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**Sub. H. B. No. 290**

**Representatives Sprague, Anielski**

**Cosponsors: Representatives Blessing, Dever, Grossman, Hackett, Henne, Rezabek, Romanchuk, Thompson, Huffman, Antonio, Barnes, Bishoff, Brown, Butler, Johnson, T., Kuhns, LaTourette, Sykes, Antani, Arndt, Baker, Boccieri, Boose, Boyd, Burkley, Clyde, Dovilla, Fedor, Ginter, Green, Hagan, Hall, Hambley, Johnson, G., Lepore-Hagan, Maag, Manning, McClain, O'Brien, M., O'Brien, S., Patterson, Perales, Ramos, Reineke, Roegner, Ruhl, Ryan, Schuring, Sheehy, Young**

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**A BILL**

To amend sections 4729.01, 4729.291, 4729.51, 1  
4729.57, 4731.22, and 4731.227 and to enact 2  
sections 4729.88 and 4731.96 of the Revised Code 3  
to permit a patient with a terminal condition to 4  
be treated with a drug, product, or device that 5  
is not approved by the United States Food and 6  
Drug Administration. 7

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

**Section 1.** That sections 4729.01, 4729.291, 4729.51, 8  
4729.57, 4731.22, and 4731.227 be amended and sections 4729.88 9  
and 4731.96 of the Revised Code be enacted to read as follows: 10

**Sec. 4729.01.** As used in this chapter: 11

(A) "Pharmacy," except when used in a context that refers 12  
to the practice of pharmacy, means any area, room, rooms, place 13  
of business, department, or portion of any of the foregoing 14

where the practice of pharmacy is conducted. 15

(B) "Practice of pharmacy" means providing pharmacist care 16  
requiring specialized knowledge, judgment, and skill derived 17  
from the principles of biological, chemical, behavioral, social, 18  
pharmaceutical, and clinical sciences. As used in this division, 19  
"pharmacist care" includes the following: 20

(1) Interpreting prescriptions; 21

(2) Dispensing drugs and drug therapy related devices; 22

(3) Compounding drugs; 23

(4) Counseling individuals with regard to their drug 24  
therapy, recommending drug therapy related devices, and 25  
assisting in the selection of drugs and appliances for treatment 26  
of common diseases and injuries and providing instruction in the 27  
proper use of the drugs and appliances; 28

(5) Performing drug regimen reviews with individuals by 29  
discussing all of the drugs that the individual is taking and 30  
explaining the interactions of the drugs; 31

(6) Performing drug utilization reviews with licensed 32  
health professionals authorized to prescribe drugs when the 33  
pharmacist determines that an individual with a prescription has 34  
a drug regimen that warrants additional discussion with the 35  
prescriber; 36

(7) Advising an individual and the health care 37  
professionals treating an individual with regard to the 38  
individual's drug therapy; 39

(8) Acting pursuant to a consult agreement with a 40  
physician authorized under Chapter 4731. of the Revised Code to 41  
practice medicine and surgery or osteopathic medicine and 42

surgery, if an agreement has been established with the 43  
physician; 44

(9) Engaging in the administration of immunizations to the 45  
extent authorized by section 4729.41 of the Revised Code. 46

(C) "Compounding" means the preparation, mixing, 47  
assembling, packaging, and labeling of one or more drugs in any 48  
of the following circumstances: 49

(1) Pursuant to a prescription issued by a licensed health 50  
professional authorized to prescribe drugs; 51

(2) Pursuant to the modification of a prescription made in 52  
accordance with a consult agreement; 53

(3) As an incident to research, teaching activities, or 54  
chemical analysis; 55

(4) In anticipation of orders for drugs pursuant to 56  
prescriptions, based on routine, regularly observed dispensing 57  
patterns; 58

(5) Pursuant to a request made by a licensed health 59  
professional authorized to prescribe drugs for a drug that is to 60  
be used by the professional for the purpose of direct 61  
administration to patients in the course of the professional's 62  
practice, if all of the following apply: 63

(a) At the time the request is made, the drug is not 64  
commercially available regardless of the reason that the drug is 65  
not available, including the absence of a manufacturer for the 66  
drug or the lack of a readily available supply of the drug from 67  
a manufacturer. 68

(b) A limited quantity of the drug is compounded and 69  
provided to the professional. 70

(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 to manage an individual's drug therapy that has been entered into by a pharmacist and a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(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.

(F) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution:

Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

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

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

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

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

(1) A written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs;

(2) For purposes of ~~section~~ sections 2925.61, 4723.488, 4729.44, 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.

(I) "Licensed health professional authorized to prescribe drugs" or "prescriber" means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional

practice, including only the following:	127
(1) A dentist licensed under Chapter 4715. of the Revised Code;	128 129
(2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code;	130 131 132
(3) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;	133 134 135
(4) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;	136 137 138
(5) A physician assistant who holds a license to practice as a physician assistant issued under Chapter 4730. of the Revised Code, holds a valid prescriber number issued by the state medical board, and has been granted physician-delegated prescriptive authority;	139 140 141 142 143
(6) A veterinarian licensed under Chapter 4741. of the Revised Code.	144 145
(J) "Sale" and "sell" include delivery, transfer, barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal proprietor, agent, or employee.	146 147 148 149
(K) "Wholesale sale" and "sale at wholesale" mean any sale in which the purpose of the purchaser is to resell the article purchased or received by the purchaser.	150 151 152
(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.	153 154

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

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

(1) The proprietary name of the drug product;

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

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

(4) The dosage form;

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

(O) "Wholesale distributor of dangerous drugs" means a person engaged in the sale of dangerous drugs at wholesale and

includes any agent or employee of such a person authorized by 184  
the person to engage in the sale of dangerous drugs at 185  
wholesale. 186

(P) "Manufacturer of dangerous drugs" means a person, 187  
other than a pharmacist, who manufactures dangerous drugs and 188  
who is engaged in the sale of those dangerous drugs within this 189  
state. 190

(Q) "Terminal distributor of dangerous drugs" means a 191  
person who is engaged in the sale of dangerous drugs at retail, 192  
or any person, other than a wholesale distributor or a 193  
pharmacist, who has possession, custody, or control of dangerous 194  
drugs for any purpose other than for that person's own use and 195  
consumption, and includes pharmacies, hospitals, nursing homes, 196  
and laboratories and all other persons who procure dangerous 197  
drugs for sale or other distribution by or under the supervision 198  
of a pharmacist or licensed health professional authorized to 199  
prescribe drugs. 200

(R) "Promote to the public" means disseminating a 201  
representation to the public in any manner or by any means, 202  
other than by labeling, for the purpose of inducing, or that is 203  
likely to induce, directly or indirectly, the purchase of a 204  
dangerous drug at retail. 205

(S) "Person" includes any individual, partnership, 206  
association, limited liability company, or corporation, the 207  
state, any political subdivision of the state, and any district, 208  
department, or agency of the state or its political 209  
subdivisions. 210

(T) "Finished dosage form" has the same meaning as in 211  
section 3715.01 of the Revised Code. 212



(U) "Generically equivalent drug" has the same meaning as 213  
in section 3715.01 of the Revised Code. 214

(V) "Animal shelter" means a facility operated by a humane 215  
society or any society organized under Chapter 1717. of the 216  
Revised Code or a dog pound operated pursuant to Chapter 955. of 217  
the Revised Code. 218

(W) "Food" has the same meaning as in section 3715.01 of 219  
the Revised Code. 220

(X) "Pain management clinic" has the same meaning as in 221  
section 4731.054 of the Revised Code. 222

(Y) "Investigational drug or product" means a drug or 223  
product that has successfully completed phase one of the United 224  
States food and drug administration clinical trials and remains 225  
under clinical trial, but has not been approved for general use 226  
by the United States food and drug administration. 227  
"Investigational drug or product" does not include controlled 228  
substances in schedule I, as established pursuant to section 229  
3719.41 of the Revised Code, and as amended. 230

(Z) "Product," when used in reference to an 231  
investigational drug or product, means a biological product, 232  
other than a drug, that is made from a natural human, animal, or 233  
microorganism source and is intended to treat a disease or 234  
medical condition. 235

**Sec. 4729.291.** (A) ~~When~~ Except when provided under section 236  
4731.96 of the Revised Code, when a licensed health professional 237  
authorized to prescribe drugs personally furnishes drugs to a 238  
patient pursuant to division (B) of section 4729.29 of the 239  
Revised Code, the prescriber shall ensure that the drugs are 240  
labeled and packaged in accordance with state and federal drug 241

laws and any rules and regulations adopted pursuant to those 242  
laws. Records of purchase and disposition of all drugs 243  
personally furnished to patients shall be maintained by the 244  
prescriber in accordance with state and federal drug statutes 245  
and any rules adopted pursuant to those statutes. 246

(B) When personally furnishing to a patient RU-486 247  
(mifepristone), a prescriber is subject to section 2919.123 of 248  
the Revised Code. A prescription for RU-486 (mifepristone) shall 249  
be in writing and in accordance with section 2919.123 of the 250  
Revised Code. 251

