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Representative Lipps

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

Senators Maharath, Blessing, Brenner, Burke, Craig, Eklund, Fedor, Gavarone, Hackett, Hoagland, Huffman, S., Johnson, Kunze, Manning, Obhof, Peterson, Rulli, Schuring, Sykes, Thomas, Williams, Wilson

A BILL

To amend sections 1751.91, 3923.89, 4715.14, 1
4715.30, 4715.36, 4723.28, 4729.01, 4729.39, 2
4730.25, and 5164.14 and to enact sections 3
4715.70, 4715.71, and 4715.72 of the Revised 4
Code to specify requirements for the operation 5
of mobile dental facilities and to authorize 6
pharmacists to enter consult agreements with 7
certain physician assistants and advanced 8
practice registered nurses. 9

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

Section 1. That sections 1751.91, 3923.89, 4715.14, 10
4715.30, 4715.36, 4723.28, 4729.01, 4729.39, 4730.25, and 11
5164.14 be amended and sections 4715.70, 4715.71, and 4715.72 of 12
the Revised Code be enacted to read as follows: 13

Sec. 1751.91. A health insuring corporation may provide 14
payment or reimbursement to a pharmacist for providing a health 15
care service to a patient if both of the following are the case: 16

(A) The pharmacist provided the health care service to the 17
patient in accordance with Chapter 4729. of the Revised Code, 18
including any of the following services: 19

(1) Managing drug therapy under a consult agreement ~~with a~~ 20
~~physician~~ pursuant to section 4729.39 of the Revised Code; 21

(2) Administering immunizations in accordance with section 22
4729.41 of the Revised Code; 23

(3) Administering drugs in accordance with section 4729.45 24
of the Revised Code. 25

(B) The patient's individual or group health insuring 26
corporation policy, contract, or agreement provides for payment 27
or reimbursement of the service. 28

Sec. 3923.89. A sickness and accident insurer or public 29
employee benefit plan may provide payment or reimbursement to a 30
pharmacist for providing a health care service to a patient if 31
both of the following are the case: 32

(A) The pharmacist provided the health care service to the 33
patient in accordance with Chapter 4729. of the Revised Code, 34
including any of the following services: 35

(1) Managing drug therapy under a consult agreement ~~with a~~ 36
~~physician~~ pursuant to section 4729.39 of the Revised Code; 37

(2) Administering immunizations in accordance with section 38
4729.41 of the Revised Code; 39

(3) Administering drugs in accordance with section 4729.45 40

of the Revised Code. 41

(B) The patient's individual or group policy of sickness 42
and accident insurance or public employee benefit plan provides 43
for payment or reimbursement of the service. 44

Sec. 4715.14. (A) (1) Each person who is licensed to 45
practice dentistry in Ohio shall, on or before the first day of 46
January of each even-numbered year, register with the state 47
dental board. The registration shall be made on a form 48
prescribed by the board and furnished by the secretary, shall 49
include the licensee's name, address, license number, and such 50
other reasonable information as the board may consider 51
necessary, and shall include payment of a biennial registration 52
fee of three hundred twelve dollars. If the licensee is a mobile 53
dental facility operator as defined in section 4715.70 of the 54
Revised Code, the licensee shall so specify on the form and 55
include any other information the board considers necessary to 56
monitor compliance with sections 4715.71 and 4715.72 of the 57
Revised Code. Subject to division (C) of this section, a 58
registration shall be in effect for the two-year period 59
beginning on the first day of January of the even-numbered year 60
and ending on the last day of December of the following odd- 61
numbered year, and shall be renewed in accordance with the 62
standard renewal procedure of sections 4745.01 to 4745.03 of the 63
Revised Code. 64

(2) (a) Except as provided in division (A) (2) (b) of this 65
section, in the case of a licensee seeking registration who 66
prescribes or personally furnishes opioid analgesics or 67
benzodiazepines, as defined in section 3719.01 of the Revised 68
Code, the licensee shall certify to the board whether the 69
licensee has been granted access to the drug database 70

established and maintained by the state board of pharmacy 71
pursuant to section 4729.75 of the Revised Code. 72

(b) The requirement in division (A)(2)(a) of this section 73
does not apply if any of the following is the case: 74

(i) The state board of pharmacy notifies the state dental 75
board pursuant to section 4729.861 of the Revised Code that the 76
licensee has been restricted from obtaining further information 77
from the drug database. 78

(ii) The state board of pharmacy no longer maintains the 79
drug database. 80

(iii) The licensee does not practice dentistry in this 81
state. 82

(3) If a licensee certifies to the state dental board that 83
the licensee has been granted access to the drug database and 84
the board finds through an audit or other means that the 85
licensee has not been granted access, the board may take action 86
under section 4715.30 of the Revised Code. 87

(B) A licensed dentist who desires to temporarily retire 88
from practice and who has given the board notice in writing to 89
that effect shall be granted such a retirement, provided only 90
that at that time all previous registration fees and additional 91
costs of reinstatement have been paid. 92

(C) Not later than the thirty-first day of January of an 93
even-numbered year, the board shall send a notice by certified 94
mail to a dentist who fails to renew a license in accordance 95
with division (A) of this section. The notice shall state all of 96
the following: 97

(1) That the board has not received the registration form 98

and fee described in that division; 99

(2) That the license shall remain valid and in good 100
standing until the first day of April following the last day of 101
December of the odd-numbered year in which the dentist was 102
scheduled to renew if the dentist remains in compliance with all 103
other applicable provisions of this chapter and any rule adopted 104
under it; 105

(3) That the license may be renewed until the first day of 106
April following the last day of December of the odd-numbered 107
year in which the dentist was scheduled to renew by the payment 108
of the biennial registration fee and an additional fee of one 109
hundred twenty-seven dollars to cover the cost of late renewal; 110

(4) That unless the board receives the registration form 111
and fee before the first day of April following the last day of 112
December of the odd-numbered year in which the dentist was 113
scheduled to renew, the board may, on or after the relevant 114
first day of April, initiate disciplinary action against the 115
dentist pursuant to Chapter 119. of the Revised Code; 116

(5) That a dentist whose license has been suspended as a 117
result of disciplinary action initiated pursuant to division (C) 118
(4) of this section may be reinstated by the payment of the 119
biennial registration fee and an additional fee of three hundred 120
eighty-one dollars to cover the cost of reinstatement. 121

(D) Each dentist licensed to practice, whether a resident 122
or not, shall notify the secretary in writing or electronically 123
of any change in the dentist's office address or employment 124
within ten days after such change has taken place. On the first 125
day of July of every even-numbered year, the secretary shall 126
issue a printed roster of the names and addresses so registered. 127

(E) Forty dollars of each biennial registration fee shall 128
be paid to the dentist loan repayment fund created under section 129
3702.95 of the Revised Code. 130

Sec. 4715.30. (A) An applicant for or holder of a 131
certificate or license issued under this chapter is subject to 132
disciplinary action by the state dental board for any of the 133
following reasons: 134

(1) Employing or cooperating in fraud or material 135
deception in applying for or obtaining a license or certificate; 136

(2) Obtaining or attempting to obtain money or anything of 137
value by intentional misrepresentation or material deception in 138
the course of practice; 139

(3) Advertising services in a false or misleading manner 140
or violating the board's rules governing time, place, and manner 141
of advertising; 142

(4) Commission of an act that constitutes a felony in this 143
state, regardless of the jurisdiction in which the act was 144
committed; 145

(5) Commission of an act in the course of practice that 146
constitutes a misdemeanor in this state, regardless of the 147
jurisdiction in which the act was committed; 148

(6) Conviction of, a plea of guilty to, a judicial finding 149
of guilt of, a judicial finding of guilt resulting from a plea 150
of no contest to, or a judicial finding of eligibility for 151
intervention in lieu of conviction for, any felony or of a 152
misdemeanor committed in the course of practice; 153

(7) Engaging in lewd or immoral conduct in connection with 154
the provision of dental services; 155

(8) Selling, prescribing, giving away, or administering	156
drugs for other than legal and legitimate therapeutic purposes,	157
or conviction of, a plea of guilty to, a judicial finding of	158
guilt of, a judicial finding of guilt resulting from a plea of	159
no contest to, or a judicial finding of eligibility for	160
intervention in lieu of conviction for, a violation of any	161
federal or state law regulating the possession, distribution, or	162
use of any drug;	163
(9) Providing or allowing dental hygienists, expanded	164
function dental auxiliaries, or other practitioners of auxiliary	165
dental occupations working under the certificate or license	166
holder's supervision, or a dentist holding a temporary limited	167
continuing education license under division (C) of section	168
4715.16 of the Revised Code working under the certificate or	169
license holder's direct supervision, to provide dental care that	170
departs from or fails to conform to accepted standards for the	171
profession, whether or not injury to a patient results;	172
(10) Inability to practice under accepted standards of the	173
profession because of physical or mental disability, dependence	174
on alcohol or other drugs, or excessive use of alcohol or other	175
drugs;	176
(11) Violation of any provision of this chapter or any	177
rule adopted thereunder;	178
(12) Failure to use universal blood and body fluid	179
precautions established by rules adopted under section 4715.03	180
of the Revised Code;	181
(13) Except as provided in division (H) of this section,	182
either of the following:	183
(a) Waiving the payment of all or any part of a deductible	184

or copayment that a patient, pursuant to a health insurance or 185
health care policy, contract, or plan that covers dental 186
services, would otherwise be required to pay if the waiver is 187
used as an enticement to a patient or group of patients to 188
receive health care services from that certificate or license 189
holder; 190

