nurse in accordance with this section, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, and generally is not useful to a person in the absence of illness or injury and, in addition, includes repair and replacement parts for the equipment.

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

(3) "Health care professional" means:

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

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

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

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

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

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

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

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;

(i) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;

(j) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code;

(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;

(l) An independent chemical dependency counselor licensed under Chapter 4758. of the

Revised Code;

- (m) A dietitian licensed under Chapter 4759. of the Revised Code;
- (n) A respiratory care professional licensed under Chapter 4761. of the Revised Code;
- (o) A genetic counselor licensed under Chapter 4778. of the Revised Code;
- (p) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;
- (q) A certified mental health assistant licensed under Chapter 4772. of the Revised Code.

(4) "Health care professional licensing board" means any of the following:

- (a) The board of nursing;
- (b) The state vision professionals board;
- (c) The state board of pharmacy;
- (d) The state medical board;
- (e) The state board of psychology;
- (f) The state chiropractic board;
- (g) The state speech and hearing professionals board;
- (h) The Ohio occupational therapy, physical therapy, and athletic trainers board;
- (i) The counselor, social worker, and marriage and family therapist board;
- (j) The chemical dependency professionals board.

(5) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.

(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:

- (a) The patient receiving the services;
- (b) Another health care professional with whom the provider of the services is consulting regarding the patient.

(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 requirements of division (F) of section 121.95 of the Revised Code.

(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.

(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.

(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.

(ii) Notwithstanding division (B) of section 3796.01 of the Revised Code, medical marijuana shall not be considered a schedule II controlled substance.

(C) With respect to the provision of telehealth services, all of the following apply:

(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.

(2) A health care professional may deny a patient telehealth services and, instead, require the patient to undergo an in-person visit.

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

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

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

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

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

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

(E)(1) A health care professional providing telehealth services shall not charge a patient or a health plan issuer 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. 4765.51. Nothing in this chapter prevents or restricts the practice, services, or activities of any registered nurse practicing within the scope of the registered nurse's practice.

Nothing in this chapter prevents or restricts the practice, services, or activities of any physician assistant practicing in accordance with a supervision agreement entered into under section 4730.19 of the Revised Code, including, if applicable, the policies of the health care facility in which the physician assistant is practicing.

Nothing in this chapter prevents or restricts the practice, services, or activities of any certified mental health assistant practicing in accordance with a supervision agreement entered into under section 4772.10 of the Revised Code.

Sec. 4769.01. As used in this chapter:

(A) "Medicare" means the program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) "Balance billing" means charging or collecting from a medicare beneficiary an amount in excess of the medicare reimbursement rate for medicare-covered services or supplies provided to a medicare beneficiary, except when medicare is the secondary insurer. When medicare is the secondary insurer, the health care practitioner may pursue full reimbursement under the terms and conditions of the primary coverage and, if applicable, the charge allowed under the terms and conditions of the appropriate provider contract, from the primary insurer, but the medicare beneficiary cannot be balance billed above the medicare reimbursement rate for a medicare-covered service or supply. "Balance billing" does not include charging or collecting deductibles or coinsurance required by the program.

(C) "Health care practitioner" means all of the following:

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

(2) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(3) An optometrist licensed under Chapter 4725. of the Revised Code;

(4) A dispensing optician, spectacle dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;

- (5) A pharmacist licensed under Chapter 4729. of the Revised Code;
  - (6) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;
  - (7) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;
  - (8) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;
  - (9) A psychologist licensed under Chapter 4732. of the Revised Code;
  - (10) A chiropractor licensed under Chapter 4734. of the Revised Code;
  - (11) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;
  - (12) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
  - (13) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;
  - (14) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;
  - (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;
  - (16) A dietitian licensed under Chapter 4759. of the Revised Code;
  - (17) A respiratory care professional licensed under Chapter 4761. of the Revised Code;
  - (18) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code;
  - (19) A certified mental health assistant licensed under Chapter 4772. of the Revised Code. Sec. 4772.01. As used in this chapter:
    - (A) "Certified mental health assistant" means an individual who, under physician supervision, provides mental health care by engaging in any of the activities authorized under section 4772.09 of the Revised Code.
    - (B) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.
    - (C) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.
    - (D) "Medication-assisted treatment" has the same meaning as in section 340.01 of the Revised Code.
    - (E) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.
- Sec. 4772.02. (A) No person shall hold that person out as being able to function as a certified mental health assistant, or use any words or letters indicating or implying that the person is a certified mental health assistant, without a current, valid license to practice as a certified mental

health assistant issued pursuant to this chapter.

(B) No person shall practice as a certified mental health assistant without the supervision, control, and direction of a physician.

(C) No person shall practice as a certified mental health assistant without having entered into a supervision agreement with a supervising physician under section 4772.10 of the Revised Code.

(D) No person acting as the supervising physician of a certified mental health assistant shall authorize the certified mental health assistant to perform services if either of the following is the case:

(1) The services are not within the physician's normal course of practice and expertise.

(2) The services are inconsistent with the supervision agreement under which the certified mental health assistant is being supervised.

(E) No person shall advertise to provide services as a certified mental health assistant, except for the purpose of seeking employment.

(F) No person practicing as a certified mental health assistant shall fail to wear at all times when on duty a placard, plate, or other device identifying that person as a "certified mental health assistant."

Sec. 4772.03. Nothing in this chapter shall:

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

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

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

(B) Prevent any person from performing any of the services a certified mental health assistant may be authorized to perform, if the person's professional scope of practice established under any other chapter of the Revised Code authorizes the person to perform the services;

(C) Prohibit a physician from delegating responsibilities to any nurse or other qualified person who does not hold a license to practice as a certified mental health assistant, provided that the nurse or other qualified person is not held out to be a certified mental health assistant;

(D) Be construed as authorizing a certified mental health assistant 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 in any setting, except to the extent that the certified mental health assistant is authorized to do so by a physician who is responsible for supervising the certified mental health assistant.

