

As Introduced

132nd General Assembly

Regular Session

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S. B. No. 310

Senator Tavares

Cosponsors: Senators Williams, Sykes, O'Brien, Schiavoni

A BILL

To amend sections 1739.05, 4715.30, 4723.28, 1
4723.481, 4730.25, 4730.41, 4731.052, and 2
4731.22 and to enact sections 1751.76, 3702.41, 3
3702.411, 3702.412, 3702.413, 3702.414, 4
3702.415, 3702.416, 3719.063, 3923.86, 4723.53, 5
4730.57, and 4731.84 of the Revised Code to 6
establish procedures for using non-opioid 7
directives, to require prescribers to inform 8
patients about non-opioid therapies, and to 9
require health insurers to cover non-opioid 10
therapies for treating pain. 11

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

Section 1. That sections 1739.05, 4715.30, 4723.28, 12
4723.481, 4730.25, 4730.41, 4731.052, and 4731.22 be amended and 13
sections 1751.76, 3702.41, 3702.411, 3702.412, 3702.413, 14
3702.414, 3702.415, 3702.416, 3719.063, 3923.86, 4723.53, 15
4730.57, and 4731.84 of the Revised Code be enacted to read as 16
follows: 17

Sec. 1739.05. (A) A multiple employer welfare arrangement 18

that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies:

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers.

(2) The arrangement has and maintains a minimum enrollment of three hundred self-employed individuals.

(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A) (1) and (2) of this section.

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 3923.80, 3923.84, 3923.85, 3923.851, 3923.86, 3924.031, 3924.032, and 3924.27 of the Revised Code.

(C) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell or solicit sickness and accident insurance.

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees,

or are eligible for continuation of coverage under section 48
1751.53 or 3923.38 of the Revised Code or under Title X of the 49
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 50
Stat. 227, 29 U.S.C.A. 1161, as amended. 51

(E) A multiple employer welfare arrangement created 52
pursuant to sections 1739.01 to 1739.22 of the Revised Code is 53
subject to, and shall comply with, sections 3903.81 to 3903.93 54
of the Revised Code in the same manner as other life or health 55
insurers, as defined in section 3903.81 of the Revised Code. 56

Sec. 1751.76. (A) As used in this section, "opioid 57
analgesic" has the same meaning as in section 3719.01 of the 58
Revised Code. 59

(B) Notwithstanding section 3901.71 of the Revised Code, 60
each individual or group health insuring corporation policy, 61
contract, or agreement providing basic health care services that 62
is delivered, issued for delivery, or renewed in this state 63
shall provide coverage for evidence-based therapies that do not 64
require the use of opioid analgesics in the treatment of pain. 65
Of the therapies that are covered, all of the following must be 66
included: 67

(1) Services of a chiropractor authorized under Chapter 68
3734. of the Revised Code to practice chiropractic or 69
acupuncture, regardless of whether chiropractic services are 70
considered supplemental health care services; 71

(2) Services of an oriental medicine practitioner or 72
acupuncturist licensed to practice under Chapter 4762. of the 73
Revised Code; 74

(3) Services of a physician authorized to practice 75
osteopathic medicine and surgery under Chapter 4731. of the 76

Revised Code that do not involve the use of opioid analgesics. 77

Sec. 3702.41. (A) As used in this section and in sections 78
3702.411 to 3702.416 of the Revised Code: 79

(1) "Community addiction services provider" has the same 80
meaning as in section 5119.01 of the Revised Code. 81

(2) "Emergency medical services personnel" has the same 82
meaning as in section 2133.21 of the Revised Code. 83

(3) "Minor" means an individual under eighteen years of 84
age who is not emancipated. 85

For purposes of this section, an individual under eighteen 86
years of age is emancipated only if the individual has married, 87
has entered the armed services of the United States, has become 88
employed and self-sustaining, or otherwise has become 89
independent from the care and control of the individual's 90
parent, guardian, or legal custodian. 91

(4) "Prescriber" means any of the following: 92

(a) An advanced practice registered nurse who holds a 93
current, valid license issued under Chapter 4723. of the Revised 94
Code and is designated as a clinical nurse specialist, certified 95
nurse-midwife, or certified nurse practitioner; 96

(b) A dentist licensed under Chapter 4715. of the Revised 97
Code; 98

(c) A physician authorized under Chapter 4731. of the 99
Revised Code to practice medicine and surgery or osteopathic 100
medicine and surgery; 101

(d) A physician assistant who is licensed under Chapter 102
4730. of the Revised Code, holds a valid prescriber number 103

issued by the state medical board, and has been granted 104
physician-delegated prescriptive authority; 105

(e) A podiatrist authorized under Chapter 4731. of the 106
Revised Code to practice podiatric medicine and surgery. 107

(5) "Opioid analgesic" has the same meaning as in section 108
3719.01 of the Revised Code. 109

(6) "Recipient" means the prescriber or a person or 110
government entity specified by the department of health in rules 111
adopted under section 3702.413 of the Revised Code, or the 112
delegate of any of the foregoing, that may receive and file a 113
patient's non-opioid directive form. 114

(B) Not later than one year after the effective date of 115
this section, the department of health shall develop a non- 116
opioid directive form. The form shall specify that the patient 117
who is the subject of the form desires not to be offered, 118
prescribed, administered, personally furnished, or otherwise 119
provided with an opioid analgesic. 120

When developing the form, the department shall seek input 121
on the form's content from organizations representing each of 122
the following: 123

(1) Prescribers; 124

(2) Emergency medical services personnel; 125

(3) Nursing homes; 126

(4) Hospitals; 127

(5) Ambulatory surgical facilities; 128

(6) Any other group the department considers appropriate. 129

(C) The department shall make the form available on its 130

internet web site. The department also shall notify each board 131
of a city or general health district, as well as prescribers, 132
community addiction services providers, hospitals, and other 133
health care providers and facilities in this state, when the 134
form initially becomes available and, if applicable, when 135
updates become available. The form shall be made available in a 136
format that can be downloaded free of charge and reproduced. 137

Sec. 3702.411. (A) (1) Any individual or the individual's 138
representative may complete a non-opioid directive form. In the 139
case of a patient who is a minor, the individual's 140
representative is the individual's parent, guardian, or legal 141
custodian. 142

The decision to complete a non-opioid directive form is 143
voluntary. 144

(2) A non-opioid directive form becomes effective when 145
both of the following have occurred: 146

(a) The form is signed in the presence of the recipient by 147
the individual to whom it pertains or the individual's 148
representative. 149

(b) The individual or the individual's representative 150
submits the form to the recipient, the recipient signs and dates 151
it in the presenter's presence, and the recipient makes a 152
photocopy of the signed form for the individual's records. 153

(B) In accordance with rules adopted under section 154
3702.413 of the Revised Code, the recipient shall file the 155
signed non-opioid directive form in the individual's medical 156
record. 157

(C) A recipient, a prescriber to whom a copy of an 158
effective non-opioid directive form has been transmitted, and 159

any delegate of the foregoing shall comply with the non-opioid 160
directive form. 161

Sec. 3702.412. The individual who is the subject of a non- 162
opioid directive form or the individual's representative may 163
revoke a non-opioid directive form at any time and in any manner 164
that communicates the intent to revoke. 165

Sec. 3702.413. (A) The director of health shall adopt 166
rules to implement sections 3702.41 to 3702.412 of the Revised 167
Code. The rules shall do all of the following: 168

(1) Specify the persons who are not prescribers and the 169
government entities that may receive an individual's non-opioid 170
directive form and file it in the individual's medical record; 171

(2) Establish a standard cover sheet that a recipient may 172
use to transmit, in accordance with applicable state and federal 173
laws governing patient confidentiality, a copy of a non-opioid 174
directive form to a prescriber or other person or government 175
entity specified in rules adopted under division (A)(1) of this 176
section; 177

(3) Establish a procedure for filing a non-opioid 178
directive form in the medical record of the individual to whom 179
it pertains; 180

(4) Establish a procedure for an individual to appoint a 181
proxy to override a previously filed non-opioid directive form; 182

(5) Establish a procedure to ensure that any recording, 183
sharing, or distributing of information associated with a non- 184
opioid directive form complies with applicable federal and state 185
laws governing patient confidentiality. 186

(B) All rules adopted under this section shall be adopted 187

in accordance with Chapter 119. of the Revised Code. 188

Sec. 3702.414. (A) A pharmacist to whom a valid 189
prescription for an opioid analgesic is presented for dispensing 190
is neither required to inquire about the existence of a non- 191
opioid directive form for the individual who is the subject of 192
the prescription nor required to determine if the individual is 193
the subject of a non-opioid directive form. 194

(B) (1) Unless a pharmacist knowingly failed to comply with 195
an individual's non-opioid directive form, the pharmacist is not 196
subject to criminal prosecution for dispensing the opioid 197
analgesic. 198

(2) Unless a pharmacist failed to comply with an 199
individual's non-opioid directive form in a manner that 200
constitutes willful or wanton misconduct, the pharmacist is not 201
subject to either of the following for dispensing the opioid 202
analgesic: 203

(a) Liability for damages in tort or other civil action 204
for injury, death, or loss to person or property; 205

(b) Professional disciplinary action. 206

Sec. 3702.415. (A) Unless a recipient or a delegate, 207
employee, or contractor of a recipient knowingly failed to 208
comply with an effective non-opioid directive form, that party 209
is not subject to criminal prosecution for offering, 210
prescribing, administering, personally furnishing, or otherwise 211
providing an opioid analgesic to an individual who has an 212
effective non-opioid directive form. 213

(B) Unless a recipient or a delegate, employee, or 214
contractor of a recipient failed to comply with an effective 215
non-opioid directive form in a manner that constitutes willful 216

or wanton misconduct, that party is not subject to either of the 217
following for offering, prescribing, administering, personally 218
furnishing, or otherwise providing an opioid analgesic to an 219
individual who has an effective non-opioid directive form: 220

(1) Liability for damages in tort or other civil action 221
for injury, death, or loss to person or property; 222

(2) Professional disciplinary action. 223

Sec. 3702.416. The existence or absence of a non-opioid 224
directive form for an individual does not do any of the 225
following: 226

(A) Affect in any manner the sale, procurement, issuance, 227
or renewal of a policy of life insurance or annuity, 228
notwithstanding any term of a policy or annuity to the contrary; 229

(B) Modify in any manner or invalidate the terms of a 230
policy of life insurance or annuity that is in effect on the 231
effective date of this section; 232

(C) Impair or invalidate a policy of life insurance or 233
annuity or any health benefit plan. 234

Sec. 3719.063. (A) As used in this section: 235

(1) "Acute pain" means pain that normally fades with 236
healing, is related to tissue damage, significantly alters a 237
patient's typical function, and is expected to be time limited. 238

(2) "Chronic pain" has the same meaning as in section 239
4731.052 of the Revised Code. 240

(3) "Prescriber," notwithstanding section 3719.01 of the 241
Revised Code, has the same meaning as in section 3702.41 of the 242
Revised Code, except that it does not include a dentist. 243

(B) Before initiating a plan of treatment that includes 244
the use of an opioid analgesic for acute pain or chronic pain, a 245
prescriber shall give the patient or the patient's 246
representative information about evidence-based therapies that 247
do not require the use of an opioid analgesic to treat that 248
condition. At a minimum, the prescriber shall provide 249
information on all of the following: 250

(1) Services of a chiropractor authorized under Chapter 251
3734. of the Revised Code to practice chiropractic or 252
acupuncture; 253

(2) Services of an oriental medicine practitioner or 254
acupuncturist licensed to practice under Chapter 4762. of the 255
Revised Code; 256

(3) If the prescriber is not a physician authorized to 257
practice osteopathic medicine and surgery under Chapter 4731. of 258
the Revised Code, the services of such a physician that do not 259
involve the use of opioid analgesics. 260

Sec. 3923.86. (A) "Opioid analgesic" has the same meaning 261
as in section 3719.01 of the Revised Code. 262

(B) Notwithstanding section 3901.71 of the Revised Code, 263
each individual or group policy of sickness and accident 264
insurance that is delivered, issued for delivery, or renewed in 265
this state and each public employee benefit plan that is 266
established or modified in this state shall provide coverage for 267
evidence-based therapies that do not require the use of opioid 268
analgesics in the treatment of pain. Of the therapies that are 269
covered, all of the following must be included: 270

(1) Services of a chiropractor authorized under Chapter 271
3734. of the Revised Code to practice chiropractic or 272