(b) Advertising that the certificate or license holder 191
will waive the payment of all or any part of a deductible or 192
copayment that a patient, pursuant to a health insurance or 193
health care policy, contract, or plan that covers dental 194
services, would otherwise be required to pay. 195

(14) Failure to comply with section 4715.302 or 4729.79 of 196
the Revised Code, unless the state board of pharmacy no longer 197
maintains a drug database pursuant to section 4729.75 of the 198
Revised Code; 199

(15) Any of the following actions taken by an agency 200
responsible for authorizing, certifying, or regulating an 201
individual to practice a health care occupation or provide 202
health care services in this state or another jurisdiction, for 203
any reason other than the nonpayment of fees: the limitation, 204
revocation, or suspension of an individual's license to 205
practice; acceptance of an individual's license surrender; 206
denial of a license; refusal to renew or reinstate a license; 207
imposition of probation; or issuance of an order of censure or 208
other reprimand; 209

(16) Failure to cooperate in an investigation conducted by 210
the board under division (D) of section 4715.03 of the Revised 211
Code, including failure to comply with a subpoena or order 212
issued by the board or failure to answer truthfully a question 213
presented by the board at a deposition or in written 214

interrogatories, except that failure to cooperate with an 215
investigation shall not constitute grounds for discipline under 216
this section if a court of competent jurisdiction has issued an 217
order that either quashes a subpoena or permits the individual 218
to withhold the testimony or evidence in issue; 219

(17) Failure to comply with the requirements in section 220
3719.061 of the Revised Code before issuing for a minor a 221
prescription for an opioid analgesic, as defined in section 222
3719.01 of the Revised Code ; 223

(18) Failure to comply with the requirements of sections 224
4715.71 and 4715.72 of the Revised Code regarding the operation 225
of a mobile dental facility. 226

(B) A manager, proprietor, operator, or conductor of a 227
dental facility shall be subject to disciplinary action if any 228
dentist, dental hygienist, expanded function dental auxiliary, 229
or qualified personnel providing services in the facility is 230
found to have committed a violation listed in division (A) of 231
this section and the manager, proprietor, operator, or conductor 232
knew of the violation and permitted it to occur on a recurring 233
basis. 234

(C) Subject to Chapter 119. of the Revised Code, the board 235
may take one or more of the following disciplinary actions if 236
one or more of the grounds for discipline listed in divisions 237
(A) and (B) of this section exist: 238

(1) Censure the license or certificate holder; 239

(2) Place the license or certificate on probationary 240
status for such period of time the board determines necessary 241
and require the holder to: 242

(a) Report regularly to the board upon the matters which 243

are the basis of probation;	244
(b) Limit practice to those areas specified by the board;	245
(c) Continue or renew professional education until a	246
satisfactory degree of knowledge or clinical competency has been	247
attained in specified areas.	248
(3) Suspend the certificate or license;	249
(4) Revoke the certificate or license.	250
Where the board places a holder of a license or	251
certificate on probationary status pursuant to division (C) (2)	252
of this section, the board may subsequently suspend or revoke	253
the license or certificate if it determines that the holder has	254
not met the requirements of the probation or continues to engage	255
in activities that constitute grounds for discipline pursuant to	256
division (A) or (B) of this section.	257
Any order suspending a license or certificate shall state	258
the conditions under which the license or certificate will be	259
restored, which may include a conditional restoration during	260
which time the holder is in a probationary status pursuant to	261
division (C) (2) of this section. The board shall restore the	262
license or certificate unconditionally when such conditions are	263
met.	264
(D) If the physical or mental condition of an applicant or	265
a license or certificate holder is at issue in a disciplinary	266
proceeding, the board may order the license or certificate	267
holder to submit to reasonable examinations by an individual	268
designated or approved by the board and at the board's expense.	269
The physical examination may be conducted by any individual	270
authorized by the Revised Code to do so, including a physician	271
assistant, a clinical nurse specialist, a certified nurse	272

practitioner, or a certified nurse-midwife. Any written 273
documentation of the physical examination shall be completed by 274
the individual who conducted the examination. 275

Failure to comply with an order for an examination shall 276
be grounds for refusal of a license or certificate or summary 277
suspension of a license or certificate under division (E) of 278
this section. 279

(E) If a license or certificate holder has failed to 280
comply with an order under division (D) of this section, the 281
board may apply to the court of common pleas of the county in 282
which the holder resides for an order temporarily suspending the 283
holder's license or certificate, without a prior hearing being 284
afforded by the board, until the board conducts an adjudication 285
hearing pursuant to Chapter 119. of the Revised Code. If the 286
court temporarily suspends a holder's license or certificate, 287
the board shall give written notice of the suspension personally 288
or by certified mail to the license or certificate holder. Such 289
notice shall inform the license or certificate holder of the 290
right to a hearing pursuant to Chapter 119. of the Revised Code. 291

(F) Any holder of a certificate or license issued under 292
this chapter who has pleaded guilty to, has been convicted of, 293
or has had a judicial finding of eligibility for intervention in 294
lieu of conviction entered against the holder in this state for 295
aggravated murder, murder, voluntary manslaughter, felonious 296
assault, kidnapping, rape, sexual battery, gross sexual 297
imposition, aggravated arson, aggravated robbery, or aggravated 298
burglary, or who has pleaded guilty to, has been convicted of, 299
or has had a judicial finding of eligibility for treatment or 300
intervention in lieu of conviction entered against the holder in 301
another jurisdiction for any substantially equivalent criminal 302

offense, is automatically suspended from practice under this 303
chapter in this state and any certificate or license issued to 304
the holder under this chapter is automatically suspended, as of 305
the date of the guilty plea, conviction, or judicial finding, 306
whether the proceedings are brought in this state or another 307
jurisdiction. Continued practice by an individual after the 308
suspension of the individual's certificate or license under this 309
division shall be considered practicing without a certificate or 310
license. The board shall notify the suspended individual of the 311
suspension of the individual's certificate or license under this 312
division by certified mail or in person in accordance with 313
section 119.07 of the Revised Code. If an individual whose 314
certificate or license is suspended under this division fails to 315
make a timely request for an adjudicatory hearing, the board 316
shall enter a final order revoking the individual's certificate 317
or license. 318

(G) If the supervisory investigative panel determines both 319
of the following, the panel may recommend that the board suspend 320
an individual's certificate or license without a prior hearing: 321

(1) That there is clear and convincing evidence that an 322
individual has violated division (A) of this section; 323

(2) That the individual's continued practice presents a 324
danger of immediate and serious harm to the public. 325

Written allegations shall be prepared for consideration by 326
the board. The board, upon review of those allegations and by an 327
affirmative vote of not fewer than four dentist members of the 328
board and seven of its members in total, excluding any member on 329
the supervisory investigative panel, may suspend a certificate 330
or license without a prior hearing. A telephone conference call 331
may be utilized for reviewing the allegations and taking the 332

vote on the summary suspension. 333

The board shall issue a written order of suspension by 334
certified mail or in person in accordance with section 119.07 of 335
the Revised Code. The order shall not be subject to suspension 336
by the court during pendency or any appeal filed under section 337
119.12 of the Revised Code. If the individual subject to the 338
summary suspension requests an adjudicatory hearing by the 339
board, the date set for the hearing shall be within fifteen 340
days, but not earlier than seven days, after the individual 341
requests the hearing, unless otherwise agreed to by both the 342
board and the individual. 343

Any summary suspension imposed under this division shall 344
remain in effect, unless reversed on appeal, until a final 345
adjudicative order issued by the board pursuant to this section 346
and Chapter 119. of the Revised Code becomes effective. The 347
board shall issue its final adjudicative order within seventy- 348
five days after completion of its hearing. A failure to issue 349
the order within seventy-five days shall result in dissolution 350
of the summary suspension order but shall not invalidate any 351
subsequent, final adjudicative order. 352

(H) Sanctions shall not be imposed under division (A) (13) 353
of this section against any certificate or license holder who 354
waives deductibles and copayments as follows: 355

(1) In compliance with the health benefit plan that 356
expressly allows such a practice. Waiver of the deductibles or 357
copayments shall be made only with the full knowledge and 358
consent of the plan purchaser, payer, and third-party 359
administrator. Documentation of the consent shall be made 360
available to the board upon request. 361

(2) For professional services rendered to any other person 362
who holds a certificate or license issued pursuant to this 363
chapter to the extent allowed by this chapter and the rules of 364
the board. 365

(I) In no event shall the board consider or raise during a 366
hearing required by Chapter 119. of the Revised Code the 367
circumstances of, or the fact that the board has received, one 368
or more complaints about a person unless the one or more 369
complaints are the subject of the hearing or resulted in the 370
board taking an action authorized by this section against the 371
person on a prior occasion. 372

(J) The board may share any information it receives 373
pursuant to an investigation under division (D) of section 374
4715.03 of the Revised Code, including patient records and 375
patient record information, with law enforcement agencies, other 376
licensing boards, and other governmental agencies that are 377
prosecuting, adjudicating, or investigating alleged violations 378
of statutes or administrative rules. An agency or board that 379
receives the information shall comply with the same requirements 380
regarding confidentiality as those with which the state dental 381
board must comply, notwithstanding any conflicting provision of 382
the Revised Code or procedure of the agency or board that 383
applies when it is dealing with other information in its 384
possession. In a judicial proceeding, the information may be 385
admitted into evidence only in accordance with the Rules of 386
Evidence, but the court shall require that appropriate measures 387
are taken to ensure that confidentiality is maintained with 388
respect to any part of the information that contains names or 389
other identifying information about patients or complainants 390
whose confidentiality was protected by the state dental board 391
when the information was in the board's possession. Measures to 392

ensure confidentiality that may be taken by the court include 393
sealing its records or deleting specific information from its 394
records. 395