Sec. 4772.04. (A) An individual seeking a license to practice as a certified mental health assistant shall file with the state medical board a written application on a form prescribed and supplied by the board. The application shall include all the information the board considers necessary to process the application, including evidence satisfactory to the board that the applicant meets the requirements specified in division (B) of this section.



At the time an application is submitted, the applicant shall pay the board the application fee specified by the board in rules adopted under section 4772.19 of the Revised Code. No part of the fee shall be returned.

(B) To be eligible to receive a license to practice as a certified mental health assistant, an applicant shall meet all of the following requirements:

(1) Be at least eighteen years of age;

(2) Hold a bachelor's degree in any field of study obtained from an accredited educational institution;

(3) Meet either of the following additional educational requirements:

(a) Hold a master's or higher degree obtained from a certified mental health assistant program, as described in section 4772.05 of the Revised Code;

(b) Meet both of the following requirements:

(i) Hold a diploma from a medical school or osteopathic medical school that, at the time the diploma was issued, was a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American osteopathic association;

(ii) Have completed twelve months of coursework from a certified mental health assistant program, as described in section 4772.05 of the Revised Code.

(C) The board shall review all applications received under this section. Not later than sixty days after receiving an application the board considers to be complete, the board shall determine whether the applicant meets the requirements to receive a license to practice as a certified mental health assistant.

Sec. 4772.041. In addition to any other eligibility requirement set forth in this chapter, each applicant for a license to practice as a certified mental health assistant shall comply with sections 4776.01 to 4776.04 of the Revised Code.

Sec. 4772.05. (A) To constitute a certified mental health assistant program for purposes of section 4772.04 of the Revised Code, an education program approved by the chancellor of higher education shall be at least thirty credit hours of graduate coursework that includes courses in each of the following areas:

(1) Psychiatric diagnoses included in the diagnostic and statistical manual of mental disorders published by the American psychiatric association;

(2) Laboratory studies used in diagnosing or managing psychiatric conditions;

(3) Medical conditions that mimic or present as psychiatric conditions;

(4) Medical conditions associated with psychiatric conditions or treatment;

(5) Psychopharmacology, including treatment of psychiatric conditions, interactions, and recognition and management of drug side effects and complications;

(6) Psychosocial interventions;

(7) Conducting suicide and homicide risk assessments;

(8) Forensic issues in psychiatry;

(9) Basic behavioral health counseling;

(10) Clinical experiences in inpatient psychiatric units, outpatient mental health clinics, psychiatric consultation and liaison services, and addiction services.

(B) The chancellor of higher education, in the process of approving or disapproving the certified mental health assistant program, shall consider feedback and recommendations from the advisory committee created pursuant to division (C) of this section.

(C)(1) An advisory committee on certified mental health assistant programs is created within the state medical board. The committee shall consist of five members appointed by the board's executive director. The following organizations may recommend appointments to the executive director for consideration:

(a) Ohio state medical association;

(b) Northeast Ohio medical university;

(c) Ohio psychiatric physicians association.

(2) The executive director shall appoint initial members and fill vacancies after considering the recommendations the executive director receives. If the executive director does not receive any recommendations or receives an insufficient number of recommendations, the executive director shall appoint members and fill vacancies on the executive director's own advice.

Initial appointments to the committee shall be made not later than sixty days after the effective date of this section. Subject to division (C)(4) of this section regarding the duration of the committee, all of the following apply:

(a) Of the initial appointments described in division (C)(1) of this section, two shall be for terms of one year and three shall be for terms of two years. Thereafter, terms shall be for two years, with each term ending on the same day of the same month as did the term that it succeeds.

(b) Members may be reappointed;

(c) Vacancies shall be filled in the same manner as appointments;

(d) When the term of any member expires, a successor shall be appointed in the same manner as the initial appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed holds office for the remainder of that term.

(e) A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(3) The committee shall organize by selecting a chairperson from among its members. The committee may select a new chairperson at any time. Three members constitute a quorum for the transaction of official business. Meetings may be conducted by virtual means, at the discretion of the chairperson. Notwithstanding division (C) of section 121.22 of the Revised Code, a committee member who attends a meeting by virtual means is considered present in person at the meeting, may vote at the meeting, and is counted for purposes of determining whether a quorum is present at the

meeting.

Members shall serve without compensation but receive payment for their actual and necessary expenses incurred in the performance of their official duties. The expenses shall be paid by the board.

(4) The committee shall advise the board and the department of higher education regarding certified mental health assistant programs until such time that there is a national accrediting body for certified mental health assistants. Until there is a national accrediting body, the committee, in providing feedback and recommendations, shall reference the physician assistant accrediting standards from the accreditation review commission on education for the physician assistant. Once there is a national accrediting body, the committee ceases to exist.

Sec. 4772.06. If the state medical board determines under section 4772.04 of the Revised Code that an applicant meets the requirements for a license to practice as a certified mental health assistant, the secretary of the board shall register the applicant as a certified mental health assistant and issue to the applicant a license to practice as a certified mental health assistant. The license shall be valid for a two-year period unless revoked or suspended, 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 section 4772.08 of the Revised Code.

Sec. 4772.07. On application by the holder of a license to practice as a certified mental health assistant, the state medical board shall issue a duplicate license to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for a duplicate license is thirty-five dollars.

Sec. 4772.08. (A) An individual seeking to renew a license to practice as a certified mental health assistant shall, on or before the license's expiration date, apply to the state medical board for renewal. The board shall provide renewal notices to license holders at least one month prior to the expiration date.

Renewal applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee specified by the board in rules adopted under section 4772.19 of the Revised Code.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a license under section 4772.20 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 a certified mental health assistant.

(B) To be eligible for renewal, a certified mental health assistant shall certify to the board that the assistant has complied with the renewal eligibility requirements established under section 4772.081 of the Revised Code that pertain to the applicant.

(C) If an applicant submits a renewal application that the board considers to be complete and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a

renewed license to practice as a certified mental health assistant.

(D) The board may require a random sample of license holders to submit materials documenting that the continuing education requirements of section 4772.081 of the Revised Code, and any other continuing education required by the board's rules, have been satisfied.

