As Introduced

134th General Assembly
Regular Session **H. B. No. 652**
2021-2022

Representatives Plummer, Young, T.

A BILL

To amend sections 3719.01, 4715.302, 4723.481, 4723.487, 4730.42, 4730.53, 4731.052, 4731.054, and 4731.055 and to enact sections 3719.065 and 3719.081 of the Revised Code to revise the law governing the review of patient information in the Ohio Automated Rx Reporting System, to establish requirements on the dispensing of opioid analgesics, to provide for a cash transfer, and to amend the version of section 4723.481 of the Revised Code that is scheduled to take effect on September 30, 2024, to continue the changes to that section on and after that date.

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

Section 1. That sections 3719.01, 4715.302, 4723.481, 4723.487, 4730.42, 4730.53, 4731.052, 4731.054, and 4731.055 be amended and sections 3719.065 and 3719.081 of the Revised Code be enacted to read as follows:

Sec. 3719.01. As used in this chapter:

(A) "Administer" means the direct application of a drug,

whether by injection, inhalation, ingestion, or any other means to a person or an animal.

(B) "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

(C) "Controlled substance" means a drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V.

(D) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.

(E) "Dispense" means to sell, leave with, give away, dispose of, or deliver.

(F) "Distribute" means to deal in, ship, transport, or deliver but does not include administering or dispensing a drug.

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

(H) "Drug abuse offense" and "felony drug abuse offense" have the same meanings as in section 2925.01 of the Revised Code.

(I) "Federal drug abuse control laws" means the "Comprehensive Drug Abuse Prevention and Control Act of 1970," 84 Stat. 1242, 21 U.S.C. 801, as amended.

(J) "Hospital" ~~means a facility registered as a hospital with the department of health under section 3701.07~~ has the same meaning as in section 3722.01 of the Revised Code.

(K) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.

(L) "Manufacturer" means a person who manufactures a controlled substance, as "manufacture" is defined in section 3715.01 of the Revised Code, and includes a "manufacturer of dangerous drugs" as defined in section 4729.01 of the Revised Code.

(M) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Marihuana" does not include "hemp" or a "hemp product" as those terms are defined in section 928.01 of the Revised Code.

(N) "Narcotic drugs" means coca leaves, opium, isonipecaine, amidone, isoamidone, ketobemidone, as defined in this division, and every substance not chemically distinguished from them and every drug, other than cannabis, that may be included in the meaning of "narcotic drug" under the federal drug abuse control laws. As used in this division:

(1) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves, that does not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(2) "Isonipecaine" means any substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated.

(3) "Amidone" means any substance identified chemically as 4-4-diphenyl-6-dimethylamino-heptanone-3, or any salt thereof, by whatever trade name designated.

(4) "Isoamidone" means any substance identified chemically as 4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3, or any salt thereof, by whatever trade name designated.

(5) "Ketobemidone" means any substance identified chemically as 4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone hydrochloride, or any salt thereof, by whatever trade name designated.

(6) "Cocaine" has the same meaning as in section 2925.01 of the Revised Code.

(O) "Official written order" means an order written on a form provided for that purpose by the director of the United States drug enforcement administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by federal law.

(P) "Person" means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, or other legal entity.

(Q) "Pharmacist" means a person licensed under Chapter 4729. of the Revised Code to engage in the practice of pharmacy.

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

(S) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.

(T) "Licensed health professional authorized to prescribe drugs," "prescriber," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(U) "Sale" includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant, or employee.

(V) "Schedule I," "schedule II," "schedule III," "schedule IV," and "schedule V" mean controlled substance schedules I, II, III, IV, and V, respectively, as established by rule adopted under section 3719.41 of the Revised Code, as amended pursuant to section 3719.43 or 3719.44 of the Revised Code, or as established by emergency rule adopted under section 3719.45 of the Revised Code.

(W) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced, or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in section 4729.01 of the Revised Code.