Sec. 4715.36. As used in this section and sections 396
4715.361 to 4715.374 of the Revised Code: 397

(A) "Accredited dental hygiene school" means a dental 398
hygiene school accredited by the American dental association 399
commission on dental accreditation or a dental hygiene school 400
whose educational standards are recognized by the American 401
dental association commission on dental accreditation and 402
approved by the state dental board. 403

(B) "Authorizing dentist" means a dentist who authorizes a 404
dental hygienist to perform dental hygiene services under 405
section 4715.365 of the Revised Code. 406

(C) "Clinical evaluation" means a diagnosis and treatment 407
plan formulated for an individual patient by a dentist. 408

(D) "Dentist" means an individual licensed under this 409
chapter to practice dentistry. 410

(E) "Dental hygienist" means an individual licensed under 411
this chapter to practice as a dental hygienist. 412

(F) "Dental hygiene services" means the prophylactic, 413
preventive, and other procedures that dentists are authorized by 414
this chapter and rules of the state dental board to assign to 415
dental hygienists, except for procedures while a patient is 416
anesthetized, definitive root planing, definitive subgingival 417
curettage, the administration of local anesthesia, and the 418
procedures specified in rules adopted by the board as described 419
in division (C) (3) of section 4715.22 of the Revised Code. 420

(G) "Facility" means any of the following:	421
(1) A health care facility, as defined in section 4715.22 of the Revised Code;	422 423
(2) A state correctional institution, as defined in section 2967.01 of the Revised Code;	424 425
(3) A comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C. 9831, as amended, and is licensed as a child day-care center;	426 427 428 429
(4) A residential facility licensed under section 5123.19 of the Revised Code;	430 431
(5) A public school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;	432 433 434 435
(6) A nonpublic school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;	436 437 438 439
(7) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	440 441 442
(8) A shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code;	443 444
(9) A facility operated by the department of youth services under Chapter 5139. of the Revised Code;	445 446
(10) A foster home, as defined in section 5103.02 of the	447

Revised Code;	448
(11) A nonprofit clinic, as defined in section 3715.87 of the Revised Code;	449 450
(12) The residence of one or more individuals receiving services provided by a home health agency, as defined in section 3701.881 of the Revised Code;	451 452 453
(13) A dispensary;	454
(14) A health care facility, such as a clinic or hospital, of the United States department of veterans affairs;	455 456
(15) The residence of one or more individuals enrolled in a home and community-based services medicaid waiver component, as defined in section 5166.01 of the Revised Code;	457 458 459
(16) A facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	460 461 462
(17) A women, infants, and children clinic;	463
(18) A mobile dental unit facility, as defined in section 4715.70 of the Revised Code, located at any location listed in divisions (G) (1) to (17) of this section;	464 465 466
(19) Any other location, as specified by the state dental board in rules adopted under section 4715.372 of the Revised Code, that is in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code and provides health care services to individuals who are medicaid recipients and to indigent and uninsured persons, as defined in section 2305.234 of the Revised Code.	467 468 469 470 471 472 473
<u>Sec. 4715.70. As used in this section and sections 4715.71</u>	474

and 4715.72 of the Revised Code: 475

(A) "Dental hygiene services" means the prophylactic, 476
preventive, and other procedures that dentists are authorized by 477
this chapter and rules of the state dental board to assign to 478
dental hygienists, except for procedures while a patient is 479
anesthetized, definitive root planing, definitive subgingival 480
curettage, the administration of local anesthesia, and the 481
procedures specified in rules adopted by the board as described 482
in division (C) (4) of section 4715.22 of the Revised Code. 483

(B) (1) "Minor" means an individual under eighteen years of 484
age who is not emancipated. 485

(2) For purposes of this division, an individual under 486
eighteen years of age is emancipated only if the individual has 487
married, has entered the armed services of the United States, 488
has become employed and self-sustaining, or otherwise has become 489
independent from the care and control of the individual's 490
parent, guardian, or custodian. 491

(C) "Mobile dental facility" means either of the 492
following: 493

(1) A self-contained, intact facility in which dentistry 494
or dental hygiene is practiced that may be transported from one 495
location to another; 496

(2) A site used on a temporary basis to provide dental or 497
dental hygiene services using portable equipment. 498

(D) "Mobile dental facility operator" means a dentist 499
licensed under this chapter who operates a mobile dental 500
facility. 501

(E) "Patient's representative" means a person who has 502

authority to make health care decisions on behalf of an adult or 503
emancipated minor, or the parent, legal guardian, or other 504
person acting in loco parentis who is authorized by law to make 505
health care decisions on behalf of a minor. 506

Sec. 4715.71. A mobile dental facility operator or the 507
operator's representative shall provide each patient receiving 508
dental or dental hygiene services at a mobile dental facility, 509
or the patient's representative, with all of the following: 510

(A) The name of each individual who arranged for or 511
provided dental or dental hygiene services to the patient; 512

(B) The telephone number to reach the mobile dental 513
facility operator or operator's representative in case of an 514
emergency; 515

(C) A list of dental or dental hygiene services provided 516
to the patient; 517

(D) Any recommendations regarding further dental or dental 518
hygiene services that are advisable; 519

(E) A notice to the patient that the facility must provide 520
access to the patient's complete dental records in accordance 521
with Chapter 3798. of the Revised Code and applicable federal 522
laws; 523

(F) Instructions for requesting a copy or transfer of the 524
patient's records. 525

Sec. 4715.72. A mobile dental facility operator or the 526
operator's representative shall notify the state dental board 527
and all treatment venues not later than fourteen days after 528
either of the following occurs: 529

(A) There is a change in the address or telephone number 530

<u>of the operator.</u>	531
<u>(B) The mobile dental facility ceases to operate.</u>	532
<u>The notice must be provided in writing.</u>	533
Sec. 4723.28. (A) The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions if it finds that a person committed fraud in passing an examination required to obtain a license or dialysis technician certificate issued by the board or to have committed fraud, misrepresentation, or deception in applying for or securing any nursing license or dialysis technician certificate issued by the board: deny, revoke, suspend, or place restrictions on any nursing license or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation.	534 535 536 537 538 539 540 541 542 543 544 545
(B) The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke, suspend, or place restrictions on any nursing license or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:	546 547 548 549 550 551 552 553
(1) Denial, revocation, suspension, or restriction of authority to engage in a licensed profession or practice a health care occupation, including nursing or practice as a dialysis technician, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;	554 555 556 557 558
(2) Engaging in the practice of nursing or engaging in	559

practice as a dialysis technician, having failed to renew a 560
nursing license or dialysis technician certificate issued under 561
this chapter, or while a nursing license or dialysis technician 562
certificate is under suspension; 563

(3) Conviction of, a plea of guilty to, a judicial finding 564
of guilt of, a judicial finding of guilt resulting from a plea 565
of no contest to, or a judicial finding of eligibility for a 566
pretrial diversion or similar program or for intervention in 567
lieu of conviction for, a misdemeanor committed in the course of 568
practice; 569

(4) Conviction of, a plea of guilty to, a judicial finding 570
of guilt of, a judicial finding of guilt resulting from a plea 571
of no contest to, or a judicial finding of eligibility for a 572
pretrial diversion or similar program or for intervention in 573
lieu of conviction for, any felony or of any crime involving 574
gross immorality or moral turpitude; 575

(5) Selling, giving away, or administering drugs or 576
therapeutic devices for other than legal and legitimate 577
therapeutic purposes; or conviction of, a plea of guilty to, a 578
judicial finding of guilt of, a judicial finding of guilt 579
resulting from a plea of no contest to, or a judicial finding of 580
eligibility for a pretrial diversion or similar program or for 581
intervention in lieu of conviction for, violating any municipal, 582
state, county, or federal drug law; 583

(6) Conviction of, a plea of guilty to, a judicial finding 584
of guilt of, a judicial finding of guilt resulting from a plea 585
of no contest to, or a judicial finding of eligibility for a 586
pretrial diversion or similar program or for intervention in 587
lieu of conviction for, an act in another jurisdiction that 588
would constitute a felony or a crime of moral turpitude in Ohio; 589

- (7) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio; 590-596
- (8) Self-administering or otherwise taking into the body any dangerous drug, as defined in section 4729.01 of the Revised Code, in any way that is not in accordance with a legal, valid prescription issued for that individual, or self-administering or otherwise taking into the body any drug that is a schedule I controlled substance; 597-602
- (9) Habitual or excessive use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs the individual's ability to provide safe nursing care or safe dialysis care; 603-606
- (10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of the use of drugs, alcohol, or other chemical substances; 607-610
- (11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of a physical or mental disability; 611-613
- (12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance; 614-615
- (13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice; 616-617
- (14) Adjudication by a probate court of being mentally ill 618

or mentally incompetent. The board may reinstate the person's 619
nursing license or dialysis technician certificate upon 620
adjudication by a probate court of the person's restoration to 621
competency or upon submission to the board of other proof of 622
competency. 623

(15) The suspension or termination of employment by the 624
United States department of defense or department of veterans 625
affairs for any act that violates or would violate this chapter; 626

(16) Violation of this chapter or any rules adopted under 627
it; 628

(17) Violation of any restrictions placed by the board on 629
a nursing license or dialysis technician certificate; 630