<u>acupuncture;</u>	273
<u>(2) Services of an oriental medicine practitioner or</u>	274
<u>acupuncturist licensed to practice under Chapter 4762. of the</u>	275
<u>Revised Code;</u>	276
<u>(3) Services of a physician authorized to practice</u>	277
<u>osteopathic medicine and surgery under Chapter 4731. of the</u>	278
<u>Revised Code that do not involve the use of opioid analgesics.</u>	279
Sec. 4715.30. (A) An applicant for or holder of a	280
certificate or license issued under this chapter is subject to	281
disciplinary action by the state dental board for any of the	282
following reasons:	283
(1) Employing or cooperating in fraud or material	284
deception in applying for or obtaining a license or certificate;	285
(2) Obtaining or attempting to obtain money or anything of	286
value by intentional misrepresentation or material deception in	287
the course of practice;	288
(3) Advertising services in a false or misleading manner	289
or violating the board's rules governing time, place, and manner	290
of advertising;	291
(4) Commission of an act that constitutes a felony in this	292
state, regardless of the jurisdiction in which the act was	293
committed;	294
(5) Commission of an act in the course of practice that	295
constitutes a misdemeanor in this state, regardless of the	296
jurisdiction in which the act was committed;	297
(6) Conviction of, a plea of guilty to, a judicial finding	298
of guilt of, a judicial finding of guilt resulting from a plea	299
of no contest to, or a judicial finding of eligibility for	300

intervention in lieu of conviction for, any felony or of a 301
misdemeanor committed in the course of practice; 302

(7) Engaging in lewd or immoral conduct in connection with 303
the provision of dental services; 304

(8) Selling, prescribing, giving away, or administering 305
drugs for other than legal and legitimate therapeutic purposes, 306
or conviction of, a plea of guilty to, a judicial finding of 307
guilt of, a judicial finding of guilt resulting from a plea of 308
no contest to, or a judicial finding of eligibility for 309
intervention in lieu of conviction for, a violation of any 310
federal or state law regulating the possession, distribution, or 311
use of any drug; 312

(9) Providing or allowing dental hygienists, expanded 313
function dental auxiliaries, or other practitioners of auxiliary 314
dental occupations working under the certificate or license 315
holder's supervision, or a dentist holding a temporary limited 316
continuing education license under division (C) of section 317
4715.16 of the Revised Code working under the certificate or 318
license holder's direct supervision, to provide dental care that 319
departs from or fails to conform to accepted standards for the 320
profession, whether or not injury to a patient results; 321

(10) Inability to practice under accepted standards of the 322
profession because of physical or mental disability, dependence 323
on alcohol or other drugs, or excessive use of alcohol or other 324
drugs; 325

(11) Violation of any provision of this chapter or any 326
rule adopted thereunder; 327

(12) Failure to use universal blood and body fluid 328
precautions established by rules adopted under section 4715.03 329

of the Revised Code; 330

(13) Except as provided in division (H) of this section, 331
either of the following: 332

(a) Waiving the payment of all or any part of a deductible 333
or copayment that a patient, pursuant to a health insurance or 334
health care policy, contract, or plan that covers dental 335
services, would otherwise be required to pay if the waiver is 336
used as an enticement to a patient or group of patients to 337
receive health care services from that certificate or license 338
holder; 339

(b) Advertising that the certificate or license holder 340
will waive the payment of all or any part of a deductible or 341
copayment that a patient, pursuant to a health insurance or 342
health care policy, contract, or plan that covers dental 343
services, would otherwise be required to pay. 344

(14) Failure to comply with section 4715.302 or 4729.79 of 345
the Revised Code, unless the state board of pharmacy no longer 346
maintains a drug database pursuant to section 4729.75 of the 347
Revised Code; 348

(15) Any of the following actions taken by an agency 349
responsible for authorizing, certifying, or regulating an 350
individual to practice a health care occupation or provide 351
health care services in this state or another jurisdiction, for 352
any reason other than the nonpayment of fees: the limitation, 353
revocation, or suspension of an individual's license to 354
practice; acceptance of an individual's license surrender; 355
denial of a license; refusal to renew or reinstate a license; 356
imposition of probation; or issuance of an order of censure or 357
other reprimand; 358

(16) Failure to cooperate in an investigation conducted by 359
the board under division (D) of section 4715.03 of the Revised 360
Code, including failure to comply with a subpoena or order 361
issued by the board or failure to answer truthfully a question 362
presented by the board at a deposition or in written 363
interrogatories, except that failure to cooperate with an 364
investigation shall not constitute grounds for discipline under 365
this section if a court of competent jurisdiction has issued an 366
order that either quashes a subpoena or permits the individual 367
to withhold the testimony or evidence in issue; 368

(17) Failure to comply with the requirements ~~in~~ of section 369
3719.061 of the Revised Code before issuing for a minor a 370
prescription for an opioid analgesic, as defined in section 371
3719.01 of the Revised Code; 372

(18) Failure to comply with an individual's non-opioid 373
directive form as required by division (C) of section 3702.411 374
of the Revised Code. 375

(B) A manager, proprietor, operator, or conductor of a 376
dental facility shall be subject to disciplinary action if any 377
dentist, dental hygienist, expanded function dental auxiliary, 378
or qualified personnel providing services in the facility is 379
found to have committed a violation listed in division (A) of 380
this section and the manager, proprietor, operator, or conductor 381
knew of the violation and permitted it to occur on a recurring 382
basis. 383

(C) Subject to Chapter 119. of the Revised Code, the board 384
may take one or more of the following disciplinary actions if 385
one or more of the grounds for discipline listed in divisions 386
(A) and (B) of this section exist: 387

(1) Censure the license or certificate holder;	388
(2) Place the license or certificate on probationary	389
status for such period of time the board determines necessary	390
and require the holder to:	391
(a) Report regularly to the board upon the matters which	392
are the basis of probation;	393
(b) Limit practice to those areas specified by the board;	394
(c) Continue or renew professional education until a	395
satisfactory degree of knowledge or clinical competency has been	396
attained in specified areas.	397
(3) Suspend the certificate or license;	398
(4) Revoke the certificate or license.	399
Where the board places a holder of a license or	400
certificate on probationary status pursuant to division (C) (2)	401
of this section, the board may subsequently suspend or revoke	402
the license or certificate if it determines that the holder has	403
not met the requirements of the probation or continues to engage	404
in activities that constitute grounds for discipline pursuant to	405
division (A) or (B) of this section.	406
Any order suspending a license or certificate shall state	407
the conditions under which the license or certificate will be	408
restored, which may include a conditional restoration during	409
which time the holder is in a probationary status pursuant to	410
division (C) (2) of this section. The board shall restore the	411
license or certificate unconditionally when such conditions are	412
met.	413
(D) If the physical or mental condition of an applicant or	414
a license or certificate holder is at issue in a disciplinary	415

proceeding, the board may order the license or certificate 416
holder to submit to reasonable examinations by an individual 417
designated or approved by the board and at the board's expense. 418
The physical examination may be conducted by any individual 419
authorized by the Revised Code to do so, including a physician 420
assistant, a clinical nurse specialist, a certified nurse 421
practitioner, or a certified nurse-midwife. Any written 422
documentation of the physical examination shall be completed by 423
the individual who conducted the examination. 424

Failure to comply with an order for an examination shall 425
be grounds for refusal of a license or certificate or summary 426
suspension of a license or certificate under division (E) of 427
this section. 428

(E) If a license or certificate holder has failed to 429
comply with an order under division (D) of this section, the 430
board may apply to the court of common pleas of the county in 431
which the holder resides for an order temporarily suspending the 432
holder's license or certificate, without a prior hearing being 433
afforded by the board, until the board conducts an adjudication 434
hearing pursuant to Chapter 119. of the Revised Code. If the 435
court temporarily suspends a holder's license or certificate, 436
the board shall give written notice of the suspension personally 437
or by certified mail to the license or certificate holder. Such 438
notice shall inform the license or certificate holder of the 439
right to a hearing pursuant to Chapter 119. of the Revised Code. 440

(F) Any holder of a certificate or license issued under 441
this chapter who has pleaded guilty to, has been convicted of, 442
or has had a judicial finding of eligibility for intervention in 443
lieu of conviction entered against the holder in this state for 444
aggravated murder, murder, voluntary manslaughter, felonious 445

assault, kidnapping, rape, sexual battery, gross sexual 446
imposition, aggravated arson, aggravated robbery, or aggravated 447
burglary, or who has pleaded guilty to, has been convicted of, 448
or has had a judicial finding of eligibility for treatment or 449
intervention in lieu of conviction entered against the holder in 450
another jurisdiction for any substantially equivalent criminal 451
offense, is automatically suspended from practice under this 452
chapter in this state and any certificate or license issued to 453
the holder under this chapter is automatically suspended, as of 454
the date of the guilty plea, conviction, or judicial finding, 455
whether the proceedings are brought in this state or another 456
jurisdiction. Continued practice by an individual after the 457
suspension of the individual's certificate or license under this 458
division shall be considered practicing without a certificate or 459
license. The board shall notify the suspended individual of the 460
suspension of the individual's certificate or license under this 461
division by certified mail or in person in accordance with 462
section 119.07 of the Revised Code. If an individual whose 463
certificate or license is suspended under this division fails to 464
make a timely request for an adjudicatory hearing, the board 465
shall enter a final order revoking the individual's certificate 466
or license. 467

(G) If the supervisory investigative panel determines both 468
of the following, the panel may recommend that the board suspend 469
an individual's certificate or license without a prior hearing: 470

(1) That there is clear and convincing evidence that an 471
individual has violated division (A) of this section; 472

(2) That the individual's continued practice presents a 473
danger of immediate and serious harm to the public. 474

Written allegations shall be prepared for consideration by 475

the board. The board, upon review of those allegations and by an 476
affirmative vote of not fewer than four dentist members of the 477
board and seven of its members in total, excluding any member on 478
the supervisory investigative panel, may suspend a certificate 479
or license without a prior hearing. A telephone conference call 480
may be utilized for reviewing the allegations and taking the 481
vote on the summary suspension. 482

The board shall issue a written order of suspension by 483
certified mail or in person in accordance with section 119.07 of 484
the Revised Code. The order shall not be subject to suspension 485
by the court during pendency or any appeal filed under section 486
119.12 of the Revised Code. If the individual subject to the 487
summary suspension requests an adjudicatory hearing by the 488
board, the date set for the hearing shall be within fifteen 489
days, but not earlier than seven days, after the individual 490
requests the hearing, unless otherwise agreed to by both the 491
board and the individual. 492

Any summary suspension imposed under this division shall 493
remain in effect, unless reversed on appeal, until a final 494
adjudicative order issued by the board pursuant to this section 495
and Chapter 119. of the Revised Code becomes effective. The 496
board shall issue its final adjudicative order within seventy- 497
five days after completion of its hearing. A failure to issue 498
the order within seventy-five days shall result in dissolution 499
of the summary suspension order but shall not invalidate any 500
subsequent, final adjudicative order. 501

(H) Sanctions shall not be imposed under division (A) (13) 502
of this section against any certificate or license holder who 503
waives deductibles and copayments as follows: 504

(1) In compliance with the health benefit plan that 505

expressly allows such a practice. Waiver of the deductibles or 506
copayments shall be made only with the full knowledge and 507
consent of the plan purchaser, payer, and third-party 508
administrator. Documentation of the consent shall be made 509
available to the board upon request. 510

(2) For professional services rendered to any other person 511
who holds a certificate or license issued pursuant to this 512
chapter to the extent allowed by this chapter and the rules of 513
the board. 514

(I) In no event shall the board consider or raise during a 515
hearing required by Chapter 119. of the Revised Code the 516
circumstances of, or the fact that the board has received, one 517
or more complaints about a person unless the one or more 518
complaints are the subject of the hearing or resulted in the 519
board taking an action authorized by this section against the 520
person on a prior occasion. 521

(J) The board may share any information it receives 522
pursuant to an investigation under division (D) of section 523
4715.03 of the Revised Code, including patient records and 524
patient record information, with law enforcement agencies, other 525
licensing boards, and other governmental agencies that are 526
prosecuting, adjudicating, or investigating alleged violations 527
of statutes or administrative rules. An agency or board that 528
receives the information shall comply with the same requirements 529
regarding confidentiality as those with which the state dental 530
board must comply, notwithstanding any conflicting provision of 531
the Revised Code or procedure of the agency or board that 532
applies when it is dealing with other information in its 533
possession. In a judicial proceeding, the information may be 534
admitted into evidence only in accordance with the Rules of 535