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

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

(Z)(1) "Controlled substance analog" means, except as

provided in division (Z)(2) of this section, a substance to which both of the following apply:

(a) The chemical structure of the substance is substantially similar to the structure of a controlled substance in schedule I or II.

(b) One of the following applies regarding the substance:

(i) The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(ii) With respect to a particular person, that person represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(2) "Controlled substance analog" does not include any of the following:

(a) A controlled substance;

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

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

(d) Any substance to the extent it is not intended for human consumption before the exemption described in division (Z)

(2)(b) of this section takes effect with respect to that substance.

(AA) "Benzodiazepine" means a controlled substance that has United States food and drug administration approved labeling indicating that it is a benzodiazepine, benzodiazepine derivative, triazolobenzodiazepine, or triazolobenzodiazepine derivative, including the following drugs and their varying salt forms or chemical congeners: alprazolam, chlordiazepoxide hydrochloride, clobazam, clonazepam, clorazepate, diazepam, estazolam, flurazepam hydrochloride, lorazepam, midazolam, oxazepam, quazepam, temazepam, and triazolam.

(BB) "Opioid analgesic" means a controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, including the following drugs and their varying salt forms or chemical congeners: buprenorphine, butorphanol, codeine (including acetaminophen and other combination products), dihydrocodeine, fentanyl, hydrocodone (including acetaminophen combination products), hydromorphone, meperidine, methadone, morphine sulfate, oxycodone (including acetaminophen, aspirin, and other combination products), oxymorphone, tapentadol, and tramadol.

(CC) "Outsourcing facility," "repackager of dangerous drugs," and "third-party logistics provider" have the same meanings as in section 4729.01 of the Revised Code.

Sec. 3719.065. (A) As used in this section:

(1) "Health-related licensing board" has the same meaning as in section 3719.062 of the Revised Code.

(2) "Prescriber" has the same meaning as in section 3719.01 of the Revised Code, except that it does not include a

veterinarian licensed under Chapter 4741. of the Revised Code.

(B) A pharmacist who dispenses an opioid analgesic in an amount indicated for a period of five or more days shall discuss with the patient or the patient's representative the risks of opioid addiction, including that the risk of addiction increases substantially after taking such a drug for five or more days. For each discussion, the pharmacist may charge the fee established under section 5164.7516 of the Revised Code, regardless of the payment source.

(C) Each health-related licensing board shall adopt guidelines regarding counseling and education to be provided by a prescriber to a patient who is prescribed an opioid analgesic in an amount indicated for a period of five or more days.

Sec. 3719.081. (A) In addition to the requirements described in section 3719.08 of the Revised Code, when a pharmacist dispenses a controlled substance that is an opioid analgesic on a prescription for use by a patient outside of a hospital, the pharmacist shall affix to the container in which the opioid analgesic is dispensed a warning label or sticker. The warning label or sticker shall describe the risks associated with opioid analgesics and shall be red in color with text printed in black.

(B)(1) The board of pharmacy shall adopt rules establishing standards and procedures for all of the following:

(a) The location on the container where the warning label or sticker is to be affixed;

(b) The language to be included on the warning label or sticker, which, at minimum, shall indicate that the drug inside the container is an opioid analgesic and that such a drug

carries a risk of addiction and overdose;

(c) The font and format of any language to be included on the warning label or sticker.

(2) The board may adopt any other rules as necessary to implement this section.

(3) When adopting rules under this section, the board shall do so in accordance with Chapter 119. of the Revised Code.

Sec. 4715.302. (A) As used in this section:

(1) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(2) "Opioid analgesic" and "benzodiazepine" have the same meanings as in section 3719.01 of the Revised Code.