(18) Failure to use universal and standard precautions 631
established by rules adopted under section 4723.07 of the 632
Revised Code; 633

(19) Failure to practice in accordance with acceptable and 634
prevailing standards of safe nursing care or safe dialysis care; 635

(20) In the case of a registered nurse, engaging in 636
activities that exceed the practice of nursing as a registered 637
nurse; 638

(21) In the case of a licensed practical nurse, engaging 639
in activities that exceed the practice of nursing as a licensed 640
practical nurse; 641

(22) In the case of a dialysis technician, engaging in 642
activities that exceed those permitted under section 4723.72 of 643
the Revised Code; 644

(23) Aiding and abetting a person in that person's 645
practice of nursing without a license or practice as a dialysis 646

technician without a certificate issued under this chapter; 647

(24) In the case of an advanced practice registered nurse, 648
except as provided in division (M) of this section, either of 649
the following: 650

(a) Waiving the payment of all or any part of a deductible 651
or copayment that a patient, pursuant to a health insurance or 652
health care policy, contract, or plan that covers such nursing 653
services, would otherwise be required to pay if the waiver is 654
used as an enticement to a patient or group of patients to 655
receive health care services from that provider; 656

(b) Advertising that the nurse will waive the payment of 657
all or any part of a deductible or copayment that a patient, 658
pursuant to a health insurance or health care policy, contract, 659
or plan that covers such nursing services, would otherwise be 660
required to pay. 661

(25) Failure to comply with the terms and conditions of 662
participation in the substance use disorder monitoring program 663
established under section 4723.35 of the Revised Code; 664

(26) Failure to comply with the terms and conditions 665
required under the practice intervention and improvement program 666
established under section 4723.282 of the Revised Code; 667

(27) In the case of an advanced practice registered nurse: 668

(a) Engaging in activities that exceed those permitted for 669
the nurse's nursing specialty under section 4723.43 of the 670
Revised Code; 671

(b) Failure to meet the quality assurance standards 672
established under section 4723.07 of the Revised Code. 673

(28) In the case of an advanced practice registered nurse 674

other than a certified registered nurse anesthetist, failure to 675
maintain a standard care arrangement in accordance with section 676
4723.431 of the Revised Code or to practice in accordance with 677
the standard care arrangement; 678

(29) In the case of an advanced practice registered nurse 679
who is designated as a clinical nurse specialist, certified 680
nurse-midwife, or certified nurse practitioner, failure to 681
prescribe drugs and therapeutic devices in accordance with 682
section 4723.481 of the Revised Code; 683

(30) Prescribing any drug or device to perform or induce 684
an abortion, or otherwise performing or inducing an abortion; 685

(31) Failure to establish and maintain professional 686
boundaries with a patient, as specified in rules adopted under 687
section 4723.07 of the Revised Code; 688

(32) Regardless of whether the contact or verbal behavior 689
is consensual, engaging with a patient other than the spouse of 690
the registered nurse, licensed practical nurse, or dialysis 691
technician in any of the following: 692

(a) Sexual contact, as defined in section 2907.01 of the 693
Revised Code; 694

(b) Verbal behavior that is sexually demeaning to the 695
patient or may be reasonably interpreted by the patient as 696
sexually demeaning. 697

(33) Assisting suicide, as defined in section 3795.01 of 698
the Revised Code; 699

(34) Failure to comply with the requirements in section 700
3719.061 of the Revised Code before issuing for a minor a 701
prescription for an opioid analgesic, as defined in section 702

3719.01 of the Revised Code;	703
(35) Failure to comply with section 4723.487 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;	704 705 706 707
(36) 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;	708 709 710 711 712 713
<u>(37) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code.</u>	714 715 716 717 718
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, 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 a vote of a quorum, 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 agreement shall be of no effect.	719 720 721 722 723 724 725 726 727 728 729
(D) The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code, the board may	730 731

appoint a hearing examiner, as provided in section 119.09 of the Revised Code, to conduct any hearing the board is authorized to hold under Chapter 119. of the Revised Code.

In any instance in which the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant, licensee, or certificate holder does not make a timely request for 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 a vote of a quorum, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division (A) or (B) of this section.

(E) If a criminal action is brought against a registered nurse, licensed practical nurse, or dialysis technician for an act or crime described in divisions (B) (3) to (7) of this section and the action is dismissed by the trial court other than on the merits, the board shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the action was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed the act, or if the registered nurse, licensed practical nurse, or dialysis technician fails to participate in the adjudication, the board may take action as though the registered nurse, licensed practical nurse, or dialysis technician had been convicted of the act.

If the board takes action on the basis of a conviction, plea, or a judicial finding as described in divisions (B) (3) to (7) of this section that is overturned on appeal, the registered

nurse, licensed practical nurse, or dialysis technician may, on 762
exhaustion of the appeal process, petition the board for 763
reconsideration of its action. On receipt of the petition and 764
supporting court documents, the board shall temporarily rescind 765
its action. If the board determines that the decision on appeal 766
was a decision on the merits, it shall permanently rescind its 767
action. If the board determines that the decision on appeal was 768
not a decision on the merits, it shall conduct an adjudication 769
to determine whether the registered nurse, licensed practical 770
nurse, or dialysis technician committed the act on which the 771
original conviction, plea, or judicial finding was based. If the 772
board determines on the basis of the adjudication that the 773
registered nurse, licensed practical nurse, or dialysis 774
technician committed such act, or if the registered nurse, 775
licensed practical nurse, or dialysis technician does not 776
request an adjudication, the board shall reinstate its action; 777
otherwise, the board shall permanently rescind its action. 778

Notwithstanding the provision of division (C) (2) of 779
section 2953.32 of the Revised Code specifying that if records 780
pertaining to a criminal case are sealed under that section the 781
proceedings in the case shall be deemed not to have occurred, 782
sealing of the following records on which the board has based an 783
action under this section shall have no effect on the board's 784
action or any sanction imposed by the board under this section: 785
records of any conviction, guilty plea, judicial finding of 786
guilt resulting from a plea of no contest, or a judicial finding 787
of eligibility for a pretrial diversion program or intervention 788
in lieu of conviction. 789

The board shall not be required to seal, destroy, redact, 790
or otherwise modify its records to reflect the court's sealing 791
of conviction records. 792

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

(G) During the course of an investigation conducted under this section, the board may compel any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter to submit to a mental or physical examination, or both, as required by the board and at the expense of the individual, if the board finds reason to believe that the individual under investigation may have a physical or mental impairment that may affect the individual's ability to provide safe nursing care. Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations, 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 that an individual is impaired, the board shall require the individual to submit to care, counseling, or treatment approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. The individual shall be afforded an opportunity to demonstrate to the board that the individual can begin or resume the individual's occupation in compliance with acceptable and prevailing standards of care under the provisions of the individual's authority to practice.

For purposes of this division, any registered nurse, 824
licensed practical nurse, or dialysis technician or applicant 825
under this chapter shall be deemed to have given consent to 826
submit to a mental or physical examination when directed to do 827
so in writing by the board, and to have waived all objections to 828
the admissibility of testimony or examination reports that 829
constitute a privileged communication. 830

(H) The board shall investigate evidence that appears to 831
show that any person has violated any provision of this chapter 832
or any rule of the board. Any person may report to the board any 833
information the person may have that appears to show a violation 834
of any provision of this chapter or rule of the board. In the 835
absence of bad faith, any person who reports such information or 836
who testifies before the board in any adjudication conducted 837
under Chapter 119. of the Revised Code shall not be liable for 838
civil damages as a result of the report or testimony. 839

(I) All of the following apply under this chapter with 840
respect to the confidentiality of information: 841

(1) Information received by the board pursuant to a 842
complaint or an investigation is confidential and not subject to 843
discovery in any civil action, except that the board may 844
disclose information to law enforcement officers and government 845
entities for purposes of an investigation of either a licensed 846
health care professional, including a registered nurse, licensed 847
practical nurse, or dialysis technician, or a person who may 848
have engaged in the unauthorized practice of nursing or dialysis 849
care. No law enforcement officer or government entity with 850
knowledge of any information disclosed by the board pursuant to 851
this division shall divulge the information to any other person 852
or government entity except for the purpose of a government 853

investigation, a prosecution, or an adjudication by a court or 854
government entity. 855

(2) If an investigation requires a review of patient 856
records, the investigation and proceeding shall be conducted in 857
such a manner as to protect patient confidentiality. 858

(3) All adjudications and investigations of the board 859
shall be considered civil actions for the purposes of section 860
2305.252 of the Revised Code. 861

(4) Any board activity that involves continued monitoring 862
of an individual as part of or following any disciplinary action 863
taken under this section shall be conducted in a manner that 864
maintains the individual's confidentiality. Information received 865
or maintained by the board with respect to the board's 866
monitoring activities is not subject to discovery in any civil 867
action and is confidential, except that the board may disclose 868
information to law enforcement officers and government entities 869
for purposes of an investigation of a licensee or certificate 870
holder. 871

(J) Any action taken by the board under this section 872
resulting in a suspension from practice shall be accompanied by 873
a written statement of the conditions under which the person may 874
be reinstated to practice. 875

(K) When the board refuses to grant a license or 876
certificate to an applicant, revokes a license or certificate, 877
or refuses to reinstate a license or certificate, the board may 878
specify that its action is permanent. An individual subject to 879
permanent action taken by the board is forever ineligible to 880
hold a license or certificate of the type that was refused or 881
revoked and the board shall not accept from the individual an 882

application for reinstatement of the license or certificate or 883
for a new license or certificate. 884