(C) (1) Except as provided in division (D) of this section, 252  
no prescriber shall do either of the following: 253

(a) In any thirty-day period, personally furnish to or for 254  
patients, taken as a whole, controlled substances in an amount 255  
that exceeds a total of two thousand five hundred dosage units; 256

(b) In any seventy-two-hour period, personally furnish to 257  
or for a patient an amount of a controlled substance that 258  
exceeds the amount necessary for the patient's use in a seventy- 259  
two-hour period. 260

(2) The state board of pharmacy may impose a fine of not 261  
more than five thousand dollars on a prescriber who fails to 262  
comply with the limits established under division (C) (1) of this 263  
section. A separate fine may be imposed for each instance of 264  
failing to comply with the limits. In imposing the fine, the 265  
board's actions shall be taken in accordance with Chapter 119. 266  
of the Revised Code. 267

(D) (1) None of the following shall be counted in 268  
determining whether the amounts specified in division (C) (1) of 269  
this section have been exceeded: 270

(a) Methadone provided to patients for the purpose of 271  
treating drug dependence or addiction, if the prescriber meets 272  
the conditions specified in 21 C.F.R. 1306.07; 273

(b) Buprenorphine provided to patients for the purpose of 274  
treating drug dependence or addiction as part of an opioid 275  
treatment program that is the subject of a current, valid 276  
certification from the substance abuse and mental health 277  
services administration of the United States department of 278  
health and human services pursuant to 42 C.F.R. 8.11 and 279  
distributes both buprenorphine and methadone; 280

(c) Controlled substances provided to research subjects by 281  
a facility conducting clinical research in studies approved by a 282  
hospital-based institutional review board or an institutional 283  
review board accredited by the association for the accreditation 284  
of human research protection programs. 285

(2) Division (C)(1) of this section does not apply to a 286  
prescriber who is a veterinarian. 287

**Sec. 4729.51.** (A)(1) Except as provided in division (A)(2) 288  
of this section, no person other than a registered wholesale 289  
distributor of dangerous drugs shall possess for sale, sell, 290  
distribute, or deliver, at wholesale, dangerous drugs or 291  
investigational drugs or products, except as follows: 292

(a) A pharmacist who is a licensed terminal distributor of 293  
dangerous drugs or who is employed by a licensed terminal 294  
distributor of dangerous drugs may make occasional sales of 295  
dangerous drugs or investigational drugs or products at 296  
wholesale. 297

(b) A licensed terminal distributor of dangerous drugs 298  
having more than one establishment or place may transfer or 299

deliver dangerous drugs from one establishment or place for 300  
which a license has been issued to the terminal distributor to 301  
another establishment or place for which a license has been 302  
issued to the terminal distributor if the license issued for 303  
each establishment or place is in effect at the time of the 304  
transfer or delivery. 305

(c) A licensed terminal distributor of dangerous drugs may 306  
make occasional sales of naloxone at wholesale to a state or 307  
local law enforcement agency if the terminal distributor is any 308  
of the following: 309

(i) A board of health of a city or general health 310  
district; 311

(ii) An authority having the duties of a board of health 312  
under section 3709.05 of the Revised Code; 313

(iii) A health department operated by such a board or 314  
authority. 315

(2) A manufacturer of dangerous drugs may donate inhalers, 316  
as defined in section 3313.7113 of the Revised Code, and 317  
epinephrine autoinjectors to any of the following: 318

(a) The board of education of a city, local, exempted 319  
village, or joint vocational school district; 320

(b) A community school established under Chapter 3314. of 321  
the Revised Code; 322

(c) A STEM school established under Chapter 3326. of the 323  
Revised Code; 324

(d) A college-preparatory boarding school established 325  
under Chapter 3328. of the Revised Code; 326

(e) A chartered or nonchartered nonpublic school.	327
(B) (1) No registered wholesale distributor of dangerous drugs shall possess for sale, or sell, at wholesale, dangerous drugs <u>or investigational drugs or products</u> to any person other than the following:	328 329 330 331
(a) Except as provided in division (B) (2) (a) of this section and division (B) of section 4729.541 of the Revised Code, a licensed health professional authorized to prescribe drugs;	332 333 334 335
(b) An optometrist licensed under Chapter 4725. of the Revised Code who holds a topical ocular pharmaceutical agents certificate;	336 337 338
(c) A registered wholesale distributor of dangerous drugs;	339
(d) A manufacturer of dangerous drugs;	340
(e) Subject to division (B) (3) of this section, a licensed terminal distributor of dangerous drugs;	341 342
(f) Carriers or warehouses for the purpose of carriage or storage;	343 344
(g) Terminal or wholesale distributors of dangerous drugs who are not engaged in the sale of dangerous drugs within this state;	345 346 347
(h) An individual who holds a current license, certificate, or registration issued under Title XLVII of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only with respect to insulin that will be used for the purpose of diabetes education and only if diabetes	348 349 350 351 352 353 354

education is within the individual's scope of practice under 355  
statutes and rules regulating the individual's profession; 356

(i) An individual who holds a valid certificate issued by 357  
a nationally recognized S.C.U.B.A. diving certifying 358  
organization approved by the state board of pharmacy in rule, 359  
but only with respect to medical oxygen that will be used for 360  
the purpose of emergency care or treatment at the scene of a 361  
diving emergency; 362

(j) Except as provided in division (B) (2) (b) of this 363  
section and division (A) of section 4729.541 of the Revised 364  
Code, a business entity that is a corporation formed under 365  
division (B) of section 1701.03 of the Revised Code, a limited 366  
liability company formed under Chapter 1705. of the Revised 367  
Code, or a professional association formed under Chapter 1785. 368  
of the Revised Code if the entity has a sole shareholder who is 369  
a licensed health professional authorized to prescribe drugs and 370  
is authorized to provide the professional services being offered 371  
by the entity; 372

(k) Except as provided in division (B) (2) (c) of this 373  
section and division (A) of section 4729.541 of the Revised 374  
Code, a business entity that is a corporation formed under 375  
division (B) of section 1701.03 of the Revised Code, a limited 376  
liability company formed under Chapter 1705. of the Revised 377  
Code, a partnership or a limited liability partnership formed 378  
under Chapter 1775. of the Revised Code, or a professional 379  
association formed under Chapter 1785. of the Revised Code, if, 380  
to be a shareholder, member, or partner, an individual is 381  
required to be licensed, certified, or otherwise legally 382  
authorized under Title XLVII of the Revised Code to perform the 383  
professional service provided by the entity and each such 384

individual is a licensed health professional authorized to 385  
prescribe drugs; 386

(l) With respect to epinephrine autoinjectors that may be 387  
possessed under section 3313.7110, 3313.7111, 3314.143, 3326.28, 388  
or 3328.29 of the Revised Code, any of the following: the board 389  
of education of a city, local, exempted village, or joint 390  
vocational school district; a chartered or nonchartered 391  
nonpublic school; a community school established under Chapter 392  
3314. of the Revised Code; a STEM school established under 393  
Chapter 3326. of the Revised Code; or a college-preparatory 394  
boarding school established under Chapter 3328. of the Revised 395  
Code; 396

(m) With respect to epinephrine autoinjectors that may be 397  
possessed under section 5101.76 of the Revised Code, any of the 398  
following: a residential camp, as defined in section 2151.011 of 399  
the Revised Code; a child day camp, as defined in section 400  
5104.01 of the Revised Code; or a child day camp operated by any 401  
county, township, municipal corporation, township park district 402  
created under section 511.18 of the Revised Code, park district 403  
created under section 1545.04 of the Revised Code, or joint 404  
recreation district established under section 755.14 of the 405  
Revised Code; 406

(n) With respect to naloxone that may be possessed under 407  
section 2925.61 of the Revised Code, a law enforcement agency 408  
and its peace officers; 409

(o) With respect to inhalers that may be possessed under 410  
section 3313.7113, 3313.7114, 3314.144, 3326.30, or 3328.30 of 411  
the Revised Code, any of the following: the board of education 412  
of a city, local, exempted village, or joint vocational school 413  
district; a chartered or nonchartered nonpublic school; a 414

community school established under Chapter 3314. of the Revised Code; a STEM school established under Chapter 3326. of the Revised Code; or a college-preparatory boarding school established under Chapter 3328. of the Revised Code;

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

(2) No registered wholesale distributor of dangerous drugs shall possess for sale, or sell, at wholesale, dangerous drugs or investigational drugs or products to any of the following:

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

(b) A business entity described in division (B) (1) (j) of this section that is, or is operating, a pain management clinic without a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code;

(c) A business entity described in division (B) (1) (k) of this section that is, or is operating, a pain management clinic without a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under



section 4729.552 of the Revised Code. 444

(3) No registered wholesale distributor of dangerous drugs 445  
shall possess dangerous drugs or investigational drugs or 446  
products for sale at wholesale, or sell such drugs at wholesale, 447  
to a licensed terminal distributor of dangerous drugs, except as 448  
follows: 449

(a) In the case of a terminal distributor with a category 450  
I license, only dangerous drugs described in category I, as 451  
defined in division (A)(1) of section 4729.54 of the Revised 452  
Code; 453