Division (D) of this section does not limit the board's authority to conduct investigations pursuant to section 4772.20 of the Revised Code.

(E) A license that is not renewed on or before its expiration date is automatically suspended on its expiration date, subject to the provisions of section 119.06 of the Revised Code specifying that an applicant who appropriately files a renewal application is not required to discontinue practicing merely because the board has failed to act on the application.

If a license has been suspended pursuant to this division for two years or less, the board shall reinstate the license upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement is fifty dollars.

If a license has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4772.082 of the Revised Code, the board may restore the license upon an applicant's submission of a restoration application, the biennial renewal fee, the applicable monetary penalty, and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a license unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4772.06 of the Revised Code. The penalty for restoration is one hundred dollars.

(F)(1) If, through a random sample conducted under division (D) of this section or any other means, the board finds that an individual who certified completion of the continuing education required to renew, reinstate, or restore a license to practice did not complete the requisite continuing medical education, the board may do either of the following:

(a) Take disciplinary action against the individual under section 4772.20 of the Revised Code, impose a civil penalty, or both;

(b) Permit the individual to agree in writing to complete the continuing medical education and pay a civil penalty.

(2) The board's finding in any disciplinary action taken under division (F)(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.

(3) A civil penalty imposed under division (F)(1)(a) of this section or paid under division (F)(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.

Sec. 4772.081. (A) To be eligible for renewal of a license to practice as a certified mental health assistant, an applicant who has been granted physician-delegated prescriptive authority by the physician supervising the certified mental health assistant is subject to both of the following:

(1) The applicant shall complete every two years at least twelve hours of continuing education in pharmacology obtained through a program or course approved by the state medical board or a person the board has authorized to approve continuing pharmacology education programs and courses. Except as provided in section 5903.12 of the Revised Code, the continuing education shall be completed not later than the date on which the applicant's license expires.

(2)(a) Except as provided in division (A)(2)(b) of this section, in the case of an applicant who prescribes opioid analgesics or benzodiazepines, as defined in section 3719.01 of the Revised Code, the applicant shall certify to the board whether the applicant has been granted access to the drug database.

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

(i) The state board of pharmacy notifies the state medical board pursuant to section 4729.861 of the Revised Code that the applicant has been restricted from obtaining further information from the drug database.

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

(iii) The applicant does not practice as a certified mental health assistant in this state.

(c) If an applicant certifies to the state medical board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the applicant has not been granted access, the board may take action under section 4772.20 of the Revised Code.

(B) The state medical board shall provide for pro rata reductions by month of the number of hours of continuing education in pharmacology that is required to be completed for certified mental health assistants who have been disabled due to illness or accident or have been absent from the country. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, as necessary to implement this division.

(C) The continuing education required by this section is in addition to any other continuing education required by the board's rules.

(D) If the board chooses to authorize persons to approve continuing pharmacology education programs and courses, it shall establish standards for granting that authority and grant the authority in accordance with the standards.

Sec. 4772.082. (A) This section applies to both of the following:

(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;

(2) An applicant seeking issuance of a license pursuant to this chapter who for more than two years has not been practicing as a certified mental health assistant as either of the following:

(a) An active practitioner;

(b) A student in an academic program as described in section 4772.04 of the Revised Code.

(B) Before issuing a license to an applicant subject to this section or restoring a license to good standing for an applicant subject to this section, the state medical board may impose terms and

conditions including any one or more of the following:

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

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

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

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

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

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

The board shall consider the moral background and the activities of the applicant during the period of suspension or inactivity. The board shall not issue or restore a license under this section unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

Sec. 4772.09. A license to practice as a certified mental health assistant issued under this chapter authorizes the holder to practice as a certified mental health assistant as follows:

(A) The certified mental health assistant shall practice only under the supervision, control, and direction of a physician with whom the certified mental health assistant has entered into a supervision agreement under section 4772.10 of the Revised Code.

(B) The certified mental health assistant shall practice in accordance with the supervision agreement entered into with the physician who is responsible for supervising the certified mental health assistant.

(C) Subject to division (D) of this section, a certified mental health assistant licensed under this chapter may perform any of the following services authorized by the supervising physician that are part of the supervising physician's normal course of practice and expertise:

(1) Ordering diagnostic, therapeutic, and other medical services as appropriate based on a patient's diagnosis that has been made in accordance with division (D) of this section;

(2) Ordering, prescribing, personally furnishing, and administering drugs and medical devices in accordance with sections 4772.12 to 4772.15 of the Revised Code;

(3) Ordering occupational therapy or referring a patient to an occupational therapist for occupational therapy, if related to a diagnosis that has been made in accordance with division (D) of this section;

(4) Referring a patient to emergency medical services for acute safety concerns, provided the certified mental health assistant consults with the assistant's supervising physician as soon as possible thereafter.

(D) A certified mental health assistant shall not do any of the following:

(1) Make an initial diagnosis;

(2) Treat a patient for any diagnosis or condition not found in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association, or a similar publication if designated by the board;

(3) Engage in electroconvulsive therapy, transcranial magnetic stimulation, or any other intervention designated as invasive by the board's rules.

Sec. 4772.091. A certified mental health assistant may provide telehealth services in accordance with section 4743.09 of the Revised Code.

Sec. 4772.092. (A) Acting pursuant to a supervision agreement, a certified mental health assistant may delegate performance of a task to implement a patient's plan of care or, if the conditions in division (C) of this section are met, may delegate administration of a drug. Subject to division (D) of section 4772.03 of the Revised Code, delegation may be to any person. The certified mental health assistant must be physically present at the location where the task is performed or the drug administered.

(B) Prior to delegating a task or administration of a drug, a certified mental health assistant shall determine that the task or drug is appropriate for the patient and the person to whom the delegation is to be made may safely perform the task or administer the drug.

(C) A certified mental health assistant may delegate administration of a drug only if all of the following conditions are met:

(1) The certified mental health assistant has been granted physician-delegated prescriptive authority by the physician supervising the certified mental health assistant and is authorized to prescribe the drug.

(2) The drug is not a controlled substance.