(L) No unilateral surrender of a nursing license or 885
dialysis technician certificate issued under this chapter shall 886
be effective unless accepted by majority vote of the board. No 887
application for a nursing license or dialysis technician 888
certificate issued under this chapter may be withdrawn without a 889
majority vote of the board. The board's jurisdiction to take 890
disciplinary action under this section is not removed or limited 891
when an individual has a license or certificate classified as 892
inactive or fails to renew a license or certificate. 893

(M) Sanctions shall not be imposed under division (B) (24) 894
of this section against any licensee who waives deductibles and 895
copayments as follows: 896

(1) In compliance with the health benefit plan that 897
expressly allows such a practice. Waiver of the deductibles or 898
copayments shall be made only with the full knowledge and 899
consent of the plan purchaser, payer, and third-party 900
administrator. Documentation of the consent shall be made 901
available to the board upon request. 902

(2) For professional services rendered to any other person 903
licensed pursuant to this chapter to the extent allowed by this 904
chapter and the rules of the board. 905

Sec. 4729.01. As used in this chapter: 906

(A) "Pharmacy," except when used in a context that refers 907
to the practice of pharmacy, means any area, room, rooms, place 908
of business, department, or portion of any of the foregoing 909
where the practice of pharmacy is conducted. 910

(B) "Practice of pharmacy" means providing pharmacist care 911

requiring specialized knowledge, judgment, and skill derived	912
from the principles of biological, chemical, behavioral, social,	913
pharmaceutical, and clinical sciences. As used in this division,	914
"pharmacist care" includes the following:	915
(1) Interpreting prescriptions;	916
(2) Dispensing drugs and drug therapy related devices;	917
(3) Compounding drugs;	918
(4) Counseling individuals with regard to their drug	919
therapy, recommending drug therapy related devices, and	920
assisting in the selection of drugs and appliances for treatment	921
of common diseases and injuries and providing instruction in the	922
proper use of the drugs and appliances;	923
(5) Performing drug regimen reviews with individuals by	924
discussing all of the drugs that the individual is taking and	925
explaining the interactions of the drugs;	926
(6) Performing drug utilization reviews with licensed	927
health professionals authorized to prescribe drugs when the	928
pharmacist determines that an individual with a prescription has	929
a drug regimen that warrants additional discussion with the	930
prescriber;	931
(7) Advising an individual and the health care	932
professionals treating an individual with regard to the	933
individual's drug therapy;	934
(8) Acting pursuant to a consult agreement with one or	935
more physicians authorized under Chapter 4731. of the Revised	936
Code to practice medicine and surgery or osteopathic medicine	937
and surgery, if an agreement has been established;	938
(9) Engaging in the administration of immunizations to the	939

extent authorized by section 4729.41 of the Revised Code;	940
(10) Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code.	941 942
(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:	943 944 945
(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;	946 947
(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;	948 949
(3) As an incident to research, teaching activities, or chemical analysis;	950 951
(4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns;	952 953 954
(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:	955 956 957 958 959
(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.	960 961 962 963 964
(b) A limited quantity of the drug is compounded and provided to the professional.	965 966

(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;	994 995 996
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	997 998
(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;	999 1000 1001
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body;	1002 1003 1004
(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code.	1005 1006
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	1007 1008
(H) "Prescription" means all of the following:	1009
(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;	1010 1011 1012 1013
(2) For purposes of sections 2925.61, 4723.488, 4730.431, and 4731.94 of the Revised Code, a written, electronic, or oral order for naloxone issued to and in the name of a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.	1014 1015 1016 1017 1018 1019
(3) For purposes of section 4729.44 of the Revised Code, a written, electronic, or oral order for naloxone issued to and in	1020 1021

the name of either of the following: 1022

(a) An individual who there is reason to believe is at 1023
risk of experiencing an opioid-related overdose; 1024

(b) A family member, friend, or other individual in a 1025
position to assist an individual who there is reason to believe 1026
is at risk of experiencing an opioid-related overdose. 1027

(4) For purposes of sections 4723.4810, 4729.282, 1028
4730.432, and 4731.93 of the Revised Code, a written, 1029
electronic, or oral order for a drug to treat chlamydia, 1030
gonorrhoea, or trichomoniasis issued to and in the name of a 1031
patient who is not the intended user of the drug but is the 1032
sexual partner of the intended user; 1033

(5) For purposes of sections 3313.7110, 3313.7111, 1034
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 1035
4731.96, and 5101.76 of the Revised Code, a written, electronic, 1036
or oral order for an epinephrine autoinjector issued to and in 1037
the name of a school, school district, or camp; 1038

(6) For purposes of Chapter 3728. and sections 4723.483, 1039
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 1040
electronic, or oral order for an epinephrine autoinjector issued 1041
to and in the name of a qualified entity, as defined in section 1042
3728.01 of the Revised Code. 1043

(I) "Licensed health professional authorized to prescribe 1044
drugs" or "prescriber" means an individual who is authorized by 1045
law to prescribe drugs or dangerous drugs or drug therapy 1046
related devices in the course of the individual's professional 1047
practice, including only the following: 1048

(1) A dentist licensed under Chapter 4715. of the Revised 1049
Code; 1050

(2) A clinical nurse specialist, certified nurse-midwife, 1051
or certified nurse practitioner who holds a current, valid 1052
license issued under Chapter 4723. of the Revised Code to 1053
practice nursing as an advanced practice registered nurse; 1054

(3) A certified registered nurse anesthetist who holds a 1055
current, valid license issued under Chapter 4723. of the Revised 1056
Code to practice nursing as an advanced practice registered 1057
nurse, but only to the extent of the nurse's authority under 1058
sections 4723.43 and 4723.434 of the Revised Code; 1059

(4) An optometrist licensed under Chapter 4725. of the 1060
Revised Code to practice optometry under a therapeutic 1061
pharmaceutical agents certificate; 1062

(5) A physician authorized under Chapter 4731. of the 1063
Revised Code to practice medicine and surgery, osteopathic 1064
medicine and surgery, or podiatric medicine and surgery; 1065

(6) A physician assistant who holds a license to practice 1066
as a physician assistant issued under Chapter 4730. of the 1067
Revised Code, holds a valid prescriber number issued by the 1068
state medical board, and has been granted physician-delegated 1069
prescriptive authority; 1070

(7) A veterinarian licensed under Chapter 4741. of the 1071
Revised Code. 1072

(J) "Sale" or "sell" includes any transaction made by any 1073
person, whether as principal proprietor, agent, or employee, to 1074
do or offer to do any of the following: deliver, distribute, 1075
broker, exchange, gift or otherwise give away, or transfer, 1076
whether the transfer is by passage of title, physical movement, 1077
or both. 1078

(K) "Wholesale sale" and "sale at wholesale" mean any sale 1079

in which the purpose of the purchaser is to resell the article 1080
purchased or received by the purchaser. 1081

(L) "Retail sale" and "sale at retail" mean any sale other 1082
than a wholesale sale or sale at wholesale. 1083

(M) "Retail seller" means any person that sells any 1084
dangerous drug to consumers without assuming control over and 1085
responsibility for its administration. Mere advice or 1086
instructions regarding administration do not constitute control 1087
or establish responsibility. 1088

(N) "Price information" means the price charged for a 1089
prescription for a particular drug product and, in an easily 1090
understandable manner, all of the following: 1091

(1) The proprietary name of the drug product; 1092

(2) The established (generic) name of the drug product; 1093

(3) The strength of the drug product if the product 1094
contains a single active ingredient or if the drug product 1095
contains more than one active ingredient and a relevant strength 1096
can be associated with the product without indicating each 1097
active ingredient. The established name and quantity of each 1098
active ingredient are required if such a relevant strength 1099
cannot be so associated with a drug product containing more than 1100
one ingredient. 1101

(4) The dosage form; 1102

(5) The price charged for a specific quantity of the drug 1103
product. The stated price shall include all charges to the 1104
consumer, including, but not limited to, the cost of the drug 1105
product, professional fees, handling fees, if any, and a 1106
statement identifying professional services routinely furnished 1107

by the pharmacy. Any mailing fees and delivery fees may be 1108
stated separately without repetition. The information shall not 1109
be false or misleading. 1110

(O) "Wholesale distributor of dangerous drugs" or 1111
"wholesale distributor" means a person engaged in the sale of 1112
dangerous drugs at wholesale and includes any agent or employee 1113
of such a person authorized by the person to engage in the sale 1114
of dangerous drugs at wholesale. 1115

(P) "Manufacturer of dangerous drugs" or "manufacturer" 1116
means a person, other than a pharmacist or prescriber, who 1117
manufactures dangerous drugs and who is engaged in the sale of 1118
those dangerous drugs. 1119

(Q) "Terminal distributor of dangerous drugs" or "terminal 1120
distributor" means a person who is engaged in the sale of 1121
dangerous drugs at retail, or any person, other than a 1122
manufacturer, repackager, outsourcing facility, third-party 1123
logistics provider, wholesale distributor, or pharmacist, who 1124
has possession, custody, or control of dangerous drugs for any 1125
purpose other than for that person's own use and consumption. 1126
"Terminal distributor" includes pharmacies, hospitals, nursing 1127
homes, and laboratories and all other persons who procure 1128
dangerous drugs for sale or other distribution by or under the 1129
supervision of a pharmacist, licensed health professional 1130
authorized to prescribe drugs, or other person authorized by the 1131
state board of pharmacy. 1132