(b) In the case of a terminal distributor with a category 454  
II license, only dangerous drugs described in category I and 455  
category II, as defined in divisions (A)(1) and (2) of section 456  
4729.54 of the Revised Code; 457

(c) In the case of a terminal distributor with a category 458  
III license, dangerous drugs described in category I, category 459  
II, and category III, as defined in divisions (A)(1), (2), and 460  
(3) of section 4729.54 of the Revised Code; 461

(d) In the case of a terminal distributor with a limited 462  
category I, II, or III license, only the dangerous drugs 463  
specified in the certificate furnished by the terminal 464  
distributor in accordance with section 4729.60 of the Revised 465  
Code. 466

(C)(1) Except as provided in division (C)(4) of this 467  
section, no person shall sell, at retail, dangerous drugs. 468

(2) Except as provided in division (C)(4) of this section, 469  
no person shall possess for sale, at retail, dangerous drugs. 470

(3) Except as provided in division (C)(4) of this section, 471

no person shall possess dangerous drugs. 472

(4) Divisions (C) (1), (2), and (3) of this section do not 473  
apply to a registered wholesale distributor of dangerous drugs 474  
or a licensed terminal distributor of dangerous drugs. 475

Divisions (C) (1), (2), and (3) of this section do not 476  
apply to a person who possesses, or possesses for sale or sells, 477  
at retail, a dangerous drug in accordance with Chapters 3719., 478  
4715., 4723., 4725., 4729., 4730., 4731., and 4741. of the 479  
Revised Code. 480

Divisions (C) (1), (2), and (3) of this section do not 481  
apply to an individual who holds a current license, certificate, 482  
or registration issued under Title XLVII of the Revised Code and 483  
has been certified to conduct diabetes education by a national 484  
certifying body specified in rules adopted by the state board of 485  
pharmacy under section 4729.68 of the Revised Code, but only to 486  
the extent that the individual possesses insulin or personally 487  
supplies insulin solely for the purpose of diabetes education 488  
and only if diabetes education is within the individual's scope 489  
of practice under statutes and rules regulating the individual's 490  
profession. 491

Divisions (C) (1), (2), and (3) of this section do not 492  
apply to an individual who holds a valid certificate issued by a 493  
nationally recognized S.C.U.B.A. diving certifying organization 494  
approved by the state board of pharmacy in rule, but only to the 495  
extent that the individual possesses medical oxygen or 496  
personally supplies medical oxygen for the purpose of emergency 497  
care or treatment at the scene of a diving emergency. 498

Division (C) (3) of this section does not apply to the 499  
board of education of a city, local, exempted village, or joint 500

vocational school district, a school building operated by a 501  
school district board of education, a chartered or nonchartered 502  
nonpublic school, a community school, a STEM school, or a 503  
college-preparatory boarding school for the purpose of 504  
possessing epinephrine autoinjectors under section 3313.7110, 505  
3313.7111, 3314.143, 3326.28, or 3328.29 of the Revised Code and 506  
for the purpose of possessing inhalers under section 3313.7113, 507  
3313.7114, 3314.144, 3326.30, or 3328.30 of the Revised Code. 508

Division (C) (3) of this section does not apply to a 509  
residential camp, as defined in section 2151.011 of the Revised 510  
Code, a child day camp, as defined in section 5104.01 of the 511  
Revised Code, or a child day camp operated by any county, 512  
township, municipal corporation, township park district created 513  
under section 511.18 of the Revised Code, park district created 514  
under section 1545.04 of the Revised Code, or joint recreation 515  
district established under section 755.14 of the Revised Code 516  
for the purpose of possessing epinephrine autoinjectors under 517  
section 5101.76 of the Revised Code and for the purpose of 518  
possessing inhalers under section 5101.77 of the Revised Code. 519

Division (C) (3) of this section does not apply to a law 520  
enforcement agency or the agency's peace officers if the agency 521  
or officers possess naloxone for administration to individuals 522  
who are apparently experiencing opioid-related overdoses. 523

(D) No licensed terminal distributor of dangerous drugs 524  
shall purchase for the purpose of resale dangerous drugs or 525  
investigational drugs or products from any person other than a 526  
registered wholesale distributor of dangerous drugs, except as 527  
follows: 528

(1) A licensed terminal distributor of dangerous drugs may 529  
make occasional purchases of dangerous drugs or investigational 530

drugs or products for resale from a pharmacist who is a licensed 531  
terminal distributor of dangerous drugs or who is employed by a 532  
licensed terminal distributor of dangerous drugs; 533

(2) A licensed terminal distributor of dangerous drugs 534  
having more than one establishment or place may transfer or 535  
receive dangerous drugs or investigational drugs or products 536  
from one establishment or place for which a license has been 537  
issued to the terminal distributor to another establishment or 538  
place for which a license has been issued to the terminal 539  
distributor if the license issued for each establishment or 540  
place is in effect at the time of the transfer or receipt. 541

(E) No licensed terminal distributor of dangerous drugs 542  
shall engage in the sale or other distribution of dangerous 543  
drugs or investigational drugs or products at retail or maintain 544  
possession, custody, or control of dangerous drugs or 545  
investigational drugs or products for any purpose other than the 546  
distributor's personal use or consumption, at any establishment 547  
or place other than that or those described in the license 548  
issued by the state board of pharmacy to such terminal 549  
distributor. 550

(F) Nothing in this section shall be construed to 551  
interfere with the performance of official duties by any law 552  
enforcement official authorized by municipal, county, state, or 553  
federal law to collect samples of any drug, regardless of its 554  
nature or in whose possession it may be. 555

(G) Notwithstanding anything to the contrary in this 556  
section, the board of education of a city, local, exempted 557  
village, or joint vocational school district may deliver 558  
epinephrine autoinjectors to a school under its control for the 559  
purpose of possessing the epinephrine autoinjectors under 560

section 3313.7110 of the Revised Code and may deliver inhalers 561  
to a school under its control for the purpose of possessing the 562  
inhalers under section 3313.7113 of the Revised Code. 563

**Sec. 4729.57.** (A) The state board of pharmacy may suspend, 564  
revoke, or refuse to grant or renew any license as a terminal 565  
distributor of dangerous drugs, or may impose a monetary penalty 566  
or forfeiture not to exceed in severity any fine designated 567  
under the Revised Code for a similar offense or one thousand 568  
dollars if the acts committed have not been classified as an 569  
offense by the Revised Code, for any of the following causes: 570

(1) Making any false material statements in an application 571  
for a license as a terminal distributor of dangerous drugs; 572

(2) Violating any rule of the board; 573

(3) Violating any provision of this chapter; 574

(4) ~~Violating~~ Except as provided in section 4729.88 of the 575  
Revised Code, violating any provision of the "Federal Food, 576  
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 577  
or Chapter 3715. of the Revised Code; 578

(5) Violating any provision of the federal drug abuse 579  
control laws or Chapter 2925. or 3719. of the Revised Code; 580

(6) Falsely or fraudulently promoting to the public a 581  
dangerous drug, except that nothing in this division prohibits a 582  
terminal distributor of dangerous drugs from furnishing 583  
information concerning a dangerous drug to a health care 584  
provider or another licensed terminal distributor; 585

(7) Ceasing to satisfy the qualifications of a terminal 586  
distributor of dangerous drugs set forth in section 4729.55 of 587  
the Revised Code; 588

(8) Except as provided in division (B) of this section:	589
(a) Waiving the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers the services provided by a terminal distributor of dangerous drugs, would otherwise be required to pay for the services if the waiver is used as an enticement to a patient or group of patients to receive pharmacy services from that terminal distributor;	590 591 592 593 594 595 596 597
(b) Advertising that the terminal distributor will waive the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers the pharmaceutical services, would otherwise be required to pay for the services.	598 599 600 601 602
(B) Sanctions shall not be imposed under division (A) (8) of this section against any terminal distributor of dangerous drugs that waives deductibles and copayments as follows:	603 604 605
(1) In compliance with a health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board on request.	606 607 608 609 610 611
(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.	612 613 614
(C) (1) Upon the suspension or revocation of a license issued to a terminal distributor of dangerous drugs or the refusal by the board to renew such a license, the distributor	615 616 617

shall immediately surrender the license to the board. 618

(2) The board may place under seal all dangerous drugs 619  
that are owned by or in the possession, custody, or control of a 620  
terminal distributor at the time the license is suspended or 621  
revoked or at the time the board refuses to renew the license. 622  
Except as otherwise provided in this division, dangerous drugs 623  
so sealed shall not be disposed of until appeal rights under 624  
Chapter 119. of the Revised Code have expired or an appeal filed 625  
pursuant to that chapter has been determined. 626

The court involved in an appeal filed pursuant to Chapter 627  
119. of the Revised Code may order the board, during the 628  
pendency of the appeal, to sell sealed dangerous drugs that are 629  
perishable. The proceeds of such a sale shall be deposited with 630  
that court. 631

Sec. 4729.88. (A) As used in this section, "eligible 632  
patient," "investigational drug, product, or device," "terminal 633  
condition," and "treating physician" have the same meanings as 634  
in section 4731.96 of the Revised Code. 635