(3) The drug will not be administered intravenously.

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

(D) A person not otherwise authorized to administer a drug or perform a specific task may do so in accordance with a certified mental health assistant's delegation under this section.

Sec. 4772.10. (A) Before initiating supervision of one or more certified mental health assistants licensed under this chapter, a physician shall enter into a supervision agreement with each certified mental health assistant who will be supervised. A supervision agreement may apply to one or more certified mental health assistants, but, except as provided in division (B)(5) of this section, may apply to not more than one physician. The supervision agreement shall specify that the physician agrees to supervise the certified mental health assistant and the certified mental health assistant agrees to practice under that physician's supervision.

The agreement shall clearly state that the supervising physician is legally responsible and

assumes legal liability for the services provided by the certified mental health assistant. The agreement shall be signed by the physician and the certified mental health assistant.

(B) A supervision agreement shall include terms that specify all of the following:

(1) The responsibilities to be fulfilled by the physician in supervising the certified mental health assistant;

(2) The responsibilities to be fulfilled by the certified mental health assistant when performing services under the physician's supervision;

(3) Any limitations on the responsibilities to be fulfilled by the certified mental health assistant;

(4) The circumstances under which the certified mental health assistant is required to refer a patient to the supervising physician;

(5) 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.

(C) A supervision agreement may be amended to modify the responsibilities of one or more certified mental health assistants or to include one or more additional certified mental health assistants.

(D) 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 certified mental health assistant who entered into the supervision agreement shall retain a copy of the agreement in the records maintained by the certified mental health assistant.

(E)(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 4772.20 of the Revised Code, impose a civil penalty, or both:

(a) That a certified mental health assistant has practiced in a manner that departs from, or fails to conform to, the terms of a supervision agreement entered into under this section;

(b) That a physician has supervised a certified mental health assistant in a manner that departs from, or fails to conform to, the terms of a supervision agreement entered into under this section;

(c) That a physician or certified mental health assistant failed to comply with division (A) or (B) of this section.

(2) If the board finds, through a review conducted under this section or through any other means, that a physician or certified mental health assistant failed to comply with division (D) of this section, the board may do either of the following:

(a) Take disciplinary action against the individual under section 4731.22 or 4772.20 of the Revised Code, impose a civil penalty, or both;

(b) Permit the individual to agree in writing to update the records to comply with division (D) of this section and pay a civil penalty.



(3) The board's finding in any disciplinary action taken under division (E) of this section shall be made pursuant to an adjudication conducted under Chapter 119. of the Revised Code.

(4) A civil penalty imposed under division (E)(1) or (2)(a) of this section or paid under division (E)(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.

Sec. 4772.11. (A) The supervising physician of a certified mental health assistant exercises supervision, control, and direction of the certified mental health assistant. A certified mental health assistant may practice in any setting within which the supervising physician has supervision, control, and direction of the certified mental health assistant.

In supervising a certified mental health assistant, all of the following apply:

(1)(a) Except as provided in division (A)(1)(b) of this section, the supervising physician shall be continuously available for direct communication with the certified mental health assistant by either of the following means:

(i) Being physically present at the location where the certified mental health assistant is practicing:

(ii) Being readily available to the certified mental health assistant through some means of telecommunication and being in a location that is a distance from the location where the certified mental health assistant is practicing that reasonably allows the physician to assure proper care of patients.

(b) During the first one thousand hours of a certified mental health assistant's practice, including any exercise of prescriptive authority, the supervising physician shall be continuously available for direct communication with the certified mental health assistant only by being physically present at the location where the certified mental health assistant is practicing. This division does not require that the supervising physician be in the same room as the certified mental health assistant.

(2) Prior to a certified mental health assistant providing services to a patient, the supervising physician must have evaluated the patient and diagnosed the patient with a diagnosis or condition found in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association, or a similar publication if designated by the state medical board.

(3)(a) After the initial diagnosis, the supervising physician shall personally and actively review the certified mental health assistant's professional activities, on not less than a weekly basis.

(b)(i) Except as provided in division (A)(3)(b)(ii) of this section, the supervising physician must reevaluate the patient not less than every two years, and sooner if there is a significant change in the patient's condition or possible change in the patient's diagnosis.

(ii) The supervising physician shall reevaluate a patient annually if the patient has been prescribed by a certified mental health assistant, in accordance with section 4772.13 of the Revised Code, a controlled substance related to a diagnosis or condition found in the most recent edition of

the diagnostic and statistical manual of mental disorders published by the American psychiatric association, or a similar publication if designated by the board.

(4) The supervising physician shall comply with the quality assurance standards established by the board in rules adopted pursuant to section 4772.19 of the Revised Code. The supervising physician may perform other quality assurance activities that the supervising physician considers to be appropriate.

(5) The supervising physician shall regularly perform any other reviews of the certified mental health assistant that the supervising physician considers necessary.

(B) A physician may enter into supervision agreements with any number of certified mental health assistants, but the physician may not supervise more than five certified mental health assistants at any one time. A certified mental health assistant may enter into supervision agreements with any number of supervising physicians.

(C) A supervising physician may authorize a certified mental health assistant to perform a service only if the physician is satisfied that the certified mental health assistant is capable of competently performing the service. A supervising physician shall not authorize a certified mental health assistant to perform any service that is beyond the physician's or the certified mental health assistant's normal course of practice and expertise.

(D) Each time a certified mental health assistant writes a medical order, including prescriptions written in the exercise of physician-delegated prescriptive authority, the certified mental health assistant shall sign the form on which the order is written and record on the form the time and date that the order is written.

(E) When performing authorized services, a certified mental health assistant acts as the agent of the certified mental health assistant's supervising physician. The supervising physician is legally responsible and assumes legal liability for the services provided by the certified mental health assistant.

The physician is not responsible or liable for any services provided by the certified mental health assistant after their supervision agreement expires or is terminated.

Sec. 4772.12. (A) A license issued by the state medical board under section 4772.06 of the Revised Code authorizes the license holder to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority.