(R) "Promote to the public" means disseminating a 1133
representation to the public in any manner or by any means, 1134
other than by labeling, for the purpose of inducing, or that is 1135
likely to induce, directly or indirectly, the purchase of a 1136
dangerous drug at retail. 1137

(S) "Person" includes any individual, partnership, 1138
association, limited liability company, or corporation, the 1139
state, any political subdivision of the state, and any district, 1140
department, or agency of the state or its political 1141
subdivisions. 1142

(T) "Animal shelter" means a facility operated by a humane 1143
society or any society organized under Chapter 1717. of the 1144
Revised Code or a dog pound operated pursuant to Chapter 955. of 1145
the Revised Code. 1146

(U) "Food" has the same meaning as in section 3715.01 of 1147
the Revised Code. 1148

(V) "Pain management clinic" has the same meaning as in 1149
section 4731.054 of the Revised Code. 1150

(W) "Investigational drug or product" means a drug or 1151
product that has successfully completed phase one of the United 1152
States food and drug administration clinical trials and remains 1153
under clinical trial, but has not been approved for general use 1154
by the United States food and drug administration. 1155
"Investigational drug or product" does not include controlled 1156
substances in schedule I, as defined in section 3719.01 of the 1157
Revised Code. 1158

(X) "Product," when used in reference to an 1159
investigational drug or product, means a biological product, 1160
other than a drug, that is made from a natural human, animal, or 1161
microorganism source and is intended to treat a disease or 1162
medical condition. 1163

(Y) "Third-party logistics provider" means a person that 1164
provides or coordinates warehousing or other logistics services 1165
pertaining to dangerous drugs including distribution, on behalf 1166

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.

Sec. 4729.39. (A) ~~One~~ As used in this section:

(1) "Certified nurse practitioner," "certified nurse-midwife," "clinical nurse specialist," and "standard care arrangement" have the same meanings as in section 4723.01 of the Revised Code.

(2) "Collaborating physician" means a physician who has entered into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 1196
1197
1198

(4) "Physician assistant" means an individual who is licensed to practice as a physician assistant 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. 1199
1200
1201
1202
1203

(5) "Supervising physician" means a physician who has entered into a supervision agreement with a physician assistant under section 4730.19 of the Revised Code. 1204
1205
1206

(B) Subject to division (C) of this section, one or more pharmacists may enter into a consult agreement with one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery if of the following practitioners: 1207
1208
1209
1210
1211

(1) Physicians; 1212

(2) Physician assistants, if entering into a consult agreement is authorized by one or more supervising physicians; 1213
1214

(3) Clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners, if entering into a consult agreement is authorized by one or more collaborating physicians. 1215
1216
1217

(C) Before entering into a consult agreement, all of the following conditions ~~are~~ must be met: 1218
1219

(1) Each ~~physician has~~ practitioner must have an ongoing physician-patient ~~practitioner-patient~~ relationship with each patient whose drug therapy is ~~being~~ to be managed. 1220
1221
1222

(2) The diagnosis for which each patient has been 1223

prescribed drug therapy ~~is~~ must be within the scope of each 1224
~~physician's practitioner's~~ practice. 1225

(3) Each pharmacist ~~has~~ must have training and experience 1226
related to the particular diagnosis for which drug therapy is to 1227
be prescribed. 1228

~~(B)~~ (D) With respect to consult agreements, all of the 1229
following apply: 1230

(1) Under a consult agreement, a pharmacist is authorized 1231
to do both of the following, but only to the extent specified in 1232
the agreement, this section, and the rules adopted under this 1233
section: 1234

(a) Manage drug therapy for treatment of specified 1235
diagnoses or diseases for each patient who is subject to the 1236
agreement, including all of the following: 1237

(i) Changing the duration of treatment for the current 1238
drug therapy; 1239

(ii) Adjusting a drug's strength, dose, dosage form, 1240
frequency of administration, or route of administration; 1241

(iii) Discontinuing the use of a drug; 1242

(iv) Administering a drug; 1243

(v) Notwithstanding the definition of "licensed health 1244
professional authorized to prescribe drugs" in section 4729.01 1245
of the Revised Code, adding a drug to the patient's drug 1246
therapy. 1247

(b) (i) Order laboratory and diagnostic tests, including 1248
blood and urine tests ~~and evaluate results, that are~~ related to 1249
the drug therapy being managed, and evaluate the results of the 1250

tests that are ordered. 1251

(ii) A pharmacist's authority to evaluate ~~blood and urine~~ 1252
~~tests~~ test results under division ~~(B) (1) (b) (i)~~ (D) (1) (b) (i) of 1253
this section does not authorize the pharmacist to make a 1254
diagnosis. 1255

(2) (a) A consult agreement, or the portion of the 1256
agreement that applies to a particular patient, may be 1257
terminated by any of the following: 1258

(i) A pharmacist who entered into the agreement; 1259

(ii) A ~~physician~~ practitioner who entered into the 1260
agreement; 1261

(iii) A patient whose drug therapy is being managed; 1262

(iv) An individual who consented to the treatment on 1263
behalf of a patient or an individual authorized to act on behalf 1264
of a patient. 1265

(b) The pharmacist or ~~physician~~ practitioner who receives 1266
the notice of a patient's termination of the agreement shall 1267
provide written notice to every other pharmacist or ~~physician~~ 1268
practitioner who is a party to the agreement. A pharmacist or 1269
~~physician~~ practitioner who terminates a consult agreement with 1270
regard to one or more patients shall provide written notice to 1271
all other pharmacists and ~~physicians~~ practitioners who entered 1272
into the agreement and to each individual who consented to 1273
treatment under the agreement. The termination of a consult 1274
agreement with regard to one or more patients shall be recorded 1275
by the pharmacist and ~~physician~~ practitioner in the medical 1276
records of each patient to whom the termination applies. 1277

(3) A consult agreement shall be made in writing and shall 1278

include all of the following:	1279
(a) The diagnoses and diseases being managed under the agreement, including whether each disease is primary or comorbid;	1280 1281 1282
(b) A description of the drugs or drug categories the agreement involves;	1283 1284
(c) A description of the procedures, decision criteria, and plan the pharmacist is to follow in acting under a consult agreement;	1285 1286 1287
(d) A description of how the pharmacist is to comply with divisions (B) (5) <u>(D) (5)</u> and (6) of this section.	1288 1289
(4) The content of a consult agreement shall be communicated to each patient whose drug therapy is managed under the agreement.	1290 1291 1292
(5) A pharmacist acting under a consult agreement shall maintain a record of each action taken for each patient whose drug therapy is managed under the agreement.	1293 1294 1295
(6) Communication between a pharmacist and physician <u>practitioner</u> acting under a consult agreement shall take place at regular intervals specified by the primary physician <u>practitioner</u> acting under the agreement. The agreement may include a requirement that a pharmacist send a consult report to each consulting physician <u>practitioner</u> .	1296 1297 1298 1299 1300 1301
(7) A consult agreement is effective for two years and may be renewed if the conditions specified in division (A) <u>(C)</u> of this section are <u>continue to be</u> met.	1302 1303 1304
(8) A consult agreement does not permit a pharmacist to manage drug therapy prescribed by a physician <u>practitioner</u> who	1305 1306

has not entered into the agreement. 1307

~~(C) The state board of pharmacy, in consultation with the~~ 1308
~~state medical board, shall adopt rules to be followed by~~ 1309
~~pharmacists, and the state medical board, in consultation with~~ 1310
~~the state board of pharmacy, shall adopt rules to be followed by~~ 1311
~~physicians, that establish~~ (E) The state board of pharmacy, 1312
state medical board, and board of nursing shall each adopt rules 1313
as follows for its license holders establishing standards and 1314
procedures for entering into a consult agreement and managing a 1315
patient's drug therapy under a consult agreement: 1316

(1) The state board of pharmacy, in consultation with the 1317
state medical board and board of nursing, shall adopt rules to 1318
be followed by pharmacists. 1319

(2) The state medical board, in consultation with the 1320
state board of pharmacy, shall adopt rules to be followed by 1321
physicians and rules to be followed by physician assistants. 1322

(3) The board of nursing, in consultation with the state 1323
board of pharmacy and state medical board, shall adopt rules to 1324
be followed by clinical nurse specialists, certified nurse- 1325
midwives, and certified nurse practitioners. The 1326

The boards shall specify in the rules any categories of 1327
drugs or types of diseases for which a consult agreement may not 1328
be established. ~~Either~~ Each board may adopt any other rules it 1329
considers necessary for the implementation and administration of 1330
this section. All rules adopted under this ~~division~~ section 1331
shall be adopted in accordance with Chapter 119. of the Revised 1332
Code. 1333

~~(D) (1)~~ (F) (1) Subject to division ~~(D) (2)~~ (F) (2) of this 1334
section, both of the following apply: 1335

(a) A pharmacist acting in accordance with a consult 1336
agreement regarding a ~~physician's-practitioner's~~ change in a 1337
drug for a patient whose drug therapy the pharmacist is managing 1338
under the agreement is not liable in damages in a tort or other 1339
civil action for injury or loss to person or property allegedly 1340
arising from the change. 1341

(b) A ~~physician-practitioner~~ acting in accordance with a 1342
consult agreement regarding a pharmacist's change in a drug for 1343
a patient whose drug therapy the pharmacist is managing under a 1344
consult agreement is not liable in damages in a tort or other 1345
civil action for injury or loss to person or property allegedly 1346
arising from the change unless the ~~physician-practitioner~~ 1347
authorized the specific change. 1348