(B) A manufacturer of dangerous drugs may, in accordance 636  
with section 4731.96 of the Revised Code, provide an 637  
investigational drug, product, or device for treatment of a 638  
terminal condition to an eligible patient or to the treating 639  
physician who is treating the eligible patient's terminal 640  
condition. In doing so, the manufacturer may do all of the 641  
following: 642

(1) Provide the investigational drug, product, or device 643  
to the eligible patient or treating physician directly or 644  
through a terminal distributor of dangerous drugs; 645

(2) Provide the investigational drug, product, or device 646

either with or without charge for the costs associated with 647  
manufacturing and providing the investigational drug, product, 648  
or device; 649

(3) Require the eligible patient to participate in data 650  
collection relating to use of the investigational drug, product, 651  
or device. 652

(C) Except for actions or omissions constituting willful 653  
or wanton misconduct, a manufacturer or terminal distributor of 654  
dangerous drugs that provides or distributes an investigational 655  
drug, product, or device pursuant to this section and section 656  
4731.96 of the Revised Code is not liable for or subject to 657  
damages in any civil action or prosecution in any criminal 658  
proceeding for actions or omissions related to providing or 659  
distributing the investigational drug, product, or device. 660

(D) Nothing in this section shall be interpreted as 661  
requiring a manufacturer or terminal distributor to provide an 662  
investigational drug, product, or device to an eligible patient 663  
or the patient's treating physician. 664

**Sec. 4731.22.** (A) The state medical board, by an 665  
affirmative vote of not fewer than six of its members, may 666  
limit, revoke, or suspend an individual's certificate to 667  
practice, refuse to grant a certificate to an individual, refuse 668  
to renew a certificate, refuse to reinstate a certificate, or 669  
reprimand or place on probation the holder of a certificate if 670  
the individual or certificate holder is found by the board to 671  
have committed fraud during the administration of the 672  
examination for a certificate to practice or to have committed 673  
fraud, misrepresentation, or deception in applying for, 674  
renewing, or securing any certificate to practice issued by the 675  
board. 676



(B) The board, by an affirmative vote of not fewer than 677  
six members, shall, to the extent permitted by law, limit, 678  
revoke, or suspend an individual's certificate to practice, 679  
refuse to issue a certificate to an individual, refuse to renew 680  
a certificate, refuse to reinstate a certificate, or reprimand 681  
or place on probation the holder of a certificate for one or 682  
more of the following reasons: 683

(1) Permitting one's name or one's certificate to practice 684  
to be used by a person, group, or corporation when the 685  
individual concerned is not actually directing the treatment 686  
given; 687

(2) Failure to maintain minimal standards applicable to 688  
the selection or administration of drugs, or failure to employ 689  
acceptable scientific methods in the selection of drugs or other 690  
modalities for treatment of disease; 691

(3) ~~Selling~~ Except as provided in section 4731.96 of the 692  
Revised Code, selling, giving away, personally furnishing, 693  
prescribing, or administering drugs for other than legal and 694  
legitimate therapeutic purposes or a plea of guilty to, a 695  
judicial finding of guilt of, or a judicial finding of 696  
eligibility for intervention in lieu of conviction of, a 697  
violation of any federal or state law regulating the possession, 698  
distribution, or use of any drug; 699

(4) Willfully betraying a professional confidence. 700

For purposes of this division, "willfully betraying a 701  
professional confidence" does not include providing any 702  
information, documents, or reports under sections 307.621 to 703  
307.629 of the Revised Code to a child fatality review board; 704  
does not include providing any information, documents, or 705

reports to the director of health pursuant to guidelines 706  
established under section 3701.70 of the Revised Code; does not 707  
include written notice to a mental health professional under 708  
section 4731.62 of the Revised Code; and does not include the 709  
making of a report of an employee's use of a drug of abuse, or a 710  
report of a condition of an employee other than one involving 711  
the use of a drug of abuse, to the employer of the employee as 712  
described in division (B) of section 2305.33 of the Revised 713  
Code. Nothing in this division affects the immunity from civil 714  
liability conferred by section 2305.33 or 4731.62 of the Revised 715  
Code upon a physician who makes a report in accordance with 716  
section 2305.33 or notifies a mental health professional in 717  
accordance with section 4731.62 of the Revised Code. As used in 718  
this division, "employee," "employer," and "physician" have the 719  
same meanings as in section 2305.33 of the Revised Code. 720

(5) Making a false, fraudulent, deceptive, or misleading 721  
statement in the solicitation of or advertising for patients; in 722  
relation to the practice of medicine and surgery, osteopathic 723  
medicine and surgery, podiatric medicine and surgery, or a 724  
limited branch of medicine; or in securing or attempting to 725  
secure any certificate to practice issued by the board. 726

As used in this division, "false, fraudulent, deceptive, 727  
or misleading statement" means a statement that includes a 728  
misrepresentation of fact, is likely to mislead or deceive 729  
because of a failure to disclose material facts, is intended or 730  
is likely to create false or unjustified expectations of 731  
favorable results, or includes representations or implications 732  
that in reasonable probability will cause an ordinarily prudent 733  
person to misunderstand or be deceived. 734

(6) A departure from, or the failure to conform to, 735

minimal standards of care of similar practitioners under the 736  
same or similar circumstances, whether or not actual injury to a 737  
patient is established; 738

(7) Representing, with the purpose of obtaining 739  
compensation or other advantage as personal gain or for any 740  
other person, that an incurable disease or injury, or other 741  
incurable condition, can be permanently cured; 742

(8) The obtaining of, or attempting to obtain, money or 743  
anything of value by fraudulent misrepresentations in the course 744  
of practice; 745

(9) A plea of guilty to, a judicial finding of guilt of, 746  
or a judicial finding of eligibility for intervention in lieu of 747  
conviction for, a felony; 748

(10) Commission of an act that constitutes a felony in 749  
this state, regardless of the jurisdiction in which the act was 750  
committed; 751

(11) A plea of guilty to, a judicial finding of guilt of, 752  
or a judicial finding of eligibility for intervention in lieu of 753  
conviction for, a misdemeanor committed in the course of 754  
practice; 755

(12) Commission of an act in the course of practice that 756  
constitutes a misdemeanor in this state, regardless of the 757  
jurisdiction in which the act was committed; 758

(13) A plea of guilty to, a judicial finding of guilt of, 759  
or a judicial finding of eligibility for intervention in lieu of 760  
conviction for, a misdemeanor involving moral turpitude; 761

(14) Commission of an act involving moral turpitude that 762  
constitutes a misdemeanor in this state, regardless of the 763

jurisdiction in which the act was committed;	764
(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;	765 766
(16) Failure to pay license renewal fees specified in this chapter;	767 768
(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;	769 770 771 772 773
(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.	774 775 776 777 778 779 780 781 782 783 784
For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability	785 786 787 788 789 790 791 792

conferred by that section upon a physician who makes either type 793  
of report in accordance with division (B) of that section. As 794  
used in this division, "employee," "employer," and "physician" 795  
have the same meanings as in section 2305.33 of the Revised 796  
Code. 797

(19) Inability to practice according to acceptable and 798  
prevailing standards of care by reason of mental illness or 799  
physical illness, including, but not limited to, physical 800  
deterioration that adversely affects cognitive, motor, or 801  
perceptive skills. 802

In enforcing this division, the board, upon a showing of a 803  
possible violation, may compel any individual authorized to 804  
practice by this chapter or who has submitted an application 805  
pursuant to this chapter to submit to a mental examination, 806  
physical examination, including an HIV test, or both a mental 807  
and a physical examination. The expense of the examination is 808  
the responsibility of the individual compelled to be examined. 809  
Failure to submit to a mental or physical examination or consent 810  
to an HIV test ordered by the board constitutes an admission of 811  
the allegations against the individual unless the failure is due 812  
to circumstances beyond the individual's control, and a default 813  
and final order may be entered without the taking of testimony 814  
or presentation of evidence. If the board finds an individual 815  
unable to practice because of the reasons set forth in this 816  
division, the board shall require the individual to submit to 817  
care, counseling, or treatment by physicians approved or 818  
designated by the board, as a condition for initial, continued, 819  
reinstated, or renewed authority to practice. An individual 820  
affected under this division shall be afforded an opportunity to 821  
demonstrate to the board the ability to resume practice in 822  
compliance with acceptable and prevailing standards under the 823

provisions of the individual's certificate. For the purpose of 824  
this division, any individual who applies for or receives a 825  
certificate to practice under this chapter accepts the privilege 826  
of practicing in this state and, by so doing, shall be deemed to 827  
have given consent to submit to a mental or physical examination 828  
when directed to do so in writing by the board, and to have 829  
waived all objections to the admissibility of testimony or 830  
examination reports that constitute a privileged communication. 831

(20) Except when civil penalties are imposed under section 832  
4731.225 or 4731.282 of the Revised Code, and subject to section 833  
4731.226 of the Revised Code, violating or attempting to 834  
violate, directly or indirectly, or assisting in or abetting the 835  
violation of, or conspiring to violate, any provisions of this 836  
chapter or any rule promulgated by the board. 837