Evidence, but the court shall require that appropriate measures 536
are taken to ensure that confidentiality is maintained with 537
respect to any part of the information that contains names or 538
other identifying information about patients or complainants 539
whose confidentiality was protected by the state dental board 540
when the information was in the board's possession. Measures to 541
ensure confidentiality that may be taken by the court include 542
sealing its records or deleting specific information from its 543
records. 544

(K) The board may impose a fine against a dentist who 545
fails to comply with division (C) of section 3702.411 of the 546
Revised Code. 547

Sec. 4723.28. (A) The board of nursing, by a vote of a 548
quorum, may impose one or more of the following sanctions if it 549
finds that a person committed fraud in passing an examination 550
required to obtain a license or dialysis technician certificate 551
issued by the board or to have committed fraud, 552
misrepresentation, or deception in applying for or securing any 553
nursing license or dialysis technician certificate issued by the 554
board: deny, revoke, suspend, or place restrictions on any 555
nursing license or dialysis technician certificate issued by the 556
board; reprimand or otherwise discipline a holder of a nursing 557
license or dialysis technician certificate; or impose a fine of 558
not more than five hundred dollars per violation. 559

(B) The board of nursing, by a vote of a quorum, may 560
impose one or more of the following sanctions: deny, revoke, 561
suspend, or place restrictions on any nursing license or 562
dialysis technician certificate issued by the board; reprimand 563
or otherwise discipline a holder of a nursing license or 564
dialysis technician certificate; or impose a fine of not more 565

than five hundred dollars per violation. The sanctions may be 566
imposed for any of the following: 567

(1) Denial, revocation, suspension, or restriction of 568
authority to engage in a licensed profession or practice a 569
health care occupation, including nursing or practice as a 570
dialysis technician, for any reason other than a failure to 571
renew, in Ohio or another state or jurisdiction; 572

(2) Engaging in the practice of nursing or engaging in 573
practice as a dialysis technician, having failed to renew a 574
nursing license or dialysis technician certificate issued under 575
this chapter, or while a nursing license or dialysis technician 576
certificate is under suspension; 577

(3) Conviction of, a plea of guilty to, a judicial finding 578
of guilt of, a judicial finding of guilt resulting from a plea 579
of no contest to, or a judicial finding of eligibility for a 580
pretrial diversion or similar program or for intervention in 581
lieu of conviction for, a misdemeanor committed in the course of 582
practice; 583

(4) Conviction of, a plea of guilty to, a judicial finding 584
of guilt of, a judicial finding of guilt resulting from a plea 585
of no contest to, or a judicial finding of eligibility for a 586
pretrial diversion or similar program or for intervention in 587
lieu of conviction for, any felony or of any crime involving 588
gross immorality or moral turpitude; 589

(5) Selling, giving away, or administering drugs or 590
therapeutic devices for other than legal and legitimate 591
therapeutic purposes; or conviction of, a plea of guilty to, a 592
judicial finding of guilt of, a judicial finding of guilt 593
resulting from a plea of no contest to, or a judicial finding of 594

eligibility for a pretrial diversion or similar program or for 595
intervention in lieu of conviction for, violating any municipal, 596
state, county, or federal drug law; 597

(6) Conviction of, a plea of guilty to, a judicial finding 598
of guilt of, a judicial finding of guilt resulting from a plea 599
of no contest to, or a judicial finding of eligibility for a 600
pretrial diversion or similar program or for intervention in 601
lieu of conviction for, an act in another jurisdiction that 602
would constitute a felony or a crime of moral turpitude in Ohio; 603

(7) Conviction of, a plea of guilty to, a judicial finding 604
of guilt of, a judicial finding of guilt resulting from a plea 605
of no contest to, or a judicial finding of eligibility for a 606
pretrial diversion or similar program or for intervention in 607
lieu of conviction for, an act in the course of practice in 608
another jurisdiction that would constitute a misdemeanor in 609
Ohio; 610

(8) Self-administering or otherwise taking into the body 611
any dangerous drug, as defined in section 4729.01 of the Revised 612
Code, in any way that is not in accordance with a legal, valid 613
prescription issued for that individual, or self-administering 614
or otherwise taking into the body any drug that is a schedule I 615
controlled substance; 616

(9) Habitual or excessive use of controlled substances, 617
other habit-forming drugs, or alcohol or other chemical 618
substances to an extent that impairs the individual's ability to 619
provide safe nursing care or safe dialysis care; 620

(10) Impairment of the ability to practice according to 621
acceptable and prevailing standards of safe nursing care or safe 622
dialysis care because of the use of drugs, alcohol, or other 623

chemical substances; 624

(11) Impairment of the ability to practice according to 625
acceptable and prevailing standards of safe nursing care or safe 626
dialysis care because of a physical or mental disability; 627

(12) Assaulting or causing harm to a patient or depriving 628
a patient of the means to summon assistance; 629

(13) Misappropriation or attempted misappropriation of 630
money or anything of value in the course of practice; 631

(14) Adjudication by a probate court of being mentally ill 632
or mentally incompetent. The board may reinstate the person's 633
nursing license or dialysis technician certificate upon 634
adjudication by a probate court of the person's restoration to 635
competency or upon submission to the board of other proof of 636
competency. 637

(15) The suspension or termination of employment by the 638
United States department of defense or department of veterans 639
affairs for any act that violates or would violate this chapter; 640

(16) Violation of this chapter or any rules adopted under 641
it; 642

(17) Violation of any restrictions placed by the board on 643
a nursing license or dialysis technician certificate; 644

(18) Failure to use universal and standard precautions 645
established by rules adopted under section 4723.07 of the 646
Revised Code; 647

(19) Failure to practice in accordance with acceptable and 648
prevailing standards of safe nursing care or safe dialysis care; 649

(20) In the case of a registered nurse, engaging in 650

activities that exceed the practice of nursing as a registered 651
nurse; 652

(21) In the case of a licensed practical nurse, engaging 653
in activities that exceed the practice of nursing as a licensed 654
practical nurse; 655

(22) In the case of a dialysis technician, engaging in 656
activities that exceed those permitted under section 4723.72 of 657
the Revised Code; 658

(23) Aiding and abetting a person in that person's 659
practice of nursing without a license or practice as a dialysis 660
technician without a certificate issued under this chapter; 661

(24) In the case of an advanced practice registered nurse, 662
except as provided in division (M) of this section, either of 663
the following: 664

(a) Waiving the payment of all or any part of a deductible 665
or copayment that a patient, pursuant to a health insurance or 666
health care policy, contract, or plan that covers such nursing 667
services, would otherwise be required to pay if the waiver is 668
used as an enticement to a patient or group of patients to 669
receive health care services from that provider; 670

(b) Advertising that the nurse will waive the payment of 671
all or any part of a deductible or copayment that a patient, 672
pursuant to a health insurance or health care policy, contract, 673
or plan that covers such nursing services, would otherwise be 674
required to pay. 675

(25) Failure to comply with the terms and conditions of 676
participation in the chemical dependency monitoring program 677
established under section 4723.35 of the Revised Code; 678

(26) Failure to comply with the terms and conditions 679
required under the practice intervention and improvement program 680
established under section 4723.282 of the Revised Code; 681

(27) In the case of an advanced practice registered nurse: 682

(a) Engaging in activities that exceed those permitted for 683
the nurse's nursing specialty under section 4723.43 of the 684
Revised Code; 685

(b) Failure to meet the quality assurance standards 686
established under section 4723.07 of the Revised Code. 687

(28) In the case of an advanced practice registered nurse 688
other than a certified registered nurse anesthetist, failure to 689
maintain a standard care arrangement in accordance with section 690
4723.431 of the Revised Code or to practice in accordance with 691
the standard care arrangement; 692

(29) In the case of an advanced practice registered nurse 693
who is designated as a clinical nurse specialist, certified 694
nurse-midwife, or certified nurse practitioner, failure to 695
prescribe drugs and therapeutic devices in accordance with 696
section 4723.481 of the Revised Code; 697

(30) Prescribing any drug or device to perform or induce 698
an abortion, or otherwise performing or inducing an abortion; 699

(31) Failure to establish and maintain professional 700
boundaries with a patient, as specified in rules adopted under 701
section 4723.07 of the Revised Code; 702

(32) Regardless of whether the contact or verbal behavior 703
is consensual, engaging with a patient other than the spouse of 704
the registered nurse, licensed practical nurse, or dialysis 705
technician in any of the following: 706

(a) Sexual contact, as defined in section 2907.01 of the Revised Code; 707
708

(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning. 709
710
711

(33) Assisting suicide, as defined in section 3795.01 of the Revised Code; 712
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(34) Failure to comply with the requirements ~~in~~ of section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code; 714
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716
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(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code; 718
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(36) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice; 722
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(37) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to comply with an individual's non-opioid directive form as required by division (C) of section 3702.411 of the Revised Code; 728
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(38) Failure to comply with section 3719.063 of the Revised Code before initiating a plan of treatment that includes 734
735

the use of an opioid analgesic for acute pain or chronic pain. 736

(C) Disciplinary actions taken by the board under 737
divisions (A) and (B) of this section shall be taken pursuant to 738
an adjudication conducted under Chapter 119. of the Revised 739
Code, except that in lieu of a hearing, the board may enter into 740
a consent agreement with an individual to resolve an allegation 741
of a violation of this chapter or any rule adopted under it. A 742
consent agreement, when ratified by a vote of a quorum, shall 743
constitute the findings and order of the board with respect to 744
the matter addressed in the agreement. If the board refuses to 745
ratify a consent agreement, the admissions and findings 746
contained in the agreement shall be of no effect. 747

(D) The hearings of the board shall be conducted in 748
accordance with Chapter 119. of the Revised Code, the board may 749
appoint a hearing examiner, as provided in section 119.09 of the 750
Revised Code, to conduct any hearing the board is authorized to 751
hold under Chapter 119. of the Revised Code. 752

In any instance in which the board is required under 753
Chapter 119. of the Revised Code to give notice of an 754
opportunity for a hearing and the applicant, licensee, or 755
certificate holder does not make a timely request for a hearing 756
in accordance with section 119.07 of the Revised Code, the board 757
is not required to hold a hearing, but may adopt, by a vote of a 758
quorum, a final order that contains the board's findings. In the 759
final order, the board may order any of the sanctions listed in 760
division (A) or (B) of this section. 761

(E) If a criminal action is brought against a registered 762
nurse, licensed practical nurse, or dialysis technician for an 763
act or crime described in divisions (B) (3) to (7) of this 764
section and the action is dismissed by the trial court other 765

than on the merits, the board shall conduct an adjudication to 766
determine whether the registered nurse, licensed practical 767
nurse, or dialysis technician committed the act on which the 768
action was based. If the board determines on the basis of the 769
adjudication that the registered nurse, licensed practical 770
nurse, or dialysis technician committed the act, or if the 771
registered nurse, licensed practical nurse, or dialysis 772
technician fails to participate in the adjudication, the board 773
may take action as though the registered nurse, licensed 774
practical nurse, or dialysis technician had been convicted of 775
the act. 776

If the board takes action on the basis of a conviction, 777
plea, or a judicial finding as described in divisions (B) (3) to 778
(7) of this section that is overturned on appeal, the registered 779
nurse, licensed practical nurse, or dialysis technician may, on 780
exhaustion of the appeal process, petition the board for 781
reconsideration of its action. On receipt of the petition and 782
supporting court documents, the board shall temporarily rescind 783
its action. If the board determines that the decision on appeal 784
was a decision on the merits, it shall permanently rescind its 785
action. If the board determines that the decision on appeal was 786
not a decision on the merits, it shall conduct an adjudication 787
to determine whether the registered nurse, licensed practical 788
nurse, or dialysis technician committed the act on which the 789
original conviction, plea, or judicial finding was based. If the 790
board determines on the basis of the adjudication that the 791
registered nurse, licensed practical nurse, or dialysis 792
technician committed such act, or if the registered nurse, 793
licensed practical nurse, or dialysis technician does not 794
request an adjudication, the board shall reinstate its action; 795
otherwise, the board shall permanently rescind its action. 796

Notwithstanding the provision of division (C) (2) of 797
section 2953.32 of the Revised Code specifying that if records 798
pertaining to a criminal case are sealed under that section the 799
proceedings in the case shall be deemed not to have occurred, 800
sealing of the following records on which the board has based an 801
action under this section shall have no effect on the board's 802
action or any sanction imposed by the board under this section: 803
records of any conviction, guilty plea, judicial finding of 804
guilt resulting from a plea of no contest, or a judicial finding 805
of eligibility for a pretrial diversion program or intervention 806
in lieu of conviction. 807