(2) Division ~~(D)(1)~~ (F)(1) of this section does not limit 1349
a ~~physician's-practitioner's~~ or pharmacist's liability in 1350
damages in a tort or other civil action for injury or loss to 1351
person or property allegedly arising from actions that are not 1352
related to the ~~physician's-practitioner's~~ or pharmacist's change 1353
in a drug for a patient whose drug therapy is being managed 1354
under a consult agreement. 1355

Sec. 4730.25. (A) The state medical board, by an 1356
affirmative vote of not fewer than six members, may revoke or 1357
may refuse to grant a license to practice as a physician 1358
assistant to a person found by the board to have committed 1359
fraud, misrepresentation, or deception in applying for or 1360
securing the license. 1361

(B) The board, by an affirmative vote of not fewer than 1362
six members, shall, to the extent permitted by law, limit, 1363
revoke, or suspend an individual's license to practice as a 1364
physician assistant or prescriber number, refuse to issue a 1365

license to an applicant, refuse to renew a license, refuse to 1366
reinstate a license, or reprimand or place on probation the 1367
holder of a license for any of the following reasons: 1368

(1) Failure to practice in accordance with the supervising 1369
physician's supervision agreement with the physician assistant, 1370
including, if applicable, the policies of the health care 1371
facility in which the supervising physician and physician 1372
assistant are practicing; 1373

(2) Failure to comply with the requirements of this 1374
chapter, Chapter 4731. of the Revised Code, or any rules adopted 1375
by the board; 1376

(3) Violating or attempting to violate, directly or 1377
indirectly, or assisting in or abetting the violation of, or 1378
conspiring to violate, any provision of this chapter, Chapter 1379
4731. of the Revised Code, or the rules adopted by the board; 1380

(4) Inability to practice according to acceptable and 1381
prevailing standards of care by reason of mental illness or 1382
physical illness, including physical deterioration that 1383
adversely affects cognitive, motor, or perceptive skills; 1384

(5) Impairment of ability to practice according to 1385
acceptable and prevailing standards of care because of habitual 1386
or excessive use or abuse of drugs, alcohol, or other substances 1387
that impair ability to practice; 1388

(6) Administering drugs for purposes other than those 1389
authorized under this chapter; 1390

(7) Willfully betraying a professional confidence; 1391

(8) Making a false, fraudulent, deceptive, or misleading 1392
statement in soliciting or advertising for employment as a 1393

physician assistant; in connection with any solicitation or 1394
advertisement for patients; in relation to the practice of 1395
medicine as it pertains to physician assistants; or in securing 1396
or attempting to secure a license to practice as a physician 1397
assistant. 1398

As used in this division, "false, fraudulent, deceptive, 1399
or misleading statement" means a statement that includes a 1400
misrepresentation of fact, is likely to mislead or deceive 1401
because of a failure to disclose material facts, is intended or 1402
is likely to create false or unjustified expectations of 1403
favorable results, or includes representations or implications 1404
that in reasonable probability will cause an ordinarily prudent 1405
person to misunderstand or be deceived. 1406

(9) Representing, with the purpose of obtaining 1407
compensation or other advantage personally or for any other 1408
person, that an incurable disease or injury, or other incurable 1409
condition, can be permanently cured; 1410

(10) The obtaining of, or attempting to obtain, money or 1411
anything of value by fraudulent misrepresentations in the course 1412
of practice; 1413

(11) A plea of guilty to, a judicial finding of guilt of, 1414
or a judicial finding of eligibility for intervention in lieu of 1415
conviction for, a felony; 1416

(12) Commission of an act that constitutes a felony in 1417
this state, regardless of the jurisdiction in which the act was 1418
committed; 1419

(13) A plea of guilty to, a judicial finding of guilt of, 1420
or a judicial finding of eligibility for intervention in lieu of 1421
conviction for, a misdemeanor committed in the course of 1422

practice;	1423
(14) A plea of guilty to, a judicial finding of guilt of,	1424
or a judicial finding of eligibility for intervention in lieu of	1425
conviction for, a misdemeanor involving moral turpitude;	1426
(15) Commission of an act in the course of practice that	1427
constitutes a misdemeanor in this state, regardless of the	1428
jurisdiction in which the act was committed;	1429
(16) Commission of an act involving moral turpitude that	1430
constitutes a misdemeanor in this state, regardless of the	1431
jurisdiction in which the act was committed;	1432
(17) A plea of guilty to, a judicial finding of guilt of,	1433
or a judicial finding of eligibility for intervention in lieu of	1434
conviction for violating any state or federal law regulating the	1435
possession, distribution, or use of any drug, including	1436
trafficking in drugs;	1437
(18) Any of the following actions taken by the state	1438
agency responsible for regulating the practice of physician	1439
assistants in another state, for any reason other than the	1440
nonpayment of fees: the limitation, revocation, or suspension of	1441
an individual's license to practice; acceptance of an	1442
individual's license surrender; denial of a license; refusal to	1443
renew or reinstate a license; imposition of probation; or	1444
issuance of an order of censure or other reprimand;	1445
(19) A departure from, or failure to conform to, minimal	1446
standards of care of similar physician assistants under the same	1447
or similar circumstances, regardless of whether actual injury to	1448
a patient is established;	1449
(20) Violation of the conditions placed by the board on a	1450
license to practice as a physician assistant;	1451

(21) Failure to use universal blood and body fluid	1452
precautions established by rules adopted under section 4731.051	1453
of the Revised Code;	1454
(22) Failure to cooperate in an investigation conducted by	1455
the board under section 4730.26 of the Revised Code, including	1456
failure to comply with a subpoena or order issued by the board	1457
or failure to answer truthfully a question presented by the	1458
board at a deposition or in written interrogatories, except that	1459
failure to cooperate with an investigation shall not constitute	1460
grounds for discipline under this section if a court of	1461
competent jurisdiction has issued an order that either quashes a	1462
subpoena or permits the individual to withhold the testimony or	1463
evidence in issue;	1464
(23) Assisting suicide, as defined in section 3795.01 of	1465
the Revised Code;	1466
(24) Prescribing any drug or device to perform or induce	1467
an abortion, or otherwise performing or inducing an abortion;	1468
(25) Failure to comply with section 4730.53 of the Revised	1469
Code, unless the board no longer maintains a drug database	1470
pursuant to section 4729.75 of the Revised Code;	1471
(26) Failure to comply with the requirements in section	1472
3719.061 of the Revised Code before issuing for a minor a	1473
prescription for an opioid analgesic, as defined in section	1474
3719.01 of the Revised Code;	1475
(27) Having certification by the national commission on	1476
certification of physician assistants or a successor	1477
organization expire, lapse, or be suspended or revoked;	1478
(28) The revocation, suspension, restriction, reduction,	1479
or termination of clinical privileges by the United States	1480

department of defense or department of veterans affairs or the 1481
termination or suspension of a certificate of registration to 1482
prescribe drugs by the drug enforcement administration of the 1483
United States department of justice; 1484

(29) Failure to comply with terms of a consult agreement 1485
entered into with a pharmacist pursuant to section 4729.39 of 1486
the Revised Code. 1487

(C) Disciplinary actions taken by the board under 1488
divisions (A) and (B) of this section shall be taken pursuant to 1489
an adjudication under Chapter 119. of the Revised Code, except 1490
that in lieu of an adjudication, the board may enter into a 1491
consent agreement with a physician assistant or applicant to 1492
resolve an allegation of a violation of this chapter or any rule 1493
adopted under it. A consent agreement, when ratified by an 1494
affirmative vote of not fewer than six members of the board, 1495
shall constitute the findings and order of the board with 1496
respect to the matter addressed in the agreement. If the board 1497
refuses to ratify a consent agreement, the admissions and 1498
findings contained in the consent agreement shall be of no force 1499
or effect. 1500

(D) For purposes of divisions (B) (12), (15), and (16) of 1501
this section, the commission of the act may be established by a 1502
finding by the board, pursuant to an adjudication under Chapter 1503
119. of the Revised Code, that the applicant or license holder 1504
committed the act in question. The board shall have no 1505
jurisdiction under these divisions in cases where the trial 1506
court renders a final judgment in the license holder's favor and 1507
that judgment is based upon an adjudication on the merits. The 1508
board shall have jurisdiction under these divisions in cases 1509
where the trial court issues an order of dismissal upon 1510

technical or procedural grounds. 1511

(E) The sealing of conviction records by any court shall 1512
have no effect upon a prior board order entered under the 1513
provisions of this section or upon the board's jurisdiction to 1514
take action under the provisions of this section if, based upon 1515
a plea of guilty, a judicial finding of guilt, or a judicial 1516
finding of eligibility for intervention in lieu of conviction, 1517
the board issued a notice of opportunity for a hearing prior to 1518
the court's order to seal the records. The board shall not be 1519
required to seal, destroy, redact, or otherwise modify its 1520
records to reflect the court's sealing of conviction records. 1521

(F) For purposes of this division, any individual who 1522
holds a license issued under this chapter, or applies for a 1523
license issued under this chapter, shall be deemed to have given 1524
consent to submit to a mental or physical examination when 1525
directed to do so in writing by the board and to have waived all 1526
objections to the admissibility of testimony or examination 1527
reports that constitute a privileged communication. 1528