(B) In exercising physician-delegated prescriptive authority, a certified mental health assistant is subject to section 4772.13 of the Revised Code and all of the following:

(1) The certified mental health assistant shall exercise physician-delegated prescriptive authority only to the extent that the physician supervising the certified mental health assistant has granted that authority.

(2)(a) The certified mental health assistant shall comply with all conditions placed on the physician-delegated prescriptive authority, as specified by the supervising physician who is supervising the certified mental health assistant in the exercise of physician-delegated prescriptive

authority. If conditions are placed on that authority, the supervising physician shall maintain a written record of the conditions and make the record available to the state medical board on request.

(b) The conditions that a supervising physician may place on the physician-delegated prescriptive authority granted to a certified mental health assistant include the following:

(i) Identification by class and specific generic nomenclature of drugs and therapeutic devices that the physician chooses not to permit the certified mental health assistant to prescribe;

(ii) Limitations on the dosage units or refills that the certified mental health assistant is authorized to prescribe;

(iii) Specification of circumstances under which the certified mental health assistant is required to refer patients to the supervising physician or another physician when exercising physician-delegated prescriptive authority;

(iv) Responsibilities to be fulfilled by the physician in supervising the certified mental health assistant that are not otherwise specified in the supervision agreement or otherwise required by this chapter.

(3) If the certified mental health assistant possesses physician-delegated prescriptive authority for controlled substances, both of the following apply:

(a) The certified mental health assistant shall register with the federal drug enforcement administration.

(b) The certified mental health assistant shall comply with section 4772.13 of the Revised Code.

(4) If the certified mental health assistant possesses physician-delegated prescriptive authority to prescribe for a minor an opioid analgesic, as those terms are defined in sections 3719.01 and 3719.061 of the Revised Code, respectively, the certified mental health assistant shall comply with section 3719.061 of the Revised Code.

(C) A certified mental health assistant shall not prescribe any drug in violation of state or federal law.

Sec. 4772.13. (A) Subject to division (B) of this section, a certified mental health assistant may prescribe to a patient a controlled substance only if the controlled substance is one of the following:

(1) Buprenorphine, but only for a patient that is actively engaged in opioid use disorder treatment;

(2) A benzodiazepine, but only in the following circumstances:

(a) For a patient diagnosed by the supervising physician as having a chronic anxiety disorder;

(b) For a patient with acute anxiety or agitation, but only in an amount indicated for a period not to exceed seven days.

(3) A stimulant that has been approved by the federal food and drug administration for the treatment of attention deficit hyperactivity disorder, but only if the supervising physician has

diagnosed the patient with, or confirmed the patient's diagnosis of, attention deficit hyper activity disorder.

(B) Except as provided in division (C) of this section, a certified mental health assistant licensed under this chapter who has been granted physician-delegated prescriptive authority by the physician supervising the certified mental health assistant shall comply with all of the following as conditions of prescribing a controlled substance identified in division (A) of this section as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing the drug, the certified mental health assistant or the certified mental health assistant's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the certified mental health assistant practices primarily in a county of this state that adjoins another state, the certified mental health assistant or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

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

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

(C) Division (B) of this section does not apply in any of the following circumstances:

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

(2) The drug is prescribed in an amount indicated for a period not to exceed seven days.

(3) The drug is prescribed to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

(4) The drug is prescribed for administration in a hospital, nursing home, or residential care facility.

(5) If the state board of pharmacy no longer maintains the drug database.

(D) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including both of the following:

(1) Standards and procedures to be followed by a certified mental health assistant who has been granted physician-delegated prescriptive authority regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code.

The rules adopted under this division do not apply if the state board of pharmacy no longer maintains the drug database.

(2) Standards and procedures to be followed by a certified mental health assistant in the use of buprenorphine for use in medication-assisted treatment, including regarding detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control, and other topics selected by the board after considering best practices in medication-assisted treatment.

The board may apply the rules to all circumstances in which a certified mental health assistant prescribes drugs for use in medication-assisted treatment or limit the application of the rules to prescriptions for medication-assisted treatment issued for patients being treated in office-based practices or other practice types or locations specified by the board.

The rules adopted under this division shall be consistent with this chapter and, to the extent consistent with this chapter, rules adopted under sections 4723.51, 4730.55, and 4731.056 of the Revised Code.

Sec. 4772.14. (A) A certified mental health assistant who has been granted physician-delegated prescriptive authority by the physician supervising the certified mental health assistant may personally furnish to a patient samples of drugs and therapeutic devices that are included in the certified mental health assistant's physician-delegated prescriptive authority, subject to all of the following:

(1) The amount of the sample furnished shall not exceed a seventy-two-hour supply, except when the minimum available quantity of the sample is packaged in an amount that is greater than a seventy-two-hour supply, in which case the certified mental health assistant may furnish the sample in the package amount.

(2) No charge may be imposed for the sample or for furnishing it.

(3) Samples of controlled substances may not be personally furnished.

(B) A certified mental health assistant who has been granted physician-delegated prescriptive authority by the physician supervising the certified mental health assistant may personally furnish to a patient a complete or partial supply of the drugs and therapeutic devices that are included in the certified mental health assistant's physician-delegated prescriptive authority, subject to all of the following:

(1) The certified mental health assistant shall not furnish the drugs and devices in locations other than the following:

(a) A health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;

(b) A federally funded comprehensive primary care clinic;

(c) A nonprofit health care clinic or program;

(d) An employer-based clinic that provides health care services to the employer's employees.

(2) The certified mental health assistant shall comply with all standards and procedures for

personally furnishing supplies of drugs and devices, as established in rules adopted under this section.

(3) Complete or partial supplies of controlled substances may not be personally furnished.

(C) The state medical board shall adopt rules establishing standards and procedures to be followed by a certified mental health assistant in personally furnishing samples of drugs or complete or partial supplies of drugs to patients under this section. Rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4772.15. (A) As used in this section, "community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code.

(B) A certified mental health assistant shall comply with section 3719.064 of the Revised Code and rules adopted under section 4772.13 of the Revised Code when treating a patient with medication-assisted treatment or proposing to initiate such treatment.