(B) Except as provided in divisions (C) and (E) of this section, a dentist shall comply with all of the following as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine, or personally furnishing a complete or partial supply of such a drug, as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing or furnishing the drug, the dentist or the dentist's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the dentist practices primarily in a county of this state that adjoins another state, the dentist or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining

that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the dentist or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the dentist shall assess the information in the report. The dentist shall document in the patient's record that the report was received and the information was assessed.

~~(C)(1)~~ (C) Division (B) of this section does not apply if a drug database report regarding the patient is not available. In this event, the dentist shall document in the patient's record the reason that the report is not available.

~~(2) Division (B) of this section does not apply if the drug is prescribed or personally furnished in an amount indicated for a period not to exceed seven days.~~

(D) The state dental board may adopt rules that establish standards and procedures to be followed by a dentist regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(E) This section and any rules adopted under it do not

apply if the state board of pharmacy no longer maintains the drug database.

Sec. 4723.481. This section establishes standards and conditions regarding the authority of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe and personally furnish drugs and therapeutic devices under a license issued under section 4723.42 of the Revised Code.

(A) Except as provided in division (F) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not prescribe or furnish any drug or therapeutic device that is listed on the exclusionary formulary established in rules adopted under section 4723.50 of the Revised Code.

(B) The prescriptive authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not exceed the prescriptive authority of the collaborating physician or podiatrist, including the collaborating physician's authority to treat chronic pain with controlled substances ~~and products containing tramadol~~ as described in section 4731.052 of the Revised Code.

(C)(1) Except as provided in division (C)(2) or (3) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may prescribe to a patient a schedule II controlled substance only if all of the following are the case:

(a) The patient has a terminal condition, as defined in section 2133.01 of the Revised Code.

(b) A physician initially prescribed the substance for the patient.

(c) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, seventy-two-hour period.

(2) The restrictions on prescriptive authority in division (C)(1) of this section do not apply if a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issues the prescription to the patient from any of the following locations:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(c) A health care facility operated by the department of mental health and addiction services or the department of developmental disabilities;

(d) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;

(f) A hospice care program, as defined in section 3712.01 of the Revised Code;

(g) A community mental health services provider, as defined in section 5122.01 of the Revised Code;

(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;

(i) A freestanding birthing center, as defined in section 3702.141 of the Revised Code;

(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;

(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;

(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site;

(n) A residential care facility, as defined in section 3721.01 of the Revised Code.

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C)(2) of this section.

(D) A pharmacist who acts in good faith reliance on a

prescription issued by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner under division (C)(2) of this section is not liable for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action by the state board of pharmacy under Chapter 4729. of the Revised Code.

(E) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall comply with section 3719.061 of the Revised Code if the nurse prescribes for a minor, as defined in that section, an opioid analgesic, as defined in section 3719.01 of the Revised Code.

(F) Until the board of nursing establishes a new formulary in rules adopted under section 4723.50 of the Revised Code, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who prescribes or furnishes any drug or therapeutic device shall do so in accordance with the formulary established by the board prior to ~~the effective date of this amendment~~ April 6, 2017.

Sec. 4723.487. (A) As used in this section:

(1) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(2) "Opioid analgesic" and "benzodiazepine" have the same meanings as in section 3719.01 of the Revised Code.

(B) Except as provided in divisions (C) and (E) of this section, an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall comply with all of the

following as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing the drug, the advanced practice registered nurse or the advanced practice registered nurse's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the advanced practice registered nurse practices primarily in a county of this state that adjoins another state, the advanced practice registered nurse or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the advanced practice registered nurse or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the advanced practice registered nurse shall assess the information in the report. The advanced practice registered nurse shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply ~~if~~ in any

of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the advanced practice registered nurse shall document in the patient's record the reason that the report is not available.

(2) ~~The drug is prescribed in an amount indicated for a period not to exceed seven days.~~

~~(3)~~ The drug is prescribed for the treatment of cancer or another condition associated with cancer.

~~(4)~~ (3) The drug is prescribed to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

~~(5)~~ (4) The drug is prescribed for administration in a hospital, nursing home, or residential care facility.