(1) In enforcing division (B)(4) of this section, the 1529
board, upon a showing of a possible violation, may compel any 1530
individual who holds a license issued under this chapter or who 1531
has applied for a license pursuant to this chapter to submit to 1532
a mental examination, physical examination, including an HIV 1533
test, or both a mental and physical examination. The expense of 1534
the examination is the responsibility of the individual 1535
compelled to be examined. Failure to submit to a mental or 1536
physical examination or consent to an HIV test ordered by the 1537
board constitutes an admission of the allegations against the 1538
individual unless the failure is due to circumstances beyond the 1539
individual's control, and a default and final order may be 1540

entered without the taking of testimony or presentation of 1541
evidence. If the board finds a physician assistant unable to 1542
practice because of the reasons set forth in division (B) (4) of 1543
this section, the board shall require the physician assistant to 1544
submit to care, counseling, or treatment by physicians approved 1545
or designated by the board, as a condition for an initial, 1546
continued, reinstated, or renewed license. An individual 1547
affected under this division shall be afforded an opportunity to 1548
demonstrate to the board the ability to resume practicing in 1549
compliance with acceptable and prevailing standards of care. 1550

(2) For purposes of division (B) (5) of this section, if 1551
the board has reason to believe that any individual who holds a 1552
license issued under this chapter or any applicant for a license 1553
suffers such impairment, the board may compel the individual to 1554
submit to a mental or physical examination, or both. The expense 1555
of the examination is the responsibility of the individual 1556
compelled to be examined. Any mental or physical examination 1557
required under this division shall be undertaken by a treatment 1558
provider or physician qualified to conduct such examination and 1559
chosen by the board. 1560

Failure to submit to a mental or physical examination 1561
ordered by the board constitutes an admission of the allegations 1562
against the individual unless the failure is due to 1563
circumstances beyond the individual's control, and a default and 1564
final order may be entered without the taking of testimony or 1565
presentation of evidence. If the board determines that the 1566
individual's ability to practice is impaired, the board shall 1567
suspend the individual's license or deny the individual's 1568
application and shall require the individual, as a condition for 1569
initial, continued, reinstated, or renewed licensure, to submit 1570
to treatment. 1571

Before being eligible to apply for reinstatement of a 1572
license suspended under this division, the physician assistant 1573
shall demonstrate to the board the ability to resume practice or 1574
prescribing in compliance with acceptable and prevailing 1575
standards of care. The demonstration shall include the 1576
following: 1577

(a) Certification from a treatment provider approved under 1578
section 4731.25 of the Revised Code that the individual has 1579
successfully completed any required inpatient treatment; 1580

(b) Evidence of continuing full compliance with an 1581
aftercare contract or consent agreement; 1582

(c) Two written reports indicating that the individual's 1583
ability to practice has been assessed and that the individual 1584
has been found capable of practicing according to acceptable and 1585
prevailing standards of care. The reports shall be made by 1586
individuals or providers approved by the board for making such 1587
assessments and shall describe the basis for their 1588
determination. 1589

The board may reinstate a license suspended under this 1590
division after such demonstration and after the individual has 1591
entered into a written consent agreement. 1592

When the impaired physician assistant resumes practice or 1593
prescribing, the board shall require continued monitoring of the 1594
physician assistant. The monitoring shall include compliance 1595
with the written consent agreement entered into before 1596
reinstatement or with conditions imposed by board order after a 1597
hearing, and, upon termination of the consent agreement, 1598
submission to the board for at least two years of annual written 1599
progress reports made under penalty of falsification stating 1600

whether the physician assistant has maintained sobriety. 1601

(G) If the secretary and supervising member determine that 1602
there is clear and convincing evidence that a physician 1603
assistant has violated division (B) of this section and that the 1604
individual's continued practice or prescribing presents a danger 1605
of immediate and serious harm to the public, they may recommend 1606
that the board suspend the individual's license without a prior 1607
hearing. Written allegations shall be prepared for consideration 1608
by the board. 1609

The board, upon review of those allegations and by an 1610
affirmative vote of not fewer than six of its members, excluding 1611
the secretary and supervising member, may suspend a license 1612
without a prior hearing. A telephone conference call may be 1613
utilized for reviewing the allegations and taking the vote on 1614
the summary suspension. 1615

The board shall issue a written order of suspension by 1616
certified mail or in person in accordance with section 119.07 of 1617
the Revised Code. The order shall not be subject to suspension 1618
by the court during pendency of any appeal filed under section 1619
119.12 of the Revised Code. If the physician assistant requests 1620
an adjudicatory hearing by the board, the date set for the 1621
hearing shall be within fifteen days, but not earlier than seven 1622
days, after the physician assistant requests the hearing, unless 1623
otherwise agreed to by both the board and the license holder. 1624

A summary suspension imposed under this division shall 1625
remain in effect, unless reversed on appeal, until a final 1626
adjudicative order issued by the board pursuant to this section 1627
and Chapter 119. of the Revised Code becomes effective. The 1628
board shall issue its final adjudicative order within sixty days 1629
after completion of its hearing. Failure to issue the order 1630

within sixty days shall result in dissolution of the summary 1631
suspension order, but shall not invalidate any subsequent, final 1632
adjudicative order. 1633

(H) If the board takes action under division (B) (11), 1634
(13), or (14) of this section, and the judicial finding of 1635
guilt, guilty plea, or judicial finding of eligibility for 1636
intervention in lieu of conviction is overturned on appeal, upon 1637
exhaustion of the criminal appeal, a petition for 1638
reconsideration of the order may be filed with the board along 1639
with appropriate court documents. Upon receipt of a petition and 1640
supporting court documents, the board shall reinstate the 1641
individual's license. The board may then hold an adjudication 1642
under Chapter 119. of the Revised Code to determine whether the 1643
individual committed the act in question. Notice of opportunity 1644
for hearing shall be given in accordance with Chapter 119. of 1645
the Revised Code. If the board finds, pursuant to an 1646
adjudication held under this division, that the individual 1647
committed the act, or if no hearing is requested, it may order 1648
any of the sanctions identified under division (B) of this 1649
section. 1650

(I) The license to practice issued to a physician 1651
assistant and the physician assistant's practice in this state 1652
are automatically suspended as of the date the physician 1653
assistant pleads guilty to, is found by a judge or jury to be 1654
guilty of, or is subject to a judicial finding of eligibility 1655
for intervention in lieu of conviction in this state or 1656
treatment or intervention in lieu of conviction in another state 1657
for any of the following criminal offenses in this state or a 1658
substantially equivalent criminal offense in another 1659
jurisdiction: aggravated murder, murder, voluntary manslaughter, 1660
felonious assault, kidnapping, rape, sexual battery, gross 1661

sexual imposition, aggravated arson, aggravated robbery, or 1662
aggravated burglary. Continued practice after the suspension 1663
shall be considered practicing without a license. 1664

The board shall notify the individual subject to the 1665
suspension by certified mail or in person in accordance with 1666
section 119.07 of the Revised Code. If an individual whose 1667
license is suspended under this division fails to make a timely 1668
request for an adjudication under Chapter 119. of the Revised 1669
Code, the board shall enter a final order permanently revoking 1670
the individual's license to practice. 1671

(J) In any instance in which the board is required by 1672
Chapter 119. of the Revised Code to give notice of opportunity 1673
for hearing and the individual subject to the notice does not 1674
timely request a hearing in accordance with section 119.07 of 1675
the Revised Code, the board is not required to hold a hearing, 1676
but may adopt, by an affirmative vote of not fewer than six of 1677
its members, a final order that contains the board's findings. 1678
In that final order, the board may order any of the sanctions 1679
identified under division (A) or (B) of this section. 1680

(K) Any action taken by the board under division (B) of 1681
this section resulting in a suspension shall be accompanied by a 1682
written statement of the conditions under which the physician 1683
assistant's license may be reinstated. The board shall adopt 1684
rules in accordance with Chapter 119. of the Revised Code 1685
governing conditions to be imposed for reinstatement. 1686
Reinstatement of a license suspended pursuant to division (B) of 1687
this section requires an affirmative vote of not fewer than six 1688
members of the board. 1689

(L) When the board refuses to grant or issue to an 1690
applicant a license to practice as a physician assistant, 1691

revokes an individual's license, refuses to renew an 1692
individual's license, or refuses to reinstate an individual's 1693
license, the board may specify that its action is permanent. An 1694
individual subject to a permanent action taken by the board is 1695
forever thereafter ineligible to hold the license and the board 1696
shall not accept an application for reinstatement of the license 1697
or for issuance of a new license. 1698

(M) Notwithstanding any other provision of the Revised 1699
Code, all of the following apply: 1700

(1) The surrender of a license issued under this chapter 1701
is not effective unless or until accepted by the board. 1702
Reinstatement of a license surrendered to the board requires an 1703
affirmative vote of not fewer than six members of the board. 1704

(2) An application made under this chapter for a license 1705
may not be withdrawn without approval of the board. 1706

(3) Failure by an individual to renew a license in 1707
accordance with section 4730.14 of the Revised Code shall not 1708
remove or limit the board's jurisdiction to take disciplinary 1709
action under this section against the individual. 1710

Sec. 5164.14. The medicaid program may cover a health care 1711
service that a pharmacist provides to a medicaid recipient in 1712
accordance with Chapter 4729. of the Revised Code, including any 1713
of the following services: 1714

(A) Managing drug therapy under a consult agreement ~~with a~~ 1715
~~physician~~ pursuant to section 4729.39 of the Revised Code; 1716

(B) Administering immunizations in accordance with section 1717
4729.41 of the Revised Code; 1718

(C) Administering drugs in accordance with section 4729.45 1719

of the Revised Code. 1720

Section 2. That existing sections 1751.91, 3923.89, 1721
4715.14, 4715.30, 4715.36, 4723.28, 4729.01, 4729.39, 4730.25, 1722
and 5164.14 of the Revised Code are hereby repealed. 1723