(C) A certified mental health assistant who fails to comply with this section shall treat not more than thirty patients at any one time with medication-assisted treatment even if the facility or location at which the treatment is provided is either of the following:

(1) Exempted by divisions (B)(2)(a) to (d) or (i) of section 4729.553 of the Revised Code from being required to possess a category III terminal distributor of dangerous drugs license with an office-based opioid treatment classification;

(2) A community addiction services provider that provides alcohol and drug addiction services that are certified by the department of mental health and addiction services under section 5119.36 of the Revised Code.

Sec. 4772.19. (A) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this chapter.

(B) The rules adopted under this section shall include all of the following:

(1) Standards and procedures for issuing and renewing licenses to practice as a certified mental health assistant;

(2) Application fees for an initial or renewed license;

(3) Rules governing physician-delegated prescriptive authority for certified mental health assistants;

(4) Rules establishing quality assurance standards for certified mental health assistants, including a process to be used for all of the following:

(a) Routine review by the supervising physician of selected patient record entries made by the certified mental health assistant and selected medical orders issued by the certified mental health assistant;

(b) Discussion of complex cases;

(c) Discussion of new medical developments relevant to the practice of the supervising physician and certified mental health assistant;

(d) Performance of any other quality assurance activities the board considers necessary.

(5) Any other standards and procedures the board considers necessary to govern the practice of certified mental health assistants, the supervisory relationship between certified mental health assistants and supervising physicians, and the administration and enforcement of this chapter.

Sec. 4772.20. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a license to practice as a certified mental health assistant to an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a certified mental health assistant, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

(1) Permitting the holder's name or license to be used by another person;

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

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

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

(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a certified mental health assistant.

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

(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;

(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for

intervention in lieu of conviction for, a felony;

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

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

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

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

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

(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(17) Any of the following actions taken by the state agency responsible for regulating the practice of certified mental health assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the board on a license to practice as a certified mental health assistant;

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

(20) Failure to cooperate in an investigation conducted by the board under section 4772.21 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(21) Failure to practice in accordance with the supervising physician's supervision agreement with the certified mental health assistant;

(22) Administering drugs for purposes other than those authorized under this chapter;

(23) Failure to comply with section 4772.13 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(24) Assisting suicide, as defined in section 3795.01 of the Revised Code.

(C) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.



(D) 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 a certified mental health assistant or applicant 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.

(E) For purposes of divisions (B)(11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

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

(G) For purposes of this division, any individual who holds a license to practice as a certified mental health assistant issued under this chapter, or applies for a license, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a license to practice as a certified mental health assistant issued under this chapter or who has applied for a license to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a certified mental health assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the certified mental health assistant to submit to care, counseling, or treatment by physicians approved or

designated by the board, as a condition for an initial, continued, reinstated, or renewed license. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a license to practice as a certified mental health assistant issued under this chapter or any applicant for a license suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

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

Before being eligible to apply for reinstatement of a license suspended under this division, the certified mental health assistant shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

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

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

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

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

When the impaired certified mental health assistant resumes practice, the board shall require continued monitoring of the certified mental health assistant. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the certified mental health assistant has maintained sobriety.

(H) If the secretary and supervising member determine that there is clear and convincing

evidence that a certified mental health assistant has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's license to practice without a prior hearing. Written allegations shall be prepared for consideration by the board.

The board, on review of the allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a license 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 issue a written order of suspension by certified mail or in person in accordance with section 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 certified mental health assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the certified mental health assistant requests the hearing, unless otherwise agreed to by both the board and the license holder.

A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(I) If the board takes action under division (B)(10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the license to practice as a certified mental health assistant. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(J) The license to practice of a certified mental health assistant and the assistant's practice in this state are automatically suspended as of the date the certified mental health assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment of intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition,

aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a license.

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

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

(L) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the certified mental health assistant's license may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a license suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(M) When the board refuses to grant or issue a license to practice as a certified mental health assistant to an applicant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license to practice as a certified mental health assistant and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

(N) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license to practice as a certified mental health assistant issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a license surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

(3) Failure by an individual to renew a license to practice in accordance with section 4772.08 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4772.201. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state medical board shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license to practice as a certified mental health assistant issued under this chapter.

Sec. 4772.202. If the state medical board has reason to believe that any person who has been

granted a license to practice as a certified mental health assistant under this chapter is mentally ill or mentally incompetent, it may file in the probate court of the county in which the person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the board secretary or a member of the board secretary's staff, whereupon the same proceedings shall be had as provided in Chapter 5122. of the Revised Code. The attorney general may represent the board in any proceeding commenced under this section.

If any person who has been granted a license is adjudged by a probate court to be mentally ill or mentally incompetent, the person's license shall be automatically suspended until the person has filed with the state medical board a certified copy of an adjudication by a probate court of the person's subsequent restoration to competency or has submitted to the board proof, satisfactory to the board, that the person has been discharged as having a restoration to competency in the manner and form provided in section 5122.38 of the Revised Code. The judge of the probate court shall forthwith notify the state medical board of an adjudication of mental illness or mental incompetence, and shall note any suspension of a license in the margin of the court's record of such license.

Sec. 4772.203. (A)(1) If a certified mental health assistant violates any section of this chapter or any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (A)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4772.20 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members.

Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(B) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (B)(6) of section 4772.20 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4772.21. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4772.24 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

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

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a certified mental health assistant, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations 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.

The board may share any information it receives pursuant to an investigation, including

patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

(1) The case number assigned to the complaint or alleged violation;

(2) The type of license, if any, held by the individual against whom the complaint is directed;

(3) A description of the allegations contained in the complaint;

(4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4772.22. (A) As used in this section, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B) Whenever any person holding a valid license to practice as a certified mental health assistant issued under this chapter pleads guilty to, is subject to a judicial finding of guilt of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction for a violation of Chapter 2907., 2925., or 3719. of the Revised Code or of any substantively comparable ordinance of a municipal corporation in connection with the person's practice, the prosecutor in the case, on forms prescribed and provided by the state medical board, shall promptly notify the board of the conviction. Within thirty days of receipt of that information, the board shall initiate action in accordance with Chapter 119. of the Revised Code to determine whether to suspend or revoke the license under section 4772.20 of the Revised Code.