The board shall not be required to seal, destroy, redact, 808
or otherwise modify its records to reflect the court's sealing 809
of conviction records. 810

(F) The board may investigate an individual's criminal 811
background in performing its duties under this section. As part 812
of such investigation, the board may order the individual to 813
submit, at the individual's expense, a request to the bureau of 814
criminal identification and investigation for a criminal records 815
check and check of federal bureau of investigation records in 816
accordance with the procedure described in section 4723.091 of 817
the Revised Code. 818

(G) During the course of an investigation conducted under 819
this section, the board may compel any registered nurse, 820
licensed practical nurse, or dialysis technician or applicant 821
under this chapter to submit to a mental or physical 822
examination, or both, as required by the board and at the 823
expense of the individual, if the board finds reason to believe 824
that the individual under investigation may have a physical or 825
mental impairment that may affect the individual's ability to 826

provide safe nursing care. Failure of any individual to submit 827
to a mental or physical examination when directed constitutes an 828
admission of the allegations, unless the failure is due to 829
circumstances beyond the individual's control, and a default and 830
final order may be entered without the taking of testimony or 831
presentation of evidence. 832

If the board finds that an individual is impaired, the 833
board shall require the individual to submit to care, 834
counseling, or treatment approved or designated by the board, as 835
a condition for initial, continued, reinstated, or renewed 836
authority to practice. The individual shall be afforded an 837
opportunity to demonstrate to the board that the individual can 838
begin or resume the individual's occupation in compliance with 839
acceptable and prevailing standards of care under the provisions 840
of the individual's authority to practice. 841

For purposes of this division, any registered nurse, 842
licensed practical nurse, or dialysis technician or applicant 843
under this chapter shall be deemed to have given consent to 844
submit to a mental or physical examination when directed to do 845
so in writing by the board, and to have waived all objections to 846
the admissibility of testimony or examination reports that 847
constitute a privileged communication. 848

(H) The board shall investigate evidence that appears to 849
show that any person has violated any provision of this chapter 850
or any rule of the board. Any person may report to the board any 851
information the person may have that appears to show a violation 852
of any provision of this chapter or rule of the board. In the 853
absence of bad faith, any person who reports such information or 854
who testifies before the board in any adjudication conducted 855
under Chapter 119. of the Revised Code shall not be liable for 856

civil damages as a result of the report or testimony. 857

(I) All of the following apply under this chapter with 858
respect to the confidentiality of information: 859

(1) Information received by the board pursuant to a 860
complaint or an investigation is confidential and not subject to 861
discovery in any civil action, except that the board may 862
disclose information to law enforcement officers and government 863
entities for purposes of an investigation of either a licensed 864
health care professional, including a registered nurse, licensed 865
practical nurse, or dialysis technician, or a person who may 866
have engaged in the unauthorized practice of nursing or dialysis 867
care. No law enforcement officer or government entity with 868
knowledge of any information disclosed by the board pursuant to 869
this division shall divulge the information to any other person 870
or government entity except for the purpose of a government 871
investigation, a prosecution, or an adjudication by a court or 872
government entity. 873

(2) If an investigation requires a review of patient 874
records, the investigation and proceeding shall be conducted in 875
such a manner as to protect patient confidentiality. 876

(3) All adjudications and investigations of the board 877
shall be considered civil actions for the purposes of section 878
2305.252 of the Revised Code. 879

(4) Any board activity that involves continued monitoring 880
of an individual as part of or following any disciplinary action 881
taken under this section shall be conducted in a manner that 882
maintains the individual's confidentiality. Information received 883
or maintained by the board with respect to the board's 884
monitoring activities is not subject to discovery in any civil 885

action and is confidential, except that the board may disclose 886
information to law enforcement officers and government entities 887
for purposes of an investigation of a licensee or certificate 888
holder. 889

(J) Any action taken by the board under this section 890
resulting in a suspension from practice shall be accompanied by 891
a written statement of the conditions under which the person may 892
be reinstated to practice. 893

(K) When the board refuses to grant a license or 894
certificate to an applicant, revokes a license or certificate, 895
or refuses to reinstate a license or certificate, the board may 896
specify that its action is permanent. An individual subject to 897
permanent action taken by the board is forever ineligible to 898
hold a license or certificate of the type that was refused or 899
revoked and the board shall not accept from the individual an 900
application for reinstatement of the license or certificate or 901
for a new license or certificate. 902

(L) No unilateral surrender of a nursing license, 903
certificate of authority, or dialysis technician certificate 904
issued under this chapter shall be effective unless accepted by 905
majority vote of the board. No application for a nursing 906
license, certificate of authority, or dialysis technician 907
certificate issued under this chapter may be withdrawn without a 908
majority vote of the board. The board's jurisdiction to take 909
disciplinary action under this section is not removed or limited 910
when an individual has a license or certificate classified as 911
inactive or fails to renew a license or certificate. 912

(M) Sanctions shall not be imposed under division (B) (24) 913
of this section against any licensee who waives deductibles and 914
copayments as follows: 915

(1) In compliance with the health benefit plan that 916
expressly allows such a practice. Waiver of the deductibles or 917
copayments shall be made only with the full knowledge and 918
consent of the plan purchaser, payer, and third-party 919
administrator. Documentation of the consent shall be made 920
available to the board upon request. 921

(2) For professional services rendered to any other person 922
licensed pursuant to this chapter to the extent allowed by this 923
chapter and the rules of the board. 924

Sec. 4723.481. This section establishes standards and 925
conditions regarding the authority of an advanced practice 926
registered nurse who is designated as a clinical nurse 927
specialist, certified nurse-midwife, or certified nurse 928
practitioner to prescribe and personally furnish drugs and 929
therapeutic devices under a license issued under section 4723.42 930
of the Revised Code. 931

(A) Except as provided in division (F) of this section, a 932
clinical nurse specialist, certified nurse-midwife, or certified 933
nurse practitioner shall not prescribe or furnish any drug or 934
therapeutic device that is listed on the exclusionary formulary 935
established in rules adopted under section 4723.50 of the 936
Revised Code. 937

(B) The prescriptive authority of a clinical nurse 938
specialist, certified nurse-midwife, or certified nurse 939
practitioner shall not exceed the prescriptive authority of the 940
collaborating physician or podiatrist, including the 941
collaborating physician's authority to treat chronic pain with 942
controlled substances and products containing tramadol as 943
described in section 4731.052 of the Revised Code. 944

(C) (1) Except as provided in division (C) (2) or (3) of 945
this section, a clinical nurse specialist, certified nurse- 946
midwife, or certified nurse practitioner may prescribe to a 947
patient a schedule II controlled substance only if all of the 948
following are the case: 949

(a) The patient has a terminal condition, as defined in 950
section 2133.01 of the Revised Code. 951

(b) A physician initially prescribed the substance for the 952
patient. 953

(c) The prescription is for an amount that does not exceed 954
the amount necessary for the patient's use in a single, seventy- 955
two-hour period. 956

(2) The restrictions on prescriptive authority in division 957
(C) (1) of this section do not apply if a clinical nurse 958
specialist, certified nurse-midwife, or certified nurse 959
practitioner issues the prescription to the patient from any of 960
the following locations: 961

(a) A hospital registered under section 3701.07 of the 962
Revised Code; 963

(b) An entity owned or controlled, in whole or in part, by 964
a hospital or by an entity that owns or controls, in whole or in 965
part, one or more hospitals; 966

(c) A health care facility operated by the department of 967
mental health and addiction services or the department of 968
developmental disabilities; 969

(d) A nursing home licensed under section 3721.02 of the 970
Revised Code or by a political subdivision certified under 971
section 3721.09 of the Revised Code; 972

(e) A county home or district home operated under Chapter	973
5155. of the Revised Code that is certified under the medicare	974
or medicaid program;	975
(f) A hospice care program, as defined in section 3712.01	976
of the Revised Code;	977
(g) A community mental health services provider, as	978
defined in section 5122.01 of the Revised Code;	979
(h) An ambulatory surgical facility, as defined in section	980
3702.30 of the Revised Code;	981
(i) A freestanding birthing center, as defined in section	982
3702.141 of the Revised Code;	983
(j) A federally qualified health center, as defined in	984
section 3701.047 of the Revised Code;	985
(k) A federally qualified health center look-alike, as	986
defined in section 3701.047 of the Revised Code;	987
(l) A health care office or facility operated by the board	988
of health of a city or general health district or the authority	989
having the duties of a board of health under section 3709.05 of	990
the Revised Code;	991
(m) A site where a medical practice is operated, but only	992
if the practice is comprised of one or more physicians who also	993
are owners of the practice; the practice is organized to provide	994
direct patient care; and the clinical nurse specialist,	995
certified nurse-midwife, or certified nurse practitioner	996
providing services at the site has a standard care arrangement	997
and collaborates with at least one of the physician owners who	998
practices primarily at that site;	999
(n) A residential care facility, as defined in section	1000

3721.01 of the Revised Code. 1001

(3) A clinical nurse specialist, certified nurse-midwife, 1002
or certified nurse practitioner shall not issue to a patient a 1003
prescription for a schedule II controlled substance from a 1004
convenience care clinic even if the clinic is owned or operated 1005
by an entity specified in division (C)(2) of this section. 1006

(D) A pharmacist who acts in good faith reliance on a 1007
prescription issued by a clinical nurse specialist, certified 1008
nurse-midwife, or certified nurse practitioner under division 1009
(C)(2) of this section is not liable for or subject to any of 1010
the following for relying on the prescription: damages in any 1011
civil action, prosecution in any criminal proceeding, or 1012
professional disciplinary action by the state board of pharmacy 1013
under Chapter 4729. of the Revised Code. 1014

(E) ~~A~~ Both of the following apply to a clinical nurse 1015
specialist, certified nurse-midwife, or certified nurse 1016
practitioner with respect to the authority to prescribe opioid 1017
analgesics, as defined in section 3719.01 of the Revised Code: 1018

(1) The nurse shall comply with section 3719.061 of the 1019
Revised Code if the nurse prescribes an opioid analgesic for a 1020
minor, as defined in that section, ~~an opioid analgesic, as~~ 1021
~~defined in section 3719.01 of the Revised Code.~~ 1022

(2) The nurse shall comply with section 4723.53 of the 1023
Revised Code if the nurse prescribes an opioid analgesic for use 1024
in the treatment of acute pain or chronic pain. 1025

(F) Until the board of nursing establishes a new formulary 1026
in rules adopted under section 4723.50 of the Revised Code, a 1027
clinical nurse specialist, certified nurse-midwife, or certified 1028
nurse practitioner who prescribes or furnishes any drug or 1029

therapeutic device shall do so in accordance with the formulary 1030
established by the board prior to ~~the effective date of this~~ 1031
~~amendment~~ April 6, 2017. 1032

Sec. 4723.53. (A) As used in this section: 1033

(1) "Acute pain" means pain that normally fades with 1034
healing, is related to tissue damage, significantly alters a 1035
patient's typical function, and is expected to be time limited. 1036

(2) "Chronic pain" has the same meaning as in section 1037
4731.052 of the Revised Code. 1038

(3) "Opioid analgesic" has the same meaning as in section 1039
3719.01 of the Revised Code. 1040

(B) An advanced practice registered nurse shall comply 1041
with section 3719.063 of the Revised Code before initiating a 1042
plan of treatment that includes the use of an opioid analgesic 1043
for acute pain or chronic pain. 1044

(C) Division (B) of this section is in addition to any 1045
requirement that applies to an advanced practice registered 1046
nurse under division (B) of section 4723.481 of the Revised Code 1047
with respect to the treatment of chronic pain. 1048

Sec. 4730.25. (A) The state medical board, by an 1049
affirmative vote of not fewer than six members, may revoke or 1050
may refuse to grant a license to practice as a physician 1051
assistant to a person found by the board to have committed 1052
fraud, misrepresentation, or deception in applying for or 1053
securing the license. 1054

(B) The board, by an affirmative vote of not fewer than 1055
six members, shall, to the extent permitted by law, limit, 1056
revoke, or suspend an individual's license to practice as a 1057

physician assistant or prescriber number, refuse to issue a 1058
license to an applicant, refuse to renew a ~~certificate~~ license, 1059
refuse to reinstate a license, or reprimand or place on 1060
probation the holder of a license for any of the following 1061
reasons: 1062

(1) Failure to practice in accordance with the supervising 1063
physician's supervision agreement with the physician assistant, 1064
including, if applicable, the policies of the health care 1065
facility in which the supervising physician and physician 1066
assistant are practicing; 1067

(2) Failure to comply with the requirements of this 1068
chapter, Chapter 4731. of the Revised Code, or any rules adopted 1069
by the board; 1070

(3) Violating or attempting to violate, directly or 1071
indirectly, or assisting in or abetting the violation of, or 1072
conspiring to violate, any provision of this chapter, Chapter 1073
4731. of the Revised Code, or the rules adopted by the board; 1074

(4) Inability to practice according to acceptable and 1075
prevailing standards of care by reason of mental illness or 1076
physical illness, including physical deterioration that 1077
adversely affects cognitive, motor, or perceptive skills; 1078

(5) Impairment of ability to practice according to 1079
acceptable and prevailing standards of care because of habitual 1080
or excessive use or abuse of drugs, alcohol, or other substances 1081
that impair ability to practice; 1082

(6) Administering drugs for purposes other than those 1083
authorized under this chapter; 1084

(7) Willfully betraying a professional confidence; 1085

(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a license to practice as a physician assistant.