This division does not apply to a violation or attempted 838  
violation of, assisting in or abetting the violation of, or a 839  
conspiracy to violate, any provision of this chapter or any rule 840  
adopted by the board that would preclude the making of a report 841  
by a physician of an employee's use of a drug of abuse, or of a 842  
condition of an employee other than one involving the use of a 843  
drug of abuse, to the employer of the employee as described in 844  
division (B) of section 2305.33 of the Revised Code. Nothing in 845  
this division affects the immunity from civil liability 846  
conferred by that section upon a physician who makes either type 847  
of report in accordance with division (B) of that section. As 848  
used in this division, "employee," "employer," and "physician" 849  
have the same meanings as in section 2305.33 of the Revised 850  
Code. 851

(21) The violation of section 3701.79 of the Revised Code 852  
or of any abortion rule adopted by the director of health 853

pursuant to section 3701.341 of the Revised Code; 854

(22) Any of the following actions taken by an agency 855  
responsible for authorizing, certifying, or regulating an 856  
individual to practice a health care occupation or provide 857  
health care services in this state or another jurisdiction, for 858  
any reason other than the nonpayment of fees: the limitation, 859  
revocation, or suspension of an individual's license to 860  
practice; acceptance of an individual's license surrender; 861  
denial of a license; refusal to renew or reinstate a license; 862  
imposition of probation; or issuance of an order of censure or 863  
other reprimand; 864

(23) The violation of section 2919.12 of the Revised Code 865  
or the performance or inducement of an abortion upon a pregnant 866  
woman with actual knowledge that the conditions specified in 867  
division (B) of section 2317.56 of the Revised Code have not 868  
been satisfied or with a heedless indifference as to whether 869  
those conditions have been satisfied, unless an affirmative 870  
defense as specified in division (H) (2) of that section would 871  
apply in a civil action authorized by division (H) (1) of that 872  
section; 873

(24) The revocation, suspension, restriction, reduction, 874  
or termination of clinical privileges by the United States 875  
department of defense or department of veterans affairs or the 876  
termination or suspension of a certificate of registration to 877  
prescribe drugs by the drug enforcement administration of the 878  
United States department of justice; 879

(25) Termination or suspension from participation in the 880  
medicare or medicaid programs by the department of health and 881  
human services or other responsible agency for any act or acts 882  
that also would constitute a violation of division (B) (2), (3), 883

(6), (8), or (19) of this section; 884

(26) Impairment of ability to practice according to 885  
acceptable and prevailing standards of care because of habitual 886  
or excessive use or abuse of drugs, alcohol, or other substances 887  
that impair ability to practice. 888

For the purposes of this division, any individual 889  
authorized to practice by this chapter accepts the privilege of 890  
practicing in this state subject to supervision by the board. By 891  
filing an application for or holding a certificate to practice 892  
under this chapter, an individual shall be deemed to have given 893  
consent to submit to a mental or physical examination when 894  
ordered to do so by the board in writing, and to have waived all 895  
objections to the admissibility of testimony or examination 896  
reports that constitute privileged communications. 897

If it has reason to believe that any individual authorized 898  
to practice by this chapter or any applicant for certification 899  
to practice suffers such impairment, the board may compel the 900  
individual to submit to a mental or physical examination, or 901  
both. The expense of the examination is the responsibility of 902  
the individual compelled to be examined. Any mental or physical 903  
examination required under this division shall be undertaken by 904  
a treatment provider or physician who is qualified to conduct 905  
the examination and who is chosen by the board. 906

Failure to submit to a mental or physical examination 907  
ordered by the board constitutes an admission of the allegations 908  
against the individual unless the failure is due to 909  
circumstances beyond the individual's control, and a default and 910  
final order may be entered without the taking of testimony or 911  
presentation of evidence. If the board determines that the 912  
individual's ability to practice is impaired, the board shall 913



suspend the individual's certificate or deny the individual's 914  
application and shall require the individual, as a condition for 915  
initial, continued, reinstated, or renewed certification to 916  
practice, to submit to treatment. 917

Before being eligible to apply for reinstatement of a 918  
certificate suspended under this division, the impaired 919  
practitioner shall demonstrate to the board the ability to 920  
resume practice in compliance with acceptable and prevailing 921  
standards of care under the provisions of the practitioner's 922  
certificate. The demonstration shall include, but shall not be 923  
limited to, the following: 924

(a) Certification from a treatment provider approved under 925  
section 4731.25 of the Revised Code that the individual has 926  
successfully completed any required inpatient treatment; 927

(b) Evidence of continuing full compliance with an 928  
aftercare contract or consent agreement; 929

(c) Two written reports indicating that the individual's 930  
ability to practice has been assessed and that the individual 931  
has been found capable of practicing according to acceptable and 932  
prevailing standards of care. The reports shall be made by 933  
individuals or providers approved by the board for making the 934  
assessments and shall describe the basis for their 935  
determination. 936

The board may reinstate a certificate suspended under this 937  
division after that demonstration and after the individual has 938  
entered into a written consent agreement. 939

When the impaired practitioner resumes practice, the board 940  
shall require continued monitoring of the individual. The 941  
monitoring shall include, but not be limited to, compliance with 942

the written consent agreement entered into before reinstatement 943  
or with conditions imposed by board order after a hearing, and, 944  
upon termination of the consent agreement, submission to the 945  
board for at least two years of annual written progress reports 946  
made under penalty of perjury stating whether the individual has 947  
maintained sobriety. 948

(27) A second or subsequent violation of section 4731.66 949  
or 4731.69 of the Revised Code; 950

(28) Except as provided in division (N) of this section: 951

(a) Waiving the payment of all or any part of a deductible 952  
or copayment that a patient, pursuant to a health insurance or 953  
health care policy, contract, or plan that covers the 954  
individual's services, otherwise would be required to pay if the 955  
waiver is used as an enticement to a patient or group of 956  
patients to receive health care services from that individual; 957

(b) Advertising that the individual will waive the payment 958  
of all or any part of a deductible or copayment that a patient, 959  
pursuant to a health insurance or health care policy, contract, 960  
or plan that covers the individual's services, otherwise would 961  
be required to pay. 962

(29) Failure to use universal blood and body fluid 963  
precautions established by rules adopted under section 4731.051 964  
of the Revised Code; 965

(30) Failure to provide notice to, and receive 966  
acknowledgment of the notice from, a patient when required by 967  
section 4731.143 of the Revised Code prior to providing 968  
nonemergency professional services, or failure to maintain that 969  
notice in the patient's file; 970

(31) Failure of a physician supervising a physician 971

assistant to maintain supervision in accordance with the	972
requirements of Chapter 4730. of the Revised Code and the rules	973
adopted under that chapter;	974
(32) Failure of a physician or podiatrist to enter into a	975
standard care arrangement with a clinical nurse specialist,	976
certified nurse-midwife, or certified nurse practitioner with	977
whom the physician or podiatrist is in collaboration pursuant to	978
section 4731.27 of the Revised Code or failure to fulfill the	979
responsibilities of collaboration after entering into a standard	980
care arrangement;	981
(33) Failure to comply with the terms of a consult	982
agreement entered into with a pharmacist pursuant to section	983
4729.39 of the Revised Code;	984
(34) Failure to cooperate in an investigation conducted by	985
the board under division (F) of this section, including failure	986
to comply with a subpoena or order issued by the board or	987
failure to answer truthfully a question presented by the board	988
in an investigative interview, an investigative office	989
conference, at a deposition, or in written interrogatories,	990
except that failure to cooperate with an investigation shall not	991
constitute grounds for discipline under this section if a court	992
of competent jurisdiction has issued an order that either	993
quashes a subpoena or permits the individual to withhold the	994
testimony or evidence in issue;	995
(35) Failure to supervise an oriental medicine	996
practitioner or acupuncturist in accordance with Chapter 4762.	997
of the Revised Code and the board's rules for providing that	998
supervision;	999
(36) Failure to supervise an anesthesiologist assistant in	1000

accordance with Chapter 4760. of the Revised Code and the	1001
board's rules for supervision of an anesthesiologist assistant;	1002
(37) Assisting suicide, as defined in section 3795.01 of	1003
the Revised Code;	1004
(38) Failure to comply with the requirements of section	1005
2317.561 of the Revised Code;	1006
(39) Failure to supervise a radiologist assistant in	1007
accordance with Chapter 4774. of the Revised Code and the	1008
board's rules for supervision of radiologist assistants;	1009
(40) Performing or inducing an abortion at an office or	1010
facility with knowledge that the office or facility fails to	1011
post the notice required under section 3701.791 of the Revised	1012
Code;	1013
(41) Failure to comply with the standards and procedures	1014
established in rules under section 4731.054 of the Revised Code	1015
for the operation of or the provision of care at a pain	1016
management clinic;	1017
(42) Failure to comply with the standards and procedures	1018
established in rules under section 4731.054 of the Revised Code	1019
for providing supervision, direction, and control of individuals	1020
at a pain management clinic;	1021
(43) Failure to comply with the requirements of section	1022
4729.79 or 4731.055 of the Revised Code, unless the state board	1023
of pharmacy no longer maintains a drug database pursuant to	1024
section 4729.75 of the Revised Code;	1025
(44) Failure to comply with the requirements of section	1026
2919.171 of the Revised Code or failure to submit to the	1027
department of health in accordance with a court order a complete	1028

report as described in section 2919.171 of the Revised Code; 1029

(45) Practicing at a facility that is subject to licensure 1030  
as a category III terminal distributor of dangerous drugs with a 1031  
pain management clinic classification unless the person 1032  
operating the facility has obtained and maintains the license 1033  
with the classification; 1034