(C) The prosecutor in any case against any person holding a valid license issued under this chapter, on forms prescribed and provided by the state medical board, shall notify the board of any of the following:

(1) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a felony, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a felony charge;

(2) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice;

(3) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude.

The report shall include the name and address of the license holder, the nature of the offense for which the action was taken, and the certified court documents recording the action.

Sec. 4772.23. (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid license to practice as a certified mental health assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against a certified mental health assistant.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(B)(1) Except as provided in division (B)(2) of this section, a certified mental health assistant, professional association or society of certified mental health assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information on which the belief is based.

(2) A certified mental health assistant, professional association or society of certified mental health assistants, physician, or professional association or society of physicians that believes a violation of division (B)(6) of section 4772.20 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the



individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(C) Any professional association or society composed primarily of certified mental health assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against a certified mental health assistant.

(D) Any insurer providing professional liability insurance to any person holding a valid license to practice as a certified mental health assistant or any other entity that seeks to indemnify the professional liability of a certified mental health assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the certified mental health assistant.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a certified mental health assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a certified mental health assistant or supervising physician, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or

recrediting a certified mental health assistant or supervising physician, if applicable, or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the certified mental health assistant. The certified mental health assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired certified mental health assistant to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, a professional association or society of certified mental health assistants that sponsors a committee or program to provide peer assistance to a certified mental health assistant with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer a certified mental health assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4772.24. The secretary of the state medical board shall enforce the laws relating to the practice of certified mental health assistants. If the secretary has knowledge or notice of a violation of this chapter or the rules adopted under it, the secretary shall investigate the matter, and, upon probable cause appearing, file a complaint and prosecute the offender. When requested by the secretary, the prosecuting attorney of the proper county shall take charge of and conduct the prosecution.

Sec. 4772.25. The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person engaged either directly or by complicity in practicing as a certified mental health assistant without having first obtained under this chapter a license to practice as a certified mental health assistant, may, in accordance with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in unlawfully practicing as a certified mental health assistant by applying for an injunction in any court of competent jurisdiction.

Prior to application for an injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful practice by registered mail

that the secretary has received information indicating that this person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court.

Injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

Sec. 4772.26. The state medical board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in this chapter, except that the fees may not exceed the specified amounts by more than fifty per cent.

All fees, penalties, and other funds received by the board under this chapter shall be deposited in accordance with section 4731.24 of the Revised Code.

Sec. 4772.27. In the absence of fraud or bad faith, the state medical board, a current or former board member, an agent of the board, a person formally requested by the board to be the board's representative, or an employee of the board shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter. If any such person asks to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, and if the request is made in writing at a reasonable time before trial and the person requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for the person's defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay any part of a claim or judgment that is for punitive or exemplary damages.

Sec. 4772.28. The state medical board shall comply with section 4776.20 of the Revised Code.

Sec. 4772.99. (A) Whoever violates section 4772.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

(B) Whoever violates division (A), (B), (C), or (D) of section 4772.23 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

Sec. 4776.01. As used in this chapter:

(A) "License" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or, except in the case of the state dental board, to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(B) Except as provided in section 4776.20 of the Revised Code, "licensee" means the person to whom the license is issued by a licensing agency. "Licensee" includes a person who, for purposes of section 3796.13 of the Revised Code, has complied with sections 4776.01 to 4776.04 of the Revised Code and has been determined by the division of marijuana control, as the applicable licensing agency, to meet the requirements for employment.

(C) Except as provided in section 4776.20 of the Revised Code, "licensing agency" means any of the following:

(1) The board authorized by Chapters 4701., 4717., 4725., 4729., 4730., 4731., 4732., 4734., 4740., 4741., 4747., 4751., 4753., 4755., 4757., 4759., 4760., 4761., 4762., ~~4772.~~, 4774., 4778., 4779., and 4783. of the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specific equipment, machinery, or premises.

(2) The state dental board, relative to its authority to issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code;

(3) The division of marijuana control, relative to its authority under Chapter 3796. of the Revised Code and any rules adopted under that chapter with respect to a person who is subject to section 3796.13 of the Revised Code;

(4) The director of agriculture, relative to the director's authority to issue licenses under Chapter 928. of the Revised Code.

(D) "Applicant for an initial license" includes persons seeking a license for the first time and persons seeking a license by reciprocity, endorsement, or similar manner of a license issued in another state. "Applicant for an initial license" also includes a person who, for purposes of section 3796.13 of the Revised Code, is required to comply with sections 4776.01 to 4776.04 of the Revised Code.

(E) "Applicant for a restored license" includes persons seeking restoration of a license under section 4730.14, 4730.28, 4731.222, 4731.281, 4759.062, 4759.063, 4760.06, 4760.061, 4761.06, 4761.061, 4762.06, 4762.061, ~~4772.08, 4772.082,~~ 4774.06, 4774.061, 4778.07, or 4778.071 of the Revised Code. "Applicant for a restored license" does not include a person seeking restoration of a license under section 4751.33 of the Revised Code.

(F) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5123.47. (A) As used in this section:

(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 not include care provided in the facilities of a county board of developmental disabilities or care provided in schools.

(2) "Parent" means either parent of a child, including an adoptive parent but not a foster parent.

(3) "Unlicensed in-home care worker" means an individual who provides in-home care but is not a health care professional.

(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.

(5) "Health care professional" means any of the following:

(a) A dentist who holds a valid license issued under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code;

(c) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code;

(d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code;

(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;

(f) A physician assistant who holds a valid license issued under Chapter 4730. of the Revised Code;

(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 who holds a valid license issued under Chapter 4761. of the Revised Code;

(i) A certified mental health assistant who holds a valid license issued under Chapter 4772. 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 glycemetic 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 directly with the family member and is not otherwise employed by or under contract with a person or government entity to provide services to individuals with developmental disabilities.