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

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

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

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

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

(13) A plea of guilty to, a judicial finding of guilt of,

or a judicial finding of eligibility for intervention in lieu of 1115
conviction for, a misdemeanor committed in the course of 1116
practice; 1117

(14) A plea of guilty to, a judicial finding of guilt of, 1118
or a judicial finding of eligibility for intervention in lieu of 1119
conviction for, a misdemeanor involving moral turpitude; 1120

(15) Commission of an act in the course of practice that 1121
constitutes a misdemeanor in this state, regardless of the 1122
jurisdiction in which the act was committed; 1123

(16) Commission of an act involving moral turpitude that 1124
constitutes a misdemeanor in this state, regardless of the 1125
jurisdiction in which the act was committed; 1126

(17) A plea of guilty to, a judicial finding of guilt of, 1127
or a judicial finding of eligibility for intervention in lieu of 1128
conviction for violating any state or federal law regulating the 1129
possession, distribution, or use of any drug, including 1130
trafficking in drugs; 1131

(18) Any of the following actions taken by the state 1132
agency responsible for regulating the practice of physician 1133
assistants in another state, for any reason other than the 1134
nonpayment of fees: the limitation, revocation, or suspension of 1135
an individual's license to practice; acceptance of an 1136
individual's license surrender; denial of a license; refusal to 1137
renew or reinstate a license; imposition of probation; or 1138
issuance of an order of censure or other reprimand; 1139

(19) A departure from, or failure to conform to, minimal 1140
standards of care of similar physician assistants under the same 1141
or similar circumstances, regardless of whether actual injury to 1142
a patient is established; 1143

(20) Violation of the conditions placed by the board on a	1144
license to practice as a physician assistant;	1145
(21) Failure to use universal blood and body fluid	1146
precautions established by rules adopted under section 4731.051	1147
of the Revised Code;	1148
(22) Failure to cooperate in an investigation conducted by	1149
the board under section 4730.26 of the Revised Code, including	1150
failure to comply with a subpoena or order issued by the board	1151
or failure to answer truthfully a question presented by the	1152
board at a deposition or in written interrogatories, except that	1153
failure to cooperate with an investigation shall not constitute	1154
grounds for discipline under this section if a court of	1155
competent jurisdiction has issued an order that either quashes a	1156
subpoena or permits the individual to withhold the testimony or	1157
evidence in issue;	1158
(23) Assisting suicide, as defined in section 3795.01 of	1159
the Revised Code;	1160
(24) Prescribing any drug or device to perform or induce	1161
an abortion, or otherwise performing or inducing an abortion;	1162
(25) Failure to comply with section 4730.53 of the Revised	1163
Code, unless the board no longer maintains a drug database	1164
pursuant to section 4729.75 of the Revised Code;	1165
(26) Failure to comply with the requirements in <u>of</u> section	1166
3719.061 of the Revised Code before issuing for a minor a	1167
prescription for an opioid analgesic, as defined in section	1168
3719.01 of the Revised Code;	1169
(27) Having certification by the national commission on	1170
certification of physician assistants or a successor	1171
organization expire, lapse, or be suspended or revoked;	1172

(28) The revocation, suspension, restriction, reduction, 1173
or termination of clinical privileges by the United States 1174
department of defense or department of veterans affairs or the 1175
termination or suspension of a certificate of registration to 1176
prescribe drugs by the drug enforcement administration of the 1177
United States department of justice; 1178

(29) Failure to comply with an individual's non-opioid 1179
directive form as required by division (C) of section 3702.411 1180
of the Revised Code; 1181

(30) Failure to comply with section 3719.063 of the 1182
Revised Code before initiating a plan of treatment that includes 1183
the use of an opioid analgesic for acute pain or chronic pain. 1184

(C) Disciplinary actions taken by the board under 1185
divisions (A) and (B) of this section shall be taken pursuant to 1186
an adjudication under Chapter 119. of the Revised Code, except 1187
that in lieu of an adjudication, the board may enter into a 1188
consent agreement with a physician assistant or applicant to 1189
resolve an allegation of a violation of this chapter or any rule 1190
adopted under it. A consent agreement, when ratified by an 1191
affirmative vote of not fewer than six members of the board, 1192
shall constitute the findings and order of the board with 1193
respect to the matter addressed in the agreement. If the board 1194
refuses to ratify a consent agreement, the admissions and 1195
findings contained in the consent agreement shall be of no force 1196
or effect. 1197

(D) For purposes of divisions (B) (12), (15), and (16) of 1198
this section, the commission of the act may be established by a 1199
finding by the board, pursuant to an adjudication under Chapter 1200
119. of the Revised Code, that the applicant or license holder 1201
committed the act in question. The board shall have no 1202

jurisdiction under these divisions in cases where the trial 1203
court renders a final judgment in the license holder's favor and 1204
that judgment is based upon an adjudication on the merits. The 1205
board shall have jurisdiction under these divisions in cases 1206
where the trial court issues an order of dismissal upon 1207
technical or procedural grounds. 1208

(E) The sealing of conviction records by any court shall 1209
have no effect upon a prior board order entered under the 1210
provisions of this section or upon the board's jurisdiction to 1211
take action under the provisions of this section if, based upon 1212
a plea of guilty, a judicial finding of guilt, or a judicial 1213
finding of eligibility for intervention in lieu of conviction, 1214
the board issued a notice of opportunity for a hearing prior to 1215
the court's order to seal the records. The board shall not be 1216
required to seal, destroy, redact, or otherwise modify its 1217
records to reflect the court's sealing of conviction records. 1218

(F) For purposes of this division, any individual who 1219
holds a license issued under this chapter, or applies for a 1220
license issued under this chapter, shall be deemed to have given 1221
consent to submit to a mental or physical examination when 1222
directed to do so in writing by the board and to have waived all 1223
objections to the admissibility of testimony or examination 1224
reports that constitute a privileged communication. 1225

(1) In enforcing division (B) (4) of this section, the 1226
board, upon a showing of a possible violation, may compel any 1227
individual who holds a license issued under this chapter or who 1228
has applied for a license pursuant to this chapter to submit to 1229
a mental examination, physical examination, including an HIV 1230
test, or both a mental and physical examination. The expense of 1231
the examination is the responsibility of the individual 1232

compelled to be examined. Failure to submit to a mental or 1233
physical examination or consent to an HIV test ordered by the 1234
board constitutes an admission of the allegations against the 1235
individual unless the failure is due to circumstances beyond the 1236
individual's control, and a default and final order may be 1237
entered without the taking of testimony or presentation of 1238
evidence. If the board finds a physician assistant unable to 1239
practice because of the reasons set forth in division (B) (4) of 1240
this section, the board shall require the physician assistant to 1241
submit to care, counseling, or treatment by physicians approved 1242
or designated by the board, as a condition for an initial, 1243
continued, reinstated, or renewed license. An individual 1244
affected under this division shall be afforded an opportunity to 1245
demonstrate to the board the ability to resume practicing in 1246
compliance with acceptable and prevailing standards of care. 1247

(2) For purposes of division (B) (5) of this section, if 1248
the board has reason to believe that any individual who holds a 1249
license issued under this chapter or any applicant for a license 1250
suffers such impairment, the board may compel the individual to 1251
submit to a mental or physical examination, or both. The expense 1252
of the examination is the responsibility of the individual 1253
compelled to be examined. Any mental or physical examination 1254
required under this division shall be undertaken by a treatment 1255
provider or physician qualified to conduct such examination and 1256
chosen by the board. 1257

Failure to submit to a mental or physical examination 1258
ordered by the board constitutes an admission of the allegations 1259
against the individual unless the failure is due to 1260
circumstances beyond the individual's control, and a default and 1261
final order may be entered without the taking of testimony or 1262
presentation of evidence. If the board determines that the 1263

individual's ability to practice is impaired, the board shall 1264
suspend the individual's license or deny the individual's 1265
application and shall require the individual, as a condition for 1266
initial, continued, reinstated, or renewed licensure, to submit 1267
to treatment. 1268

Before being eligible to apply for reinstatement of a 1269
license suspended under this division, the physician assistant 1270
shall demonstrate to the board the ability to resume practice or 1271
prescribing in compliance with acceptable and prevailing 1272
standards of care. The demonstration shall include the 1273
following: 1274

(a) Certification from a treatment provider approved under 1275
section 4731.25 of the Revised Code that the individual has 1276
successfully completed any required inpatient treatment; 1277

(b) Evidence of continuing full compliance with an 1278
aftercare contract or consent agreement; 1279

(c) Two written reports indicating that the individual's 1280
ability to practice has been assessed and that the individual 1281
has been found capable of practicing according to acceptable and 1282
prevailing standards of care. The reports shall be made by 1283
individuals or providers approved by the board for making such 1284
assessments and shall describe the basis for their 1285
determination. 1286

The board may reinstate a license suspended under this 1287
division after such demonstration and after the individual has 1288
entered into a written consent agreement. 1289

When the impaired physician assistant resumes practice or 1290
prescribing, the board shall require continued monitoring of the 1291
physician assistant. The monitoring shall include compliance 1292

with the written consent agreement entered into before 1293
reinstatement or with conditions imposed by board order after a 1294
hearing, and, upon termination of the consent agreement, 1295
submission to the board for at least two years of annual written 1296
progress reports made under penalty of falsification stating 1297
whether the physician assistant has maintained sobriety. 1298

(G) If the secretary and supervising member determine that 1299
there is clear and convincing evidence that a physician 1300
assistant has violated division (B) of this section and that the 1301
individual's continued practice or prescribing presents a danger 1302
of immediate and serious harm to the public, they may recommend 1303
that the board suspend the individual's license without a prior 1304
hearing. Written allegations shall be prepared for consideration 1305
by the board. 1306

The board, upon review of those allegations and by an 1307
affirmative vote of not fewer than six of its members, excluding 1308
the secretary and supervising member, may suspend a license 1309
without a prior hearing. A telephone conference call may be 1310
utilized for reviewing the allegations and taking the vote on 1311
the summary suspension. 1312

The board shall issue a written order of suspension by 1313
certified mail or in person in accordance with section 119.07 of 1314
the Revised Code. The order shall not be subject to suspension 1315
by the court during pendency of any appeal filed under section 1316
119.12 of the Revised Code. If the physician assistant requests 1317
an adjudicatory hearing by the board, the date set for the 1318
hearing shall be within fifteen days, but not earlier than seven 1319
days, after the physician assistant requests the hearing, unless 1320
otherwise agreed to by both the board and the license holder. 1321

A summary suspension imposed under this division shall 1322

remain in effect, unless reversed on appeal, until a final
adjudicative order issued by the board pursuant to this section
and Chapter 119. of the Revised Code becomes effective. The
board shall issue its final adjudicative order within sixty days
after completion of its hearing. Failure to issue the order
within sixty days shall result in dissolution of the summary
suspension order, but shall not invalidate any subsequent, final
adjudicative order.