(D) The board of nursing may adopt rules, in accordance with Chapter 119. of the Revised Code, that establish standards and procedures to be followed by an advanced practice registered nurse regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(E) This section and any rules adopted under it do not apply if the state board of pharmacy no longer maintains the drug database.

Sec. 4730.42. (A) In granting physician-delegated prescriptive authority to a particular physician assistant who holds a valid prescriber number issued by the state medical

board, the supervising physician is subject to all of the following:

(1) The supervising physician shall not grant physician-delegated prescriptive authority for any drug or device that may be used to perform or induce an abortion.

(2) The supervising physician shall not grant physician-delegated prescriptive authority in a manner that exceeds the supervising physician's prescriptive authority, including the physician's authority to treat chronic pain with controlled substances ~~and products containing tramadol~~ as described in section 4731.052 of the Revised Code.

(3) The supervising physician shall supervise the physician assistant in accordance with both of the following:

(a) The supervision requirements specified in section 4730.21 of the Revised Code;

(b) The supervision agreement entered into with the physician assistant under section 4730.19 of the Revised Code, including, if applicable, the policies of the health care facility in which the physician and physician assistant are practicing.

(B)(1) The supervising physician of a physician assistant may place conditions on the physician-delegated prescriptive authority granted to the physician assistant. If conditions are placed on that authority, the supervising physician shall maintain a written record of the conditions and make the record available to the state medical board on request.

(2) The conditions that a supervising physician may place on the physician-delegated prescriptive authority granted to a physician assistant include the following:

(a) Identification by class and specific generic nomenclature of drugs and therapeutic devices that the physician chooses not to permit the physician assistant to prescribe;

(b) Limitations on the dosage units or refills that the physician assistant is authorized to prescribe;

(c) Specification of circumstances under which the physician assistant is required to refer patients to the supervising physician or another physician when exercising physician-delegated prescriptive authority;

(d) Responsibilities to be fulfilled by the physician in supervising the physician assistant that are not otherwise specified in the supervision agreement or otherwise required by this chapter.

Sec. 4730.53. (A) As used in this section:

(1) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(2) "Opioid analgesic" and "benzodiazepine" have the same meanings as in section 3719.01 of the Revised Code.

(B) Except as provided in divisions (C) and (E) of this section, a physician assistant licensed under this chapter who has been granted physician-delegated prescriptive authority shall comply with all of the following as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing the drug, the physician assistant or the physician assistant's delegate shall request

from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the physician assistant practices primarily in a county of this state that adjoins another state, the physician assistant or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the physician assistant or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the physician assistant shall assess the information in the report. The physician assistant shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply in any of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the physician assistant shall document in the patient's record the reason that the report is not available.

~~(2) The drug is prescribed in an amount indicated for a period not to exceed seven days.~~

~~(3)~~ The drug is prescribed for the treatment of cancer or another condition associated with cancer.

~~(4)~~ (3) The drug is prescribed to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

~~(5)~~ (4) The drug is prescribed for administration in a hospital, nursing home, or residential care facility.

(D) The state medical board may adopt rules that establish standards and procedures to be followed by a physician assistant licensed under this chapter who has been granted physician-delegated prescriptive authority regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(E) This section and any rules adopted under it do not apply if the state board of pharmacy no longer maintains the drug database.

Sec. 4731.052. (A) As used in this section:

(1) "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

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

(3) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

(B) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by physicians in the diagnosis and treatment of chronic pain, including standards for a physician's consultation with one or more other physicians who specialize in the treatment of the area, system, or organ of the body perceived as the source of pain and managing chronic pain by prescribing, personally furnishing, or administering controlled substances ~~or products containing tramadol~~.