(46) Owning a facility that is subject to licensure as a 1035  
category III terminal distributor of dangerous drugs with a pain 1036  
management clinic classification unless the facility is licensed 1037  
with the classification; 1038

(47) Failure to comply with the requirement regarding 1039  
maintaining notes described in division (B) of section 2919.191 1040  
of the Revised Code or failure to satisfy the requirements of 1041  
section 2919.191 of the Revised Code prior to performing or 1042  
inducing an abortion upon a pregnant woman; 1043

(48) Failure to comply with the requirements in section 1044  
3719.061 of the Revised Code before issuing for a minor a 1045  
prescription for an opioid analgesic, as defined in section 1046  
3719.01 of the Revised Code. 1047

(C) Disciplinary actions taken by the board under 1048  
divisions (A) and (B) of this section shall be taken pursuant to 1049  
an adjudication under Chapter 119. of the Revised Code, except 1050  
that in lieu of an adjudication, the board may enter into a 1051  
consent agreement with an individual to resolve an allegation of 1052  
a violation of this chapter or any rule adopted under it. A 1053  
consent agreement, when ratified by an affirmative vote of not 1054  
fewer than six members of the board, shall constitute the 1055  
findings and order of the board with respect to the matter 1056  
addressed in the agreement. If the board refuses to ratify a 1057

consent agreement, the admissions and findings contained in the 1058  
consent agreement shall be of no force or effect. 1059

A telephone conference call may be utilized for 1060  
ratification of a consent agreement that revokes or suspends an 1061  
individual's certificate to practice. The telephone conference 1062  
call shall be considered a special meeting under division (F) of 1063  
section 121.22 of the Revised Code. 1064

If the board takes disciplinary action against an 1065  
individual under division (B) of this section for a second or 1066  
subsequent plea of guilty to, or judicial finding of guilt of, a 1067  
violation of section 2919.123 of the Revised Code, the 1068  
disciplinary action shall consist of a suspension of the 1069  
individual's certificate to practice for a period of at least 1070  
one year or, if determined appropriate by the board, a more 1071  
serious sanction involving the individual's certificate to 1072  
practice. Any consent agreement entered into under this division 1073  
with an individual that pertains to a second or subsequent plea 1074  
of guilty to, or judicial finding of guilt of, a violation of 1075  
that section shall provide for a suspension of the individual's 1076  
certificate to practice for a period of at least one year or, if 1077  
determined appropriate by the board, a more serious sanction 1078  
involving the individual's certificate to practice. 1079

(D) For purposes of divisions (B)(10), (12), and (14) of 1080  
this section, the commission of the act may be established by a 1081  
finding by the board, pursuant to an adjudication under Chapter 1082  
119. of the Revised Code, that the individual committed the act. 1083  
The board does not have jurisdiction under those divisions if 1084  
the trial court renders a final judgment in the individual's 1085  
favor and that judgment is based upon an adjudication on the 1086  
merits. The board has jurisdiction under those divisions if the 1087

trial court issues an order of dismissal upon technical or 1088  
procedural grounds. 1089

(E) The sealing of conviction records by any court shall 1090  
have no effect upon a prior board order entered under this 1091  
section or upon the board's jurisdiction to take action under 1092  
this section if, based upon a plea of guilty, a judicial finding 1093  
of guilt, or a judicial finding of eligibility for intervention 1094  
in lieu of conviction, the board issued a notice of opportunity 1095  
for a hearing prior to the court's order to seal the records. 1096  
The board shall not be required to seal, destroy, redact, or 1097  
otherwise modify its records to reflect the court's sealing of 1098  
conviction records. 1099

(F) (1) The board shall investigate evidence that appears 1100  
to show that a person has violated any provision of this chapter 1101  
or any rule adopted under it. Any person may report to the board 1102  
in a signed writing any information that the person may have 1103  
that appears to show a violation of any provision of this 1104  
chapter or any rule adopted under it. In the absence of bad 1105  
faith, any person who reports information of that nature or who 1106  
testifies before the board in any adjudication conducted under 1107  
Chapter 119. of the Revised Code shall not be liable in damages 1108  
in a civil action as a result of the report or testimony. Each 1109  
complaint or allegation of a violation received by the board 1110  
shall be assigned a case number and shall be recorded by the 1111  
board. 1112

(2) Investigations of alleged violations of this chapter 1113  
or any rule adopted under it shall be supervised by the 1114  
supervising member elected by the board in accordance with 1115  
section 4731.02 of the Revised Code and by the secretary as 1116  
provided in section 4731.39 of the Revised Code. The president 1117

may designate another member of the board to supervise the 1118  
investigation in place of the supervising member. No member of 1119  
the board who supervises the investigation of a case shall 1120  
participate in further adjudication of the case. 1121

(3) In investigating a possible violation of this chapter 1122  
or any rule adopted under this chapter, or in conducting an 1123  
inspection under division (E) of section 4731.054 of the Revised 1124  
Code, the board may question witnesses, conduct interviews, 1125  
administer oaths, order the taking of depositions, inspect and 1126  
copy any books, accounts, papers, records, or documents, issue 1127  
subpoenas, and compel the attendance of witnesses and production 1128  
of books, accounts, papers, records, documents, and testimony, 1129  
except that a subpoena for patient record information shall not 1130  
be issued without consultation with the attorney general's 1131  
office and approval of the secretary and supervising member of 1132  
the board. 1133

(a) Before issuance of a subpoena for patient record 1134  
information, the secretary and supervising member shall 1135  
determine whether there is probable cause to believe that the 1136  
complaint filed alleges a violation of this chapter or any rule 1137  
adopted under it and that the records sought are relevant to the 1138  
alleged violation and material to the investigation. The 1139  
subpoena may apply only to records that cover a reasonable 1140  
period of time surrounding the alleged violation. 1141

(b) On failure to comply with any subpoena issued by the 1142  
board and after reasonable notice to the person being 1143  
subpoenaed, the board may move for an order compelling the 1144  
production of persons or records pursuant to the Rules of Civil 1145  
Procedure. 1146

(c) A subpoena issued by the board may be served by a 1147



sheriff, the sheriff's deputy, or a board employee designated by 1148  
the board. Service of a subpoena issued by the board may be made 1149  
by delivering a copy of the subpoena to the person named 1150  
therein, reading it to the person, or leaving it at the person's 1151  
usual place of residence, usual place of business, or address on 1152  
file with the board. When serving a subpoena to an applicant for 1153  
or the holder of a certificate issued under this chapter, 1154  
service of the subpoena may be made by certified mail, return 1155  
receipt requested, and the subpoena shall be deemed served on 1156  
the date delivery is made or the date the person refuses to 1157  
accept delivery. If the person being served refuses to accept 1158  
the subpoena or is not located, service may be made to an 1159  
attorney who notifies the board that the attorney is 1160  
representing the person. 1161

(d) A sheriff's deputy who serves a subpoena shall receive 1162  
the same fees as a sheriff. Each witness who appears before the 1163  
board in obedience to a subpoena shall receive the fees and 1164  
mileage provided for under section 119.094 of the Revised Code. 1165

(4) All hearings, investigations, and inspections of the 1166  
board shall be considered civil actions for the purposes of 1167  
section 2305.252 of the Revised Code. 1168

(5) A report required to be submitted to the board under 1169  
this chapter, a complaint, or information received by the board 1170  
pursuant to an investigation or pursuant to an inspection under 1171  
division (E) of section 4731.054 of the Revised Code is 1172  
confidential and not subject to discovery in any civil action. 1173

The board shall conduct all investigations or inspections 1174  
and proceedings in a manner that protects the confidentiality of 1175  
patients and persons who file complaints with the board. The 1176  
board shall not make public the names or any other identifying 1177

information about patients or complainants unless proper consent 1178  
is given or, in the case of a patient, a waiver of the patient 1179  
privilege exists under division (B) of section 2317.02 of the 1180  
Revised Code, except that consent or a waiver of that nature is 1181  
not required if the board possesses reliable and substantial 1182  
evidence that no bona fide physician-patient relationship 1183  
exists. 1184