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

(I) The license to practice issued to a physician
assistant and the physician assistant's practice in this state
are automatically suspended as of the date the physician
assistant pleads guilty to, is found by a judge or jury to be
guilty of, or is subject to a judicial finding of eligibility
for intervention in lieu of conviction in this state or

treatment or intervention in lieu of conviction in another state 1354
for any of the following criminal offenses in this state or a 1355
substantially equivalent criminal offense in another 1356
jurisdiction: aggravated murder, murder, voluntary manslaughter, 1357
felonious assault, kidnapping, rape, sexual battery, gross 1358
sexual imposition, aggravated arson, aggravated robbery, or 1359
aggravated burglary. Continued practice after the suspension 1360
shall be considered practicing without a license. 1361

The board shall notify the individual subject to the 1362
suspension by certified mail or in person in accordance with 1363
section 119.07 of the Revised Code. If an individual whose 1364
license is suspended under this division fails to make a timely 1365
request for an adjudication under Chapter 119. of the Revised 1366
Code, the board shall enter a final order permanently revoking 1367
the individual's license to practice. 1368

(J) In any instance in which the board is required by 1369
Chapter 119. of the Revised Code to give notice of opportunity 1370
for hearing and the individual subject to the notice does not 1371
timely request a hearing in accordance with section 119.07 of 1372
the Revised Code, the board is not required to hold a hearing, 1373
but may adopt, by an affirmative vote of not fewer than six of 1374
its members, a final order that contains the board's findings. 1375
In that final order, the board may order any of the sanctions 1376
identified under division (A) or (B) of this section. 1377

(K) Any action taken by the board under division (B) of 1378
this section resulting in a suspension shall be accompanied by a 1379
written statement of the conditions under which the physician 1380
assistant's license may be reinstated. The board shall adopt 1381
rules in accordance with Chapter 119. of the Revised Code 1382
governing conditions to be imposed for reinstatement. 1383

Reinstatement of a license suspended pursuant to division (B) of 1384
this section requires an affirmative vote of not fewer than six 1385
members of the board. 1386

(L) When the board refuses to grant or issue to an 1387
applicant a license to practice as a physician assistant, 1388
revokes an individual's license, refuses to renew an 1389
individual's license, or refuses to reinstate an individual's 1390
license, the board may specify that its action is permanent. An 1391
individual subject to a permanent action taken by the board is 1392
forever thereafter ineligible to hold the license and the board 1393
shall not accept an application for reinstatement of the license 1394
or for issuance of a new license. 1395

(M) Notwithstanding any other provision of the Revised 1396
Code, all of the following apply: 1397

(1) The surrender of a license issued under this chapter 1398
is not effective unless or until accepted by the board. 1399
Reinstatement of a license surrendered to the board requires an 1400
affirmative vote of not fewer than six members of the board. 1401

(2) An application made under this chapter for a license 1402
may not be withdrawn without approval of the board. 1403

(3) Failure by an individual to renew a license in 1404
accordance with section 4730.14 of the Revised Code shall not 1405
remove or limit the board's jurisdiction to take disciplinary 1406
action under this section against the individual. 1407

(N) The board may impose a fine against a physician 1408
assistant who fails to comply with division (C) of section 1409
3702.411 of the Revised Code. 1410

Sec. 4730.41. (A) A physician assistant who holds a valid 1411
prescriber number issued by the state medical board is 1412

authorized to prescribe and personally furnish drugs and 1413
therapeutic devices in the exercise of physician-delegated 1414
prescriptive authority. 1415

(B) In exercising physician-delegated prescriptive 1416
authority, a physician assistant is subject to all of the 1417
following: 1418

(1) The physician assistant shall exercise physician- 1419
delegated prescriptive authority only to the extent that the 1420
physician supervising the physician assistant has granted that 1421
authority. 1422

(2) The physician assistant shall comply with all 1423
conditions placed on the physician-delegated prescriptive 1424
authority, as specified by the supervising physician who is 1425
supervising the physician assistant in the exercise of 1426
physician-delegated prescriptive authority. 1427

(3) If the physician assistant possesses physician- 1428
delegated prescriptive authority for controlled substances, the 1429
physician assistant shall register with the federal drug 1430
enforcement administration. 1431

(4) If the physician assistant possesses physician- 1432
delegated prescriptive authority for schedule II controlled 1433
substances, the physician assistant shall comply with section 1434
4730.411 of the Revised Code. 1435

(5) If the physician assistant possesses physician- 1436
delegated prescriptive authority for opioid analgesics, as 1437
defined in section 3719.01 of the Revised Code, both of the 1438
following apply: 1439

(a) If the physician assistant is authorized to prescribe 1440
an opioid analgesic for a minor~~an opioid analgesic, as those~~ 1441

terms are defined in ~~sections~~ section 3719.061 and 3719.01 of 1442
the Revised Code, ~~respectively~~, the physician assistant shall 1443
comply with section 3719.061 of the Revised Code. 1444

(b) If the physician assistant is authorized to prescribe 1445
an opioid analgesic for use in the treatment of acute pain or 1446
chronic pain, the physician assistant shall comply with section 1447
4730.57 of the Revised Code. 1448

(6) The physician assistant shall comply with the 1449
requirements of section 4730.44 of the Revised Code. 1450

Sec. 4730.57. (A) As used in this section: 1451

(1) "Acute pain" means pain that normally fades with 1452
healing, is related to tissue damage, significantly alters a 1453
patient's typical function, and is expected to be time limited. 1454

(2) "Chronic pain" has the same meaning as in section 1455
4731.052 of the Revised Code. 1456

(3) "Opioid analgesic" has the same meaning as in section 1457
3719.01 of the Revised Code. 1458

(B) A physician assistant shall comply with section 1459
3719.063 of the Revised Code before initiating a plan of 1460
treatment that includes the use of an opioid analgesic for acute 1461
pain or chronic pain. 1462

(C) Division (B) of this section is in addition to any 1463
requirement that applies to a physician assistant under division 1464
(A) (3) of section 4730.42 of the Revised Code with respect to 1465
the treatment of chronic pain. 1466

Sec. 4731.052. (A) As used in this section: 1467

(1) "Chronic pain" means pain that has persisted after 1468

reasonable medical efforts have been made to relieve the pain or 1469
cure its cause and that has continued, either continuously or 1470
episodically, for longer than three continuous months. "Chronic 1471
pain" does not include pain associated with a terminal condition 1472
or with a progressive disease that, in the normal course of 1473
progression, may reasonably be expected to result in a terminal 1474
condition. 1475

(2) "Controlled substance" has the same meaning as in 1476
section 3719.01 of the Revised Code. 1477

(3) "Physician" means an individual authorized under this 1478
chapter to practice medicine and surgery or osteopathic medicine 1479
and surgery. 1480

(B) The state medical board shall adopt rules in 1481
accordance with Chapter 119. of the Revised Code that establish 1482
standards and procedures to be followed by physicians in the 1483
diagnosis and treatment of chronic pain, including standards for 1484
a physician's consultation with one or more other physicians who 1485
specialize in the treatment of the area, system, or organ of the 1486
body perceived as the source of pain and managing chronic pain 1487
by prescribing, personally furnishing, or administering 1488
controlled substances or products containing tramadol. 1489

(C) When a physician diagnoses a patient as having chronic 1490
pain, the physician may, subject to division (D) of this 1491
section, treat the pain by managing it with controlled 1492
substances and products containing tramadol. The physician's 1493
diagnosis and treatment decisions shall be made according to 1494
accepted and prevailing standards for medical care. For the 1495
purpose of assisting with the diagnosis of chronic pain, the 1496
physician shall obtain and review all available medical records 1497
or detailed written summaries of the patient's treatment for 1498

chronic pain or the condition causing the chronic pain. It is 1499
recommended that the physician also consider having the patient 1500
evaluated by one or more other physicians who specialize in the 1501
treatment of the area, system, or organ of the body perceived as 1502
the source of the pain. 1503

(D) For each patient a physician diagnoses as having 1504
chronic pain, the physician shall maintain a written record of 1505
all of the following: 1506

(1) Medical history and physical examination of the 1507
patient; 1508

(2) The diagnosis of chronic pain, including signs, 1509
symptoms, and causes; 1510

(3) The plan of treatment proposed, the patient's response 1511
to treatment, and any modification to the plan of treatment, 1512
including all of the following: 1513

(a) Documentation that other medically reasonable 1514
treatments for relief of the patient's chronic pain have been 1515
offered or attempted without adequate or reasonable success; 1516

(b) Periodic assessment and documentation of the patient's 1517
functional status, including the ability to engage in work or 1518
other purposeful activities, the pain intensity and its 1519
interference with activities of daily living, quality of family 1520
life and social activities, and physical activity of the 1521
patient; 1522

(c) Periodic assessment and documentation of the patient's 1523
progress toward treatment objectives, including the intended 1524
role of controlled substances or products containing tramadol 1525
within the overall plan of treatment; 1526

(d) Periodic assessment and documentation for indicators 1527
of possible addiction, drug abuse, or drug diversion; 1528

(e) Notation of any adverse drug effects. 1529

(4) The dates on which controlled substances or products 1530
containing tramadol were prescribed, furnished, or administered, 1531
the name and address of the patient to or for whom the 1532
controlled substances or products containing tramadol were 1533
prescribed, furnished, or administered, and the amounts and 1534
dosage forms for the controlled substances or products 1535
containing tramadol prescribed, furnished, or administered; 1536

(5) A copy of any record or report made by another 1537
physician that was used or consulted for the purpose of 1538
diagnosing the patient's chronic pain or treating the patient 1539
for chronic pain. 1540

(E) A physician shall not prescribe, personally furnish, 1541
or administer to a patient a controlled substance or product 1542
containing tramadol without taking into account the potential 1543
for abuse of the controlled substance or product, the 1544
possibility the controlled substance or product may lead to 1545
dependence, the possibility the patient will obtain the 1546
controlled substance or product for a nontherapeutic use or 1547
distribute it to other persons, and the potential existence of 1548
an illicit market for the controlled substance or product. In 1549
addition, the physician shall address with the patient the risks 1550
associated with protracted treatment with controlled substances 1551
or products containing tramadol, including informing the patient 1552
of the potential for dependence, tolerance, and addiction and 1553
the clinical or monitoring tools the physician may use if signs 1554
of addiction, drug abuse, or drug diversion are present. 1555

If the physician intends to prescribe an opioid analgesic, 1556
as defined in section 3719.01 of the Revised Code, for a patient 1557
diagnosed with chronic pain, the physician shall comply with 1558
section 3719.063 of the Revised Code. 1559

(F) A physician who treats chronic pain by managing it 1560
with controlled substances or products containing tramadol is 1561
not subject to disciplinary action by the board under section 1562
4731.22 of the Revised Code solely because the physician treated 1563
the chronic pain with controlled substances or products 1564
containing tramadol. 1565

Sec. 4731.22. (A) The state medical board, by an 1566
affirmative vote of not fewer than six of its members, may 1567
limit, revoke, or suspend a license or certificate to practice 1568
or certificate to recommend, refuse to grant a license or 1569
certificate, refuse to renew a license or certificate, refuse to 1570
reinstate a license or certificate, or reprimand or place on 1571
probation the holder of a license or certificate if the 1572
individual applying for or holding the license or certificate is 1573
found by the board to have committed fraud during the 1574
administration of the examination for a license or certificate 1575
to practice or to have committed fraud, misrepresentation, or 1576
deception in applying for, renewing, or securing any license or 1577
certificate to practice or certificate to recommend issued by 1578
the board. 1579

(B) The board, by an affirmative vote of not fewer than 1580
six members, shall, to the extent permitted by law, limit, 1581
revoke, or suspend a license or certificate to practice or 1582
certificate to recommend, refuse to issue a license or 1583
certificate, refuse to renew a license or certificate, refuse to 1584
reinstate a license or certificate, or reprimand or place on 1585

probation the holder of a license or certificate for one or more 1586
of the following reasons: 1587

(1) Permitting one's name or one's license or certificate 1588
to practice to be used by a person, group, or corporation when 1589
the individual concerned is not actually directing the treatment 1590
given; 1591

(2) Failure to maintain minimal standards applicable to 1592
the selection or administration of drugs, or failure to employ 1593
acceptable scientific methods in the selection of drugs or other 1594
modalities for treatment of disease; 1595

(3) Except as provided in section 4731.97 of the Revised 1596
Code, selling, giving away, personally furnishing, prescribing, 1597
or administering drugs for other than legal and legitimate 1598
therapeutic purposes or a plea of guilty to, a judicial finding 1599
of guilt of, or a judicial finding of eligibility for 1600
intervention in lieu of conviction of, a violation of any 1601
federal or state law regulating the possession, distribution, or 1602
use of any drug; 1603