(C) When a physician diagnoses a patient as having chronic pain, the physician may, subject to division (D) of this section, treat the pain by managing it with controlled substances ~~and products containing tramadol~~. The physician's diagnosis and treatment decisions shall be made according to accepted and prevailing standards for medical care. For the purpose of assisting with the diagnosis of chronic pain, the physician shall obtain and review all available medical records or detailed written summaries of the patient's treatment for chronic pain or the condition causing the chronic pain. It is recommended that the physician also consider having the patient evaluated by one or more other physicians who specialize in the treatment of the area, system, or organ of the body perceived as the source of the pain.

(D) For each patient a physician diagnoses as having chronic pain, the physician shall maintain a written record of

all of the following:

(1) Medical history and physical examination of the patient;

(2) The diagnosis of chronic pain, including signs, symptoms, and causes;

(3) The plan of treatment proposed, the patient's response to treatment, and any modification to the plan of treatment, including all of the following:

(a) Documentation that other medically reasonable treatments for relief of the patient's chronic pain have been offered or attempted without adequate or reasonable success;

(b) Periodic assessment and documentation of the patient's functional status, including the ability to engage in work or other purposeful activities, the pain intensity and its interference with activities of daily living, quality of family life and social activities, and physical activity of the patient;

(c) Periodic assessment and documentation of the patient's progress toward treatment objectives, including the intended role of controlled substances ~~or products containing tramadol~~ within the overall plan of treatment;

(d) Periodic assessment and documentation for indicators of possible addiction, drug abuse, or drug diversion;

(e) Notation of any adverse drug effects.

(4) The dates on which controlled substances ~~or products containing tramadol~~ were prescribed, furnished, or administered, the name and address of the patient to or for whom the controlled substances ~~or products containing tramadol~~ were

prescribed, furnished, or administered, and the amounts and dosage forms for the controlled substances ~~or products containing tramadol~~ prescribed, furnished, or administered;

(5) A copy of any record or report made by another physician that was used or consulted for the purpose of diagnosing the patient's chronic pain or treating the patient for chronic pain.

(E) A physician shall not prescribe, personally furnish, or administer to a patient a controlled substance ~~or product containing tramadol~~ without taking into account the potential for abuse of the controlled substance~~ or product~~, the possibility the controlled substance ~~or product~~ may lead to dependence, the possibility the patient will obtain the controlled substance ~~or product~~ for a nontherapeutic use or distribute it to other persons, and the potential existence of an illicit market for the controlled substance~~ or product~~. In addition, the physician shall address with the patient the risks associated with protracted treatment with controlled substances ~~or products containing tramadol~~, including informing the patient of the potential for dependence, tolerance, and addiction and the clinical or monitoring tools the physician may use if signs of addiction, drug abuse, or drug diversion are present.

(F) A physician who treats chronic pain by managing it with controlled substances ~~or products containing tramadol~~ is not subject to disciplinary action by the board under section 4731.22 of the Revised Code solely because the physician treated the chronic pain with controlled substances~~ or products containing tramadol~~.

Sec. 4731.054. (A) As used in this section:

(1) "Chronic pain" has the same meaning as in section 4731.052 of the Revised Code.

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

(3) "Hospice care program" means a program licensed under Chapter 3712. of the Revised Code.

(4) "Hospital" means a hospital registered with the department of health under section 3701.07 of the Revised Code.

(5) "Owner" means each person included on the list maintained under division (B)(6) of section 4729.552 of the Revised Code.

(6)(a) "Pain management clinic" means a facility to which both of the following apply:

(i) The majority of patients of the prescribers at the facility are provided treatment for chronic pain through the use of controlled substances~~, tramadol,~~ or other drugs specified in rules adopted under this section;

(ii) The facility meets any other identifying criteria established in rules adopted under this section.