(4) The health care task is completed in accordance with standard, written instructions.

(5) Performance of the health care task requires no judgment based on specialized health care knowledge or expertise.

(6) The outcome of the health care task is reasonably predictable.

(7) Performance of the health care task requires no complex observation of the individual receiving the care.

(8) Improper performance of the health care task will result in only minimal complications that are not life-threatening.

(C) A family member shall obtain a prescription, if applicable, and written instructions from a health care professional for the care to be provided to the individual. The family member shall authorize the unlicensed in-home care worker to provide the care by preparing a written document granting the authority. The family member shall provide the unlicensed in-home care worker with appropriate training and written instructions in accordance with the instructions obtained from the health care professional. The family member or a health care professional shall be available to communicate with the unlicensed in-home care worker either in person or by telecommunication while the in-home care worker performs a health care task.

(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.

Sec. 5164.95. (A) As used in this section, "telehealth service" means a health care service delivered to a patient through the use of interactive audio, video, or other telecommunications or electronic technology from a site other than the site where the patient is located.

(B) The department of medicaid shall establish standards for medicaid payments for health care services the department determines are appropriate to be covered by the medicaid program when provided as telehealth services. The standards shall be established in rules adopted under section 5164.02 of the Revised Code.

In accordance with section 5162.021 of the Revised Code, the medicaid director shall adopt rules authorizing the directors of other state agencies to adopt rules regarding the medicaid coverage of telehealth services under programs administered by the other state agencies. Any such rules adopted by the medicaid director or the directors of other state agencies are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

(C)(1) To the extent permitted under rules adopted under section 5164.02 of the Revised Code and applicable federal law, the following practitioners are eligible to provide telehealth services covered pursuant to this section:

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

(b) A psychologist, independent school psychologist, or school psychologist licensed under Chapter 4732. of the Revised Code;

(c) A physician assistant licensed under Chapter 4730. of the Revised Code;

(d) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner licensed under Chapter 4723. of the Revised Code;

(e) An independent social worker, independent marriage and family therapist, or professional clinical counselor licensed under Chapter 4757. of the Revised Code;

(f) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;

(g) A supervised practitioner or supervised trainee;

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;

(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;

(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;

(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.

(l) A dietitian licensed under Chapter 4759. of the Revised Code;

(m) A chiropractor licensed under Chapter 4734. of the Revised Code;

(n) A pharmacist licensed under Chapter 4729. of the Revised Code;

(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;

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

(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(r) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;

(s) A practitioner who provides services through a medicaid school program;

(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;

(u) A certified mental health assistant licensed under Chapter 4772. of the Revised Code;

(v) Any other practitioner the medicaid director considers eligible to provide telehealth services.

(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:

(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;

(b) A professional medical group;

(c) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(d) A rural health clinic;

(e) An ambulatory health care clinic;

(f) An outpatient hospital;

(g) A medicaid school program;



(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;

(i) Any other provider type the medicaid director considers eligible to submit the claims for payment.

(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.

(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.

Sec. 5903.12. (A) As used in this section:

"Continuing education" means continuing education required of a licensee by law and includes, but is not limited to, the continuing education required of licensees under sections 3737.881, 3776.07, 3781.10, 4701.11, 4715.141, 4715.25, 4717.09, 4723.24, 4725.16, 4725.51, 4730.14, 4730.49, 4731.155, 4731.282, 4734.25, 4735.141, 4741.16, 4741.19, 4751.24, 4751.25, 4755.63, 4757.33, 4759.06, 4761.06, ~~and 4763.07~~, and 4772.081 of the Revised Code.

"Reporting period" means the period of time during which a licensee must complete the number of hours of continuing education required of the licensee by law.

(B) A licensee may submit an application to a licensing agency, stating that the licensee requires an extension of the current reporting period because the licensee has served on active duty during the current or a prior reporting period. The licensee shall submit proper documentation certifying the active duty service and the length of that active duty service. Upon receiving the application and proper documentation, the licensing agency shall extend the current reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current reporting period. For purposes of this division, any portion of a month served on active duty shall be considered one full month.

SECTION 2. That existing sections 2305.234, 2305.41, 2305.42, 2305.43, 2305.44, 2305.45, 2305.48, 2305.49, 2305.51, 2925.01, 2925.02, 2925.03, 2925.11, 2925.12, 2925.14, 2925.23, 2925.36, 2925.55, 2925.56, 2929.42, 3701.048, 3701.74, 3709.161, 3715.50, 3715.501, 3715.502, 3715.503, 3715.872, 3719.06, 3719.064, 3719.121, 3719.13, 3719.81, 4729.01, 4729.285, 4729.45, 4729.51, 4729.921, 4731.051, 4731.07, 4731.071, 4731.22, 4731.224, 4731.24, 4731.25, 4731.251, 4734.99, 4743.09, 4765.51, 4769.01, 4776.01, 5123.47, 5164.95, and 5903.12 of the Revised Code are hereby repealed.

SECTION 3. The State Board of Pharmacy shall adopt the rules required by section 4729.554 of the Revised Code not later than eighteen months after the effective date of this section. If the

Board fails to adopt the rules within that time period, the Attorney General or a county prosecuting attorney may apply to a court of common pleas for a court order requiring the adoption of the rules.

SECTION 4. The Medicaid Director shall submit a request to the United States Centers for Medicare and Medicaid Services for a Medicaid waiver to allow services provided by a certified mental health assistant, as authorized by Chapter 4772. of the Revised Code, to be paid by the Medicaid program.

SECTION 5. Sections 2305.41, 2305.42, 2305.43, 2305.44, 2305.45, 2305.48, and 2305.49 of the Revised Code, as amended by this act, shall be known as Paige's Law.

SECTION 6. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 3719.121 of the Revised Code as amended by both H.B. 216 and S.B. 319 of the 131st General Assembly.

Section 4729.01 of the Revised Code as amended by H.B. 509 and H.B. 558 of the 134th General Assembly.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

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Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. Sub. S. B. No. 95

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_