(4) Willfully betraying a professional confidence. 1604

For purposes of this division, "willfully betraying a 1605
professional confidence" does not include providing any 1606
information, documents, or reports under sections 307.621 to 1607
307.629 of the Revised Code to a child fatality review board; 1608
does not include providing any information, documents, or 1609
reports to the director of health pursuant to guidelines 1610
established under section 3701.70 of the Revised Code; does not 1611
include written notice to a mental health professional under 1612
section 4731.62 of the Revised Code; and does not include the 1613
making of a report of an employee's use of a drug of abuse, or a 1614

report of a condition of an employee other than one involving 1615
the use of a drug of abuse, to the employer of the employee as 1616
described in division (B) of section 2305.33 of the Revised 1617
Code. Nothing in this division affects the immunity from civil 1618
liability conferred by section 2305.33 or 4731.62 of the Revised 1619
Code upon a physician who makes a report in accordance with 1620
section 2305.33 or notifies a mental health professional in 1621
accordance with section 4731.62 of the Revised Code. As used in 1622
this division, "employee," "employer," and "physician" have the 1623
same meanings as in section 2305.33 of the Revised Code. 1624

(5) Making a false, fraudulent, deceptive, or misleading 1625
statement in the solicitation of or advertising for patients; in 1626
relation to the practice of medicine and surgery, osteopathic 1627
medicine and surgery, podiatric medicine and surgery, or a 1628
limited branch of medicine; or in securing or attempting to 1629
secure any license or certificate to practice issued by the 1630
board. 1631

As used in this division, "false, fraudulent, deceptive, 1632
or misleading statement" means a statement that includes a 1633
misrepresentation of fact, is likely to mislead or deceive 1634
because of a failure to disclose material facts, is intended or 1635
is likely to create false or unjustified expectations of 1636
favorable results, or includes representations or implications 1637
that in reasonable probability will cause an ordinarily prudent 1638
person to misunderstand or be deceived. 1639

(6) A departure from, or the failure to conform to, 1640
minimal standards of care of similar practitioners under the 1641
same or similar circumstances, whether or not actual injury to a 1642
patient is established; 1643

(7) Representing, with the purpose of obtaining 1644

compensation or other advantage as personal gain or for any 1645
other person, that an incurable disease or injury, or other 1646
incurable condition, can be permanently cured; 1647

(8) The obtaining of, or attempting to obtain, money or 1648
anything of value by fraudulent misrepresentations in the course 1649
of practice; 1650

(9) A plea of guilty to, a judicial finding of guilt of, 1651
or a judicial finding of eligibility for intervention in lieu of 1652
conviction for, a felony; 1653

(10) Commission of an act that constitutes a felony in 1654
this state, regardless of the jurisdiction in which the act was 1655
committed; 1656

(11) A plea of guilty to, a judicial finding of guilt of, 1657
or a judicial finding of eligibility for intervention in lieu of 1658
conviction for, a misdemeanor committed in the course of 1659
practice; 1660

(12) Commission of an act in the course of practice that 1661
constitutes a misdemeanor in this state, regardless of the 1662
jurisdiction in which the act was committed; 1663

(13) A plea of guilty to, a judicial finding of guilt of, 1664
or a judicial finding of eligibility for intervention in lieu of 1665
conviction for, a misdemeanor involving moral turpitude; 1666

(14) Commission of an act involving moral turpitude that 1667
constitutes a misdemeanor in this state, regardless of the 1668
jurisdiction in which the act was committed; 1669

(15) Violation of the conditions of limitation placed by 1670
the board upon a license or certificate to practice; 1671

(16) Failure to pay license renewal fees specified in this 1672

chapter; 1673

(17) Except as authorized in section 4731.31 of the 1674
Revised Code, engaging in the division of fees for referral of 1675
patients, or the receiving of a thing of value in return for a 1676
specific referral of a patient to utilize a particular service 1677
or business; 1678

(18) Subject to section 4731.226 of the Revised Code, 1679
violation of any provision of a code of ethics of the American 1680
medical association, the American osteopathic association, the 1681
American podiatric medical association, or any other national 1682
professional organizations that the board specifies by rule. The 1683
state medical board shall obtain and keep on file current copies 1684
of the codes of ethics of the various national professional 1685
organizations. The individual whose license or certificate is 1686
being suspended or revoked shall not be found to have violated 1687
any provision of a code of ethics of an organization not 1688
appropriate to the individual's profession. 1689

For purposes of this division, a "provision of a code of 1690
ethics of a national professional organization" does not include 1691
any provision that would preclude the making of a report by a 1692
physician of an employee's use of a drug of abuse, or of a 1693
condition of an employee other than one involving the use of a 1694
drug of abuse, to the employer of the employee as described in 1695
division (B) of section 2305.33 of the Revised Code. Nothing in 1696
this division affects the immunity from civil liability 1697
conferred by that section upon a physician who makes either type 1698
of report in accordance with division (B) of that section. As 1699
used in this division, "employee," "employer," and "physician" 1700
have the same meanings as in section 2305.33 of the Revised 1701
Code. 1702

(19) Inability to practice according to acceptable and 1703
prevailing standards of care by reason of mental illness or 1704
physical illness, including, but not limited to, physical 1705
deterioration that adversely affects cognitive, motor, or 1706
perceptive skills. 1707

In enforcing this division, the board, upon a showing of a 1708
possible violation, may compel any individual authorized to 1709
practice by this chapter or who has submitted an application 1710
pursuant to this chapter to submit to a mental examination, 1711
physical examination, including an HIV test, or both a mental 1712
and a physical examination. The expense of the examination is 1713
the responsibility of the individual compelled to be examined. 1714
Failure to submit to a mental or physical examination or consent 1715
to an HIV test ordered by the board constitutes an admission of 1716
the allegations against the individual unless the failure is due 1717
to circumstances beyond the individual's control, and a default 1718
and final order may be entered without the taking of testimony 1719
or presentation of evidence. If the board finds an individual 1720
unable to practice because of the reasons set forth in this 1721
division, the board shall require the individual to submit to 1722
care, counseling, or treatment by physicians approved or 1723
designated by the board, as a condition for initial, continued, 1724
reinstated, or renewed authority to practice. An individual 1725
affected under this division shall be afforded an opportunity to 1726
demonstrate to the board the ability to resume practice in 1727
compliance with acceptable and prevailing standards under the 1728
provisions of the individual's license or certificate. For the 1729
purpose of this division, any individual who applies for or 1730
receives a license or certificate to practice under this chapter 1731
accepts the privilege of practicing in this state and, by so 1732
doing, shall be deemed to have given consent to submit to a 1733

mental or physical examination when directed to do so in writing 1734
by the board, and to have waived all objections to the 1735
admissibility of testimony or examination reports that 1736
constitute a privileged communication. 1737

(20) Except as provided in division (F)(1)(b) of section 1738
4731.282 of the Revised Code or when civil penalties are imposed 1739
under section 4731.225 of the Revised Code, and subject to 1740
section 4731.226 of the Revised Code, violating or attempting to 1741
violate, directly or indirectly, or assisting in or abetting the 1742
violation of, or conspiring to violate, any provisions of this 1743
chapter or any rule promulgated by the board. 1744

This division does not apply to a violation or attempted 1745
violation of, assisting in or abetting the violation of, or a 1746
conspiracy to violate, any provision of this chapter or any rule 1747
adopted by the board that would preclude the making of a report 1748
by a physician of an employee's use of a drug of abuse, or of a 1749
condition of an employee other than one involving the use of a 1750
drug of abuse, to the employer of the employee as described in 1751
division (B) of section 2305.33 of the Revised Code. Nothing in 1752
this division affects the immunity from civil liability 1753
conferred by that section upon a physician who makes either type 1754
of report in accordance with division (B) of that section. As 1755
used in this division, "employee," "employer," and "physician" 1756
have the same meanings as in section 2305.33 of the Revised 1757
Code. 1758

(21) The violation of section 3701.79 of the Revised Code 1759
or of any abortion rule adopted by the director of health 1760
pursuant to section 3701.341 of the Revised Code; 1761

(22) Any of the following actions taken by an agency 1762
responsible for authorizing, certifying, or regulating an 1763

individual to practice a health care occupation or provide 1764
health care services in this state or another jurisdiction, for 1765
any reason other than the nonpayment of fees: the limitation, 1766
revocation, or suspension of an individual's license to 1767
practice; acceptance of an individual's license surrender; 1768
denial of a license; refusal to renew or reinstate a license; 1769
imposition of probation; or issuance of an order of censure or 1770
other reprimand; 1771

(23) The violation of section 2919.12 of the Revised Code 1772
or the performance or inducement of an abortion upon a pregnant 1773
woman with actual knowledge that the conditions specified in 1774
division (B) of section 2317.56 of the Revised Code have not 1775
been satisfied or with a heedless indifference as to whether 1776
those conditions have been satisfied, unless an affirmative 1777
defense as specified in division (H) (2) of that section would 1778
apply in a civil action authorized by division (H) (1) of that 1779
section; 1780

(24) The revocation, suspension, restriction, reduction, 1781
or termination of clinical privileges by the United States 1782
department of defense or department of veterans affairs or the 1783
termination or suspension of a certificate of registration to 1784
prescribe drugs by the drug enforcement administration of the 1785
United States department of justice; 1786

(25) Termination or suspension from participation in the 1787
medicare or medicaid programs by the department of health and 1788
human services or other responsible agency for any act or acts 1789
that also would constitute a violation of division (B) (2), (3), 1790
(6), (8), or (19) of this section; 1791

(26) Impairment of ability to practice according to 1792
acceptable and prevailing standards of care because of habitual 1793

or excessive use or abuse of drugs, alcohol, or other substances 1794
that impair ability to practice. 1795

For the purposes of this division, any individual 1796
authorized to practice by this chapter accepts the privilege of 1797
practicing in this state subject to supervision by the board. By 1798
filing an application for or holding a license or certificate to 1799
practice under this chapter, an individual shall be deemed to 1800
have given consent to submit to a mental or physical examination 1801
when ordered to do so by the board in writing, and to have 1802
waived all objections to the admissibility of testimony or 1803
examination reports that constitute privileged communications. 1804

If it has reason to believe that any individual authorized 1805
to practice by this chapter or any applicant for licensure or 1806
certification to practice suffers such impairment, the board may 1807
compel the individual to submit to a mental or physical 1808
examination, or both. The expense of the examination is the 1809
responsibility of the individual compelled to be examined. Any 1810
mental or physical examination required under this division 1811
shall be undertaken by a treatment provider or physician who is 1812
qualified to conduct the examination and who is chosen by the 1813
board. 1814

Failure to submit to a mental or physical examination 1815
ordered by the board constitutes an admission of the allegations 1816
against the individual unless the failure is due to 1817
circumstances beyond the individual's control, and a default and 1818
final order may be entered without the taking of testimony or 1819
presentation of evidence. If the board determines that the 1820
individual's ability to practice is impaired, the board shall 1821
suspend the individual's license or certificate or deny the 1822
individual's application and shall require the individual, as a 1823

condition for initial, continued, reinstated, or renewed 1824
licensure or certification to practice, to submit to treatment. 1825

Before being eligible to apply for reinstatement of a 1826
license or certificate suspended under this division, the 1827
impaired practitioner shall demonstrate to the board the ability 1828
to resume practice in compliance with acceptable and prevailing 1829
standards of care under the provisions of the practitioner's 1830
license or certificate. The demonstration shall include, but 1831
shall not be limited to, the following: 1832

(a) Certification from a treatment provider approved under 1833
section 4731.25 of the Revised Code that the individual has 1834
successfully completed any required inpatient treatment; 1835

(b) Evidence of continuing full compliance with an 1836
aftercare contract or consent agreement; 1837

(c) Two written reports indicating that the individual's 1838
ability to practice has been assessed and that the individual 1839
has been found capable of practicing according to acceptable and 1840
prevailing standards of care. The reports shall be made by 1841
individuals or providers approved by the board for making the 1842
assessments and shall describe the basis for their 1843
determination. 1844

The board may reinstate a license or certificate suspended 1845
under this division after that demonstration and after the 1846
individual has entered into a written consent agreement. 1847

When the impaired practitioner resumes practice, the board 1848
shall require continued monitoring of the individual. The 1849
monitoring shall include, but not be limited to, compliance with 1850
the written consent agreement entered into before reinstatement 1851
or with conditions imposed by board order after a hearing, and, 1852

upon termination of the consent agreement, submission to the 1853
board for at least two years of annual written progress reports 1854
made under penalty of perjury stating whether the individual has 1855
maintained sobriety. 1856

(27) A second or subsequent violation of section 4731.66 1857
or 4731.69 of the Revised Code; 1858