(b) "Pain management clinic" does not include any of the following:

(i) A hospital;

(ii) A facility operated by a hospital for the treatment of chronic pain;

(iii) A physician practice owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(iv) A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians or any affiliated facility to the extent that it participates in the provision of that instruction;

(v) A hospice care program with respect to its hospice patients;

(vi) A hospice care program with respect to its provision of palliative care in an inpatient facility or unit to patients who are not hospice patients, as authorized by section 3712.10 of the Revised Code, but only in the case of those palliative care patients who have a life-threatening illness;

(vii) A palliative care inpatient facility or unit that does not admit hospice patients and is not otherwise excluded as a pain management clinic under division (A)(6)(b) of this section, but only in the case of those palliative care patients who have a life-threatening illness;

(viii) An ambulatory surgical facility licensed under section 3702.30 of the Revised Code;

(ix) An interdisciplinary pain rehabilitation program with three-year accreditation from the commission on accreditation of rehabilitation facilities;

(x) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(xi) A facility conducting only clinical research that may use controlled substances in studies approved by a hospital-

based institutional review board or an institutional review board accredited by the association for the accreditation of human research protection programs.

(7) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

(8) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(B) Each owner shall supervise, control, and direct the activities of each individual, including an employee, volunteer, or individual under contract, who provides treatment of chronic pain at the pain management clinic or is associated with the provision of that treatment. The supervision, control, and direction shall be provided in accordance with rules adopted under this section.

(C) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Standards and procedures for the operation of a pain management clinic;

(2) Standards and procedures to be followed by a physician who provides care at a pain management clinic;

(3) For purposes of division (A)(5)(a)(i) of this section, the other drugs used to treat chronic pain that identify a facility as a pain management clinic;

(4) For purposes of division (A)(5)(a)(ii) of this section, the other criteria that identify a facility as a pain management clinic;

(5) For purposes of division (B) of this section, standards and procedures to be followed by an owner in providing supervision, direction, and control of individuals at a pain management clinic.

(D) The board may impose a fine of not more than twenty thousand dollars on a physician who fails to comply with rules adopted under this section. The fine may be in addition to or in lieu of any other action that may be taken under section 4731.22 of the Revised Code. The board shall deposit any amounts received under this division in accordance with section 4731.24 of the Revised Code.

(E)(1) The board may inspect either of the following as the board determines necessary to ensure compliance with this chapter and any rules adopted under it regarding pain management clinics:

(a) A pain management clinic;

(b) A facility or physician practice that the board suspects is operating as a pain management clinic in violation of this chapter.

(2) The board's inspection shall be conducted in accordance with division (F) of section 4731.22 of the Revised Code.

(3) Before conducting an on-site inspection, the board shall provide notice to the owner or other person in charge of the facility or physician practice, except that the board is not required to provide the notice if, in the judgment of the board, the notice would jeopardize an investigation being conducted by the board.

Sec. 4731.055. (A) As used in this section:

(1) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(2) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(3) "Opioid analgesic" and "benzodiazepine" have the same meanings as in section 3719.01 of the Revised Code.

(B) Except as provided in divisions (C) and (E) of this section, a physician shall comply with all of the following as conditions of prescribing a drug that is either an opioid analgesic or a benzodiazepine, or personally furnishing a complete or partial supply of such a drug, as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing or furnishing the drug, the physician or the physician's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the physician practices primarily in a county of this state that adjoins another state, the physician or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the physician or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at

intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the physician shall assess the information in the report. The physician shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply in any of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the physician shall document in the patient's record the reason that the report is not available.

(2) ~~The drug is prescribed or personally furnished in an amount indicated for a period not to exceed seven days.~~

~~(3)~~ The drug is prescribed or personally furnished for the treatment of cancer or another condition associated with cancer.

~~(4)~~ (3) The drug is prescribed or personally furnished to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

~~(5)~~ (4) The drug is prescribed or personally furnished for administration in a hospital, nursing home, or residential care facility.

~~(6)~~ (5) The drug is prescribed or personally furnished to treat acute pain resulting from a surgical or other invasive procedure or a delivery.