The board may share any information it receives pursuant 1185  
to an investigation or inspection, including patient records and 1186  
patient record information, with law enforcement agencies, other 1187  
licensing boards, and other governmental agencies that are 1188  
prosecuting, adjudicating, or investigating alleged violations 1189  
of statutes or administrative rules. An agency or board that 1190  
receives the information shall comply with the same requirements 1191  
regarding confidentiality as those with which the state medical 1192  
board must comply, notwithstanding any conflicting provision of 1193  
the Revised Code or procedure of the agency or board that 1194  
applies when it is dealing with other information in its 1195  
possession. In a judicial proceeding, the information may be 1196  
admitted into evidence only in accordance with the Rules of 1197  
Evidence, but the court shall require that appropriate measures 1198  
are taken to ensure that confidentiality is maintained with 1199  
respect to any part of the information that contains names or 1200  
other identifying information about patients or complainants 1201  
whose confidentiality was protected by the state medical board 1202  
when the information was in the board's possession. Measures to 1203  
ensure confidentiality that may be taken by the court include 1204  
sealing its records or deleting specific information from its 1205  
records. 1206

(6) On a quarterly basis, the board shall prepare a report 1207  
that documents the disposition of all cases during the preceding 1208

three months. The report shall contain the following information 1209  
for each case with which the board has completed its activities: 1210

(a) The case number assigned to the complaint or alleged 1211  
violation; 1212

(b) The type of certificate to practice, if any, held by 1213  
the individual against whom the complaint is directed; 1214

(c) A description of the allegations contained in the 1215  
complaint; 1216

(d) The disposition of the case. 1217

The report shall state how many cases are still pending 1218  
and shall be prepared in a manner that protects the identity of 1219  
each person involved in each case. The report shall be a public 1220  
record under section 149.43 of the Revised Code. 1221

(G) If the secretary and supervising member determine both 1222  
of the following, they may recommend that the board suspend an 1223  
individual's certificate to practice without a prior hearing: 1224

(1) That there is clear and convincing evidence that an 1225  
individual has violated division (B) of this section; 1226

(2) That the individual's continued practice presents a 1227  
danger of immediate and serious harm to the public. 1228

Written allegations shall be prepared for consideration by 1229  
the board. The board, upon review of those allegations and by an 1230  
affirmative vote of not fewer than six of its members, excluding 1231  
the secretary and supervising member, may suspend a certificate 1232  
without a prior hearing. A telephone conference call may be 1233  
utilized for reviewing the allegations and taking the vote on 1234  
the summary suspension. 1235

The board shall issue a written order of suspension by 1236  
certified mail or in person in accordance with section 119.07 of 1237  
the Revised Code. The order shall not be subject to suspension 1238  
by the court during pendency of any appeal filed under section 1239  
119.12 of the Revised Code. If the individual subject to the 1240  
summary suspension requests an adjudicatory hearing by the 1241  
board, the date set for the hearing shall be within fifteen 1242  
days, but not earlier than seven days, after the individual 1243  
requests the hearing, unless otherwise agreed to by both the 1244  
board and the individual. 1245

Any summary suspension imposed under this division shall 1246  
remain in effect, unless reversed on appeal, until a final 1247  
adjudicative order issued by the board pursuant to this section 1248  
and Chapter 119. of the Revised Code becomes effective. The 1249  
board shall issue its final adjudicative order within seventy- 1250  
five days after completion of its hearing. A failure to issue 1251  
the order within seventy-five days shall result in dissolution 1252  
of the summary suspension order but shall not invalidate any 1253  
subsequent, final adjudicative order. 1254

(H) If the board takes action under division (B) (9), (11), 1255  
or (13) of this section and the judicial finding of guilt, 1256  
guilty plea, or judicial finding of eligibility for intervention 1257  
in lieu of conviction is overturned on appeal, upon exhaustion 1258  
of the criminal appeal, a petition for reconsideration of the 1259  
order may be filed with the board along with appropriate court 1260  
documents. Upon receipt of a petition of that nature and 1261  
supporting court documents, the board shall reinstate the 1262  
individual's certificate to practice. The board may then hold an 1263  
adjudication under Chapter 119. of the Revised Code to determine 1264  
whether the individual committed the act in question. Notice of 1265  
an opportunity for a hearing shall be given in accordance with 1266

Chapter 119. of the Revised Code. If the board finds, pursuant 1267  
to an adjudication held under this division, that the individual 1268  
committed the act or if no hearing is requested, the board may 1269  
order any of the sanctions identified under division (B) of this 1270  
section. 1271

(I) The certificate to practice issued to an individual 1272  
under this chapter and the individual's practice in this state 1273  
are automatically suspended as of the date of the individual's 1274  
second or subsequent plea of guilty to, or judicial finding of 1275  
guilt of, a violation of section 2919.123 of the Revised Code, 1276  
or the date the individual pleads guilty to, is found by a judge 1277  
or jury to be guilty of, or is subject to a judicial finding of 1278  
eligibility for intervention in lieu of conviction in this state 1279  
or treatment or intervention in lieu of conviction in another 1280  
jurisdiction for any of the following criminal offenses in this 1281  
state or a substantially equivalent criminal offense in another 1282  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 1283  
felonious assault, kidnapping, rape, sexual battery, gross 1284  
sexual imposition, aggravated arson, aggravated robbery, or 1285  
aggravated burglary. Continued practice after suspension shall 1286  
be considered practicing without a certificate. 1287

The board shall notify the individual subject to the 1288  
suspension by certified mail or in person in accordance with 1289  
section 119.07 of the Revised Code. If an individual whose 1290  
certificate is automatically suspended under this division fails 1291  
to make a timely request for an adjudication under Chapter 119. 1292  
of the Revised Code, the board shall do whichever of the 1293  
following is applicable: 1294

(1) If the automatic suspension under this division is for 1295  
a second or subsequent plea of guilty to, or judicial finding of 1296

guilt of, a violation of section 2919.123 of the Revised Code, 1297  
the board shall enter an order suspending the individual's 1298  
certificate to practice for a period of at least one year or, if 1299  
determined appropriate by the board, imposing a more serious 1300  
sanction involving the individual's certificate to practice. 1301

(2) In all circumstances in which division (I)(1) of this 1302  
section does not apply, enter a final order permanently revoking 1303  
the individual's certificate to practice. 1304

(J) If the board is required by Chapter 119. of the 1305  
Revised Code to give notice of an opportunity for a hearing and 1306  
if the individual subject to the notice does not timely request 1307  
a hearing in accordance with section 119.07 of the Revised Code, 1308  
the board is not required to hold a hearing, but may adopt, by 1309  
an affirmative vote of not fewer than six of its members, a 1310  
final order that contains the board's findings. In that final 1311  
order, the board may order any of the sanctions identified under 1312  
division (A) or (B) of this section. 1313

(K) Any action taken by the board under division (B) of 1314  
this section resulting in a suspension from practice shall be 1315  
accompanied by a written statement of the conditions under which 1316  
the individual's certificate to practice may be reinstated. The 1317  
board shall adopt rules governing conditions to be imposed for 1318  
reinstatement. Reinstatement of a certificate suspended pursuant 1319  
to division (B) of this section requires an affirmative vote of 1320  
not fewer than six members of the board. 1321

(L) When the board refuses to grant or issue a certificate 1322  
to practice to an applicant, revokes an individual's certificate 1323  
to practice, refuses to renew an individual's certificate to 1324  
practice, or refuses to reinstate an individual's certificate to 1325  
practice, the board may specify that its action is permanent. An 1326

individual subject to a permanent action taken by the board is 1327  
forever thereafter ineligible to hold a certificate to practice 1328  
and the board shall not accept an application for reinstatement 1329  
of the certificate or for issuance of a new certificate. 1330

(M) Notwithstanding any other provision of the Revised 1331  
Code, all of the following apply: 1332

(1) The surrender of a certificate issued under this 1333  
chapter shall not be effective unless or until accepted by the 1334  
board. A telephone conference call may be utilized for 1335  
acceptance of the surrender of an individual's certificate to 1336  
practice. The telephone conference call shall be considered a 1337  
special meeting under division (F) of section 121.22 of the 1338  
Revised Code. Reinstatement of a certificate surrendered to the 1339  
board requires an affirmative vote of not fewer than six members 1340  
of the board. 1341

(2) An application for a certificate made under the 1342  
provisions of this chapter may not be withdrawn without approval 1343  
of the board. 1344

(3) Failure by an individual to renew a certificate to 1345  
practice in accordance with this chapter shall not remove or 1346  
limit the board's jurisdiction to take any disciplinary action 1347  
under this section against the individual. 1348

(4) At the request of the board, a certificate holder 1349  
shall immediately surrender to the board a certificate that the 1350  
board has suspended, revoked, or permanently revoked. 1351

(N) Sanctions shall not be imposed under division (B) (28) 1352  
of this section against any person who waives deductibles and 1353  
copayments as follows: 1354

(1) In compliance with the health benefit plan that 1355

expressly allows such a practice. Waiver of the deductibles or 1356  
copayments shall be made only with the full knowledge and 1357  
consent of the plan purchaser, payer, and third-party 1358  
administrator. Documentation of the consent shall be made 1359  
available to the board upon request. 1360

(2) For professional services rendered to any other person 1361  
authorized to practice pursuant to this chapter, to the extent 1362  
allowed by this chapter and rules adopted by the board. 1363

(0) Under the board's investigative duties described in 1364  
this section and subject to division (F) of this section, the 1365  
board shall develop and implement a quality intervention program 1366  
designed to improve through remedial education the clinical and 1367  
communication skills of individuals authorized under this 1368  
chapter to practice medicine and surgery, osteopathic medicine 1369  
and surgery, and podiatric medicine and surgery. In developing 1370  
and implementing the quality intervention program, the board may 1371  
do all of the following: 1372

(1) Offer in appropriate cases as determined by the board 1373  
an educational and assessment program pursuant to an 1374  
investigation the board conducts under this section; 1375

(2) Select providers of educational and assessment 1376  
services, including a quality intervention program panel of case 1377  
reviewers; 1378

(3) Make referrals to educational and assessment service 1379  
providers and approve individual educational programs 1380  
recommended by those providers. The board shall monitor the 1381  
progress of each individual undertaking a recommended individual 1382  
educational program. 1383

(4) Determine what constitutes successful completion of an 1384



individual educational program and require further monitoring of 1385  
the individual who completed the program or other action that 1386  
the board determines to be appropriate; 1387

(5) Adopt rules in accordance with Chapter 119. of the 1388  
Revised Code to further implement the quality intervention 1389  
program. 1390

An individual who participates in an individual 1391  
educational program pursuant to this division shall pay the 1392  
financial obligations arising from that educational program. 1393

**Sec. 4731.227.** An individual authorized to practice 1394  
medicine and surgery or osteopathic medicine and surgery may use 1395  
alternative medical treatments if the individual has provided 1396  
the information necessary to obtain informed consent from the 1397  
patient and the treatment meets the standards enforced by the 1398  
state medical board pursuant to section 4731.22 of the Revised 1399  
Code and any rules adopted by the board. 1400

As used in this section, "alternative medical treatment" 1401  
means care that is complementary to or different from 1402  
conventional medical care but is reasonable when the benefits 1403  
and risks of the alternative medical treatment and the 1404  
conventional medical care are compared. "Alternative medical 1405  
treatment" does not include treatment with an investigational 1406  
drug, product, or device under section 4731.96 of the Revised 1407  
Code. 1408

**Sec. 4731.96.** (A) As used in this section: 1409

(1) "Investigational drug, product, or device" means a 1410  
drug, product, or device that has successfully completed phase 1411  
one of United States food and drug administration clinical 1412  
trials and remains under clinical trial, but has not been 1413

approved for general use by the United States food and drug 1414  
administration. "Investigational drug, product, or device" does 1415  
not include controlled substances in schedule I, as established 1416  
pursuant to section 3719.41 of the Revised Code, and as amended. 1417

(2) "Drug" has the same meaning as in section 4729.01 of 1418  
the Revised Code. 1419

(3) "Product" means a biological product, other than a 1420  
drug, that is made from a natural human, animal, or 1421  
microorganism source and is intended to treat a disease or 1422  
medical condition. 1423

(4) "Device" means a medical device that is intended for 1424  
use in the diagnosis or treatment of a disease or medical 1425  
condition. 1426

(5) "Physician" means an individual authorized by this 1427  
chapter to practice medicine and surgery or osteopathic medicine 1428  
and surgery. 1429

(6) "Terminal condition" means any of the following 1430  
conditions, if irreversible, incurable, and untreatable through 1431  
a method of treatment approved by the United States food and 1432  
drug administration: 1433

(a) A progressive form of cancer; 1434

(b) A progressive neurological disorder; 1435

(c) A progressive musculoskeletal disorder; 1436

(d) A condition that, based on reasonable medical 1437  
standards and a reasonable degree of medical certainty, appears 1438  
likely to cause death within a period of time that is relatively 1439  
short but does not exceed twelve months. 1440

(7) "Treating physician" means the physician primarily responsible for providing medical care and treating an eligible patient's terminal condition. "Treating physician" does not include the patient's primary care physician unless that physician is treating the patient's terminal condition and no other physician is primarily responsible for treating the terminal condition. The patient may have more than one treating physician. 1441  
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(B) (1) Subject to division (B) (2) of this section, an individual is an eligible patient if all of the following conditions are met: 1449  
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1451

(a) The individual has a terminal condition, as determined by the individual's treating physician and by one other physician who has examined the individual. 1452  
1453  
1454

(b) The individual, as determined by the individual's treating physician, has considered all treatment options for the terminal condition that are approved by the United States food and drug administration and determined that there are no satisfactory or comparable approved treatments and that the risk from the investigational drug, product, or device is no greater than the probable risk from not treating the terminal condition. 1455  
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(c) The individual's treating physician recommends the use of the investigational drug, product, or device, attests that it represents the individual's best chance at survival, and agrees to either administer or personally furnish it or has issued a prescription to the individual for the investigational drug, product, or device. 1462  
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(d) The treating physician includes documentation in the patient's medical record that all of the foregoing conditions 1468  
1469

have been met. 1470

(2) An individual who meets the requirements of division 1471  
(B)(1) of this section is not an eligible patient if a clinical 1472  
trial using the investigational drug, product, or device is 1473  
actively being conducted within the individual's county of 1474  
residence or an adjoining county, unless the individual applied 1475  
for participation but was denied access to that clinical trial. 1476

(C)(1) A treating physician may treat an eligible patient 1477  
with an investigational drug, product, or device after securing 1478  
the patient's informed consent in a signed statement. If the 1479  
patient is a minor or lacks the capacity to consent, the 1480  
informed consent must be obtained from a parent, guardian, or 1481  
other person legally responsible for the patient. 1482

(2) To secure informed consent, the treating physician 1483  
must do all of the following: 1484

(a) Record all of the following in the document that is to 1485  
be signed: 1486

(i) An explanation of the approved treatment options for 1487  
the terminal condition from which the patient suffers; 1488

(ii) The specific proposed investigational drug, product, 1489  
or device; 1490

(iii) The potentially best and worst outcomes of using the 1491  
investigational drug, product, or device with a realistic 1492  
description of the most likely outcome, including the 1493  
possibility that new, unanticipated, different, or worse 1494  
symptoms might result, and that death could be hastened by the 1495  
investigational drug, product, or device; 1496

(iv) An explanation that the manufacturer of the 1497

investigational drug, product, or device may hold the patient 1498  
liable for all expenses that arise from the patient's use of the 1499  
investigational drug, product, or device. 1500

(b) Have the individual giving consent sign the document 1501  
in the conscious presence of a competent witness; 1502

(c) Have the witness also sign the document and attest 1503  
that the individual giving consent appeared to do all of the 1504  
following: 1505

(i) Concur with the treating physician in believing that 1506  
all approved treatment options would be unlikely to prolong the 1507  
patient's life; 1508

(ii) Understand the risks involved with using the 1509  
investigational drug, product, or device; 1510

(iii) Willingly desire to use the investigational drug, 1511  
product, or device to treat the terminal condition. 1512

(3) An eligible patient, or the patient's parent, 1513  
guardian, or other person legally responsible for the patient, 1514  
may revoke consent to treatment with an investigational drug, 1515  
product, or device at any time and in any manner that 1516  
communicates the revocation. 1517

(D) Except for actions constituting willful or wanton 1518  
misconduct, a treating physician who recommends or treats an 1519  
eligible patient with an investigational drug, product, or 1520  
device in compliance with this section is not liable for or 1521  
subject to any of the following for an action or omission 1522  
related to treatment with the investigational drug, product, or 1523  
device: damages in any civil action, prosecution in any criminal 1524  
proceeding, or professional disciplinary action. 1525

(E) An official, employee, or agent of this state shall 1526  
not, solely because an investigational drug, product, or device 1527  
has not been approved for general use by the United States food 1528  
and drug administration, prevent or attempt to prevent access by 1529  
an eligible patient or eligible patient's treating physician to 1530  
an investigational drug, product, or device that is being 1531  
provided or is to be provided in accordance with this section or 1532  
section 4729.88 of the Revised Code. 1533

(F) If an eligible patient dies while being treated with 1534  
an investigational drug, product, or device and there are any 1535  
outstanding costs related to treating the patient, the patient's 1536  
estate, devisees, and heirs shall not be held liable by any 1537  
person or government entity for those costs. 1538

(G) Nothing in this section requires a health care 1539  
insurer, the medicaid program or any other government health 1540  
care program, or any other entity that offers health care 1541  
benefits to provide coverage for the costs incurred from the use 1542  
of any investigational drug, product, or device. 1543

(H) Nothing in this section condones, authorizes, or 1544  
approves of assisted suicide, as defined in section 3795.01 of 1545  
the Revised Code, or any action that is considered mercy killing 1546  
or euthanasia. 1547

**Section 2.** That existing sections 4729.01, 4729.291, 1548  
4729.51, 4729.57, 4731.22, and 4731.227 of the Revised Code are 1549  
hereby repealed. 1550

**Section 3.** Section 4729.01 of the Revised Code is 1551  
presented in this act as a composite of the section as amended 1552  
by both Am. Sub. H.B. 4 and Sub. S.B. 110 of the 131st General 1553  
Assembly. The General Assembly, applying the principle stated in 1554

division (B) of section 1.52 of the Revised Code that amendments	1555
are to be harmonized if reasonably capable of simultaneous	1556
operation, finds that the composite is the resulting version of	1557
the section in effect prior to the effective date of the section	1558
as presented in this act.	1559