(D) The state medical board may adopt rules that establish standards and procedures to be followed by a physician regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(E) This section and any rules adopted under it do not apply if the state board of pharmacy no longer maintains the drug database.

Section 2. That existing sections 3719.01, 4715.302, 4723.481, 4723.487, 4730.42, 4730.53, 4731.052, 4731.054, and 4731.055 of the Revised Code are hereby repealed.

Section 3. That the version of section 4723.431 of the Revised Code that is scheduled to take effect September 30, 2024, be amended to read as follows:

Sec. 4723.481. This section establishes standards and conditions regarding the authority of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe and personally furnish drugs and therapeutic devices under a license issued under section 4723.42 of the Revised Code.

(A) Except as provided in division (F) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not prescribe or furnish any drug or therapeutic device that is listed on the exclusionary formulary established in rules adopted under section 4723.50 of the Revised Code.

(B) The prescriptive authority of a clinical nurse

specialist, certified nurse-midwife, or certified nurse practitioner shall not exceed the prescriptive authority of the collaborating physician or podiatrist, including the collaborating physician's authority to treat chronic pain with controlled substances ~~and products containing tramadol~~ as described in section 4731.052 of the Revised Code.

(C)(1) Except as provided in division (C)(2) or (3) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may prescribe to a patient a schedule II controlled substance only if all of the following are the case:

(a) The patient has a terminal condition, as defined in section 2133.01 of the Revised Code.

(b) A physician initially prescribed the substance for the patient.

(c) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, seventy-two-hour period.

(2) The restrictions on prescriptive authority in division (C)(1) of this section do not apply if a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issues the prescription to the patient from any of the following locations:

(a) A hospital as defined in section 3722.01 of the Revised Code;

(b) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(c) A health care facility operated by the department of mental health and addiction services or the department of developmental disabilities;

(d) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;

(f) A hospice care program, as defined in section 3712.01 of the Revised Code;

(g) A community mental health services provider, as defined in section 5122.01 of the Revised Code;

(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;

(i) A freestanding birthing center, as defined in section 3701.503 of the Revised Code;

(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;

(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;

(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also

are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site;

(n) A residential care facility, as defined in section 3721.01 of the Revised Code.

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C)(2) of this section.

(D) A pharmacist who acts in good faith reliance on a prescription issued by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner under division (C)(2) of this section is not liable for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action by the state board of pharmacy under Chapter 4729. of the Revised Code.

(E) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall comply with section 3719.061 of the Revised Code if the nurse prescribes for a minor, as defined in that section, an opioid analgesic, as defined in section 3719.01 of the Revised Code.

(F) Until the board of nursing establishes a new formulary in rules adopted under section 4723.50 of the Revised Code, a clinical nurse specialist, certified nurse-midwife, or certified

nurse practitioner who prescribes or furnishes any drug or therapeutic device shall do so in accordance with the formulary established by the board prior to April 6, 2017.

Section 4. That the existing version of section 4723.431 of the Revised Code that is scheduled to take effect September 30, 2024, is hereby repealed.

Section 5. Sections 3 and 4 of this act take effect September 30, 2024.

Section 6. TRANSFER FROM MEDICAL MARIJUANA CONTROL PROGRAM FUND TO DRUG DATABASE FUND

On July 1, 2022, or as soon as possible thereafter, the Director of Commerce and the Executive Director of the Board of Pharmacy shall consult with the Director of Budget and Management to determine the amount of money sufficient for maintaining and administering drug database operations and initiatives aimed at reducing the diversion of dangerous drugs. After that determination, the Director of Budget and Management shall transfer the determined amount in cash from the Medical Marijuana Control Program Fund (Fund 5YS0) to the Drug Database Fund (Fund 5SG0).

Section 7. Section 4730.53 of the Revised Code is presented in this act as a composite of the section as amended by S.B. 110 of the 131st General Assembly and H.B. 394 and S.B. 276, both of the 130th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this

act. 963