(28) Except as provided in division (N) of this section: 1859

(a) Waiving the payment of all or any part of a deductible 1860
or copayment that a patient, pursuant to a health insurance or 1861
health care policy, contract, or plan that covers the 1862
individual's services, otherwise would be required to pay if the 1863
waiver is used as an enticement to a patient or group of 1864
patients to receive health care services from that individual; 1865

(b) Advertising that the individual will waive the payment 1866
of all or any part of a deductible or copayment that a patient, 1867
pursuant to a health insurance or health care policy, contract, 1868
or plan that covers the individual's services, otherwise would 1869
be required to pay. 1870

(29) Failure to use universal blood and body fluid 1871
precautions established by rules adopted under section 4731.051 1872
of the Revised Code; 1873

(30) Failure to provide notice to, and receive 1874
acknowledgment of the notice from, a patient when required by 1875
section 4731.143 of the Revised Code prior to providing 1876
nonemergency professional services, or failure to maintain that 1877
notice in the patient's medical record; 1878

(31) Failure of a physician supervising a physician 1879
assistant to maintain supervision in accordance with the 1880
requirements of Chapter 4730. of the Revised Code and the rules 1881

adopted under that chapter; 1882

(32) Failure of a physician or podiatrist to enter into a 1883
standard care arrangement with a clinical nurse specialist, 1884
certified nurse-midwife, or certified nurse practitioner with 1885
whom the physician or podiatrist is in collaboration pursuant to 1886
section 4731.27 of the Revised Code or failure to fulfill the 1887
responsibilities of collaboration after entering into a standard 1888
care arrangement; 1889

(33) Failure to comply with the terms of a consult 1890
agreement entered into with a pharmacist pursuant to section 1891
4729.39 of the Revised Code; 1892

(34) Failure to cooperate in an investigation conducted by 1893
the board under division (F) of this section, including failure 1894
to comply with a subpoena or order issued by the board or 1895
failure to answer truthfully a question presented by the board 1896
in an investigative interview, an investigative office 1897
conference, at a deposition, or in written interrogatories, 1898
except that failure to cooperate with an investigation shall not 1899
constitute grounds for discipline under this section if a court 1900
of competent jurisdiction has issued an order that either 1901
quashes a subpoena or permits the individual to withhold the 1902
testimony or evidence in issue; 1903

(35) Failure to supervise an oriental medicine 1904
practitioner or acupuncturist in accordance with Chapter 4762. 1905
of the Revised Code and the board's rules for providing that 1906
supervision; 1907

(36) Failure to supervise an anesthesiologist assistant in 1908
accordance with Chapter 4760. of the Revised Code and the 1909
board's rules for supervision of an anesthesiologist assistant; 1910

(37) Assisting suicide, as defined in section 3795.01 of	1911
the Revised Code;	1912
(38) Failure to comply with the requirements of section	1913
2317.561 of the Revised Code;	1914
(39) Failure to supervise a radiologist assistant in	1915
accordance with Chapter 4774. of the Revised Code and the	1916
board's rules for supervision of radiologist assistants;	1917
(40) Performing or inducing an abortion at an office or	1918
facility with knowledge that the office or facility fails to	1919
post the notice required under section 3701.791 of the Revised	1920
Code;	1921
(41) Failure to comply with the standards and procedures	1922
established in rules under section 4731.054 of the Revised Code	1923
for the operation of or the provision of care at a pain	1924
management clinic;	1925
(42) Failure to comply with the standards and procedures	1926
established in rules under section 4731.054 of the Revised Code	1927
for providing supervision, direction, and control of individuals	1928
at a pain management clinic;	1929
(43) Failure to comply with the requirements of section	1930
4729.79 or 4731.055 of the Revised Code, unless the state board	1931
of pharmacy no longer maintains a drug database pursuant to	1932
section 4729.75 of the Revised Code;	1933
(44) Failure to comply with the requirements of section	1934
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	1935
to submit to the department of health in accordance with a court	1936
order a complete report as described in section 2919.171 or	1937
2919.202 of the Revised Code;	1938

(45) Practicing at a facility that is subject to licensure	1939
as a category III terminal distributor of dangerous drugs with a	1940
pain management clinic classification unless the person	1941
operating the facility has obtained and maintains the license	1942
with the classification;	1943
(46) Owning a facility that is subject to licensure as a	1944
category III terminal distributor of dangerous drugs with a pain	1945
management clinic classification unless the facility is licensed	1946
with the classification;	1947
(47) Failure to comply with the requirement regarding	1948
maintaining notes described in division (B) of section 2919.191	1949
of the Revised Code or failure to satisfy the requirements of	1950
section 2919.191 of the Revised Code prior to performing or	1951
inducing an abortion upon a pregnant woman;	1952
(48) Failure to comply with the requirements in <u>of</u> section	1953
3719.061 of the Revised Code before issuing for a minor a	1954
prescription for an opioid analgesic, as defined in section	1955
3719.01 of the Revised Code;	1956
(49) Failure to comply with the requirements of section	1957
4731.30 of the Revised Code or rules adopted under section	1958
4731.301 of the Revised Code when recommending treatment with	1959
medical marijuana;	1960
(50) Practicing at a facility, clinic, or other location	1961
that is subject to licensure as a category III terminal	1962
distributor of dangerous drugs with an office-based opioid	1963
treatment classification unless the person operating that place	1964
has obtained and maintains the license with the classification;	1965
(51) Owning a facility, clinic, or other location that is	1966
subject to licensure as a category III terminal distributor of	1967

dangerous drugs with an office-based opioid treatment 1968
classification unless that place is licensed with the 1969
classification; 1970

(52) Failure to comply with an individual's non-opioid 1971
directive form as required by division (C) of section 3702.411 1972
of the Revised Code in a manner that constitutes willful 1973
misconduct; 1974

(53) Failure to comply with section 3719.063 of the 1975
Revised Code before initiating a plan of treatment that includes 1976
the use of an opioid analgesic for acute pain or chronic pain. 1977

(C) Disciplinary actions taken by the board under 1978
divisions (A) and (B) of this section shall be taken pursuant to 1979
an adjudication under Chapter 119. of the Revised Code, except 1980
that in lieu of an adjudication, the board may enter into a 1981
consent agreement with an individual to resolve an allegation of 1982
a violation of this chapter or any rule adopted under it. A 1983
consent agreement, when ratified by an affirmative vote of not 1984
fewer than six members of the board, shall constitute the 1985
findings and order of the board with respect to the matter 1986
addressed in the agreement. If the board refuses to ratify a 1987
consent agreement, the admissions and findings contained in the 1988
consent agreement shall be of no force or effect. 1989

A telephone conference call may be utilized for 1990
ratification of a consent agreement that revokes or suspends an 1991
individual's license or certificate to practice or certificate 1992
to recommend. The telephone conference call shall be considered 1993
a special meeting under division (F) of section 121.22 of the 1994
Revised Code. 1995

If the board takes disciplinary action against an 1996

individual under division (B) of this section for a second or 1997
subsequent plea of guilty to, or judicial finding of guilt of, a 1998
violation of section 2919.123 of the Revised Code, the 1999
disciplinary action shall consist of a suspension of the 2000
individual's license or certificate to practice for a period of 2001
at least one year or, if determined appropriate by the board, a 2002
more serious sanction involving the individual's license or 2003
certificate to practice. Any consent agreement entered into 2004
under this division with an individual that pertains to a second 2005
or subsequent plea of guilty to, or judicial finding of guilt 2006
of, a violation of that section shall provide for a suspension 2007
of the individual's license or certificate to practice for a 2008
period of at least one year or, if determined appropriate by the 2009
board, a more serious sanction involving the individual's 2010
license or certificate to practice. 2011

(D) For purposes of divisions (B)(10), (12), and (14) of 2012
this section, the commission of the act may be established by a 2013
finding by the board, pursuant to an adjudication under Chapter 2014
119. of the Revised Code, that the individual committed the act. 2015
The board does not have jurisdiction under those divisions if 2016
the trial court renders a final judgment in the individual's 2017
favor and that judgment is based upon an adjudication on the 2018
merits. The board has jurisdiction under those divisions if the 2019
trial court issues an order of dismissal upon technical or 2020
procedural grounds. 2021

(E) The sealing of conviction records by any court shall 2022
have no effect upon a prior board order entered under this 2023
section or upon the board's jurisdiction to take action under 2024
this section if, based upon a plea of guilty, a judicial finding 2025
of guilt, or a judicial finding of eligibility for intervention 2026
in lieu of conviction, the board issued a notice of opportunity 2027

for a hearing prior to the court's order to seal the records. 2028
The board shall not be required to seal, destroy, redact, or 2029
otherwise modify its records to reflect the court's sealing of 2030
conviction records. 2031

(F) (1) The board shall investigate evidence that appears 2032
to show that a person has violated any provision of this chapter 2033
or any rule adopted under it. Any person may report to the board 2034
in a signed writing any information that the person may have 2035
that appears to show a violation of any provision of this 2036
chapter or any rule adopted under it. In the absence of bad 2037
faith, any person who reports information of that nature or who 2038
testifies before the board in any adjudication conducted under 2039
Chapter 119. of the Revised Code shall not be liable in damages 2040
in a civil action as a result of the report or testimony. Each 2041
complaint or allegation of a violation received by the board 2042
shall be assigned a case number and shall be recorded by the 2043
board. 2044

(2) Investigations of alleged violations of this chapter 2045
or any rule adopted under it shall be supervised by the 2046
supervising member elected by the board in accordance with 2047
section 4731.02 of the Revised Code and by the secretary as 2048
provided in section 4731.39 of the Revised Code. The president 2049
may designate another member of the board to supervise the 2050
investigation in place of the supervising member. No member of 2051
the board who supervises the investigation of a case shall 2052
participate in further adjudication of the case. 2053

(3) In investigating a possible violation of this chapter 2054
or any rule adopted under this chapter, or in conducting an 2055
inspection under division (E) of section 4731.054 of the Revised 2056
Code, the board may question witnesses, conduct interviews, 2057

administer oaths, order the taking of depositions, inspect and 2058
copy any books, accounts, papers, records, or documents, issue 2059
subpoenas, and compel the attendance of witnesses and production 2060
of books, accounts, papers, records, documents, and testimony, 2061
except that a subpoena for patient record information shall not 2062
be issued without consultation with the attorney general's 2063
office and approval of the secretary and supervising member of 2064
the board. 2065

(a) Before issuance of a subpoena for patient record 2066
information, the secretary and supervising member shall 2067
determine whether there is probable cause to believe that the 2068
complaint filed alleges a violation of this chapter or any rule 2069
adopted under it and that the records sought are relevant to the 2070
alleged violation and material to the investigation. The 2071
subpoena may apply only to records that cover a reasonable 2072
period of time surrounding the alleged violation. 2073

(b) On failure to comply with any subpoena issued by the 2074
board and after reasonable notice to the person being 2075
subpoenaed, the board may move for an order compelling the 2076
production of persons or records pursuant to the Rules of Civil 2077
Procedure. 2078

(c) A subpoena issued by the board may be served by a 2079
sheriff, the sheriff's deputy, or a board employee designated by 2080
the board. Service of a subpoena issued by the board may be made 2081
by delivering a copy of the subpoena to the person named 2082
therein, reading it to the person, or leaving it at the person's 2083
usual place of residence, usual place of business, or address on 2084
file with the board. When serving a subpoena to an applicant for 2085
or the holder of a license or certificate issued under this 2086
chapter, service of the subpoena may be made by certified mail, 2087

return receipt requested, and the subpoena shall be deemed 2088
served on the date delivery is made or the date the person 2089
refuses to accept delivery. If the person being served refuses 2090
to accept the subpoena or is not located, service may be made to 2091
an attorney who notifies the board that the attorney is 2092
representing the person. 2093

(d) A sheriff's deputy who serves a subpoena shall receive 2094
the same fees as a sheriff. Each witness who appears before the 2095
board in obedience to a subpoena shall receive the fees and 2096
mileage provided for under section 119.094 of the Revised Code. 2097

(4) All hearings, investigations, and inspections of the 2098
board shall be considered civil actions for the purposes of 2099
section 2305.252 of the Revised Code. 2100

(5) A report required to be submitted to the board under 2101
this chapter, a complaint, or information received by the board 2102
pursuant to an investigation or pursuant to an inspection under 2103
division (E) of section 4731.054 of the Revised Code is 2104
confidential and not subject to discovery in any civil action. 2105

The board shall conduct all investigations or inspections 2106
and proceedings in a manner that protects the confidentiality of 2107
patients and persons who file complaints with the board. The 2108
board shall not make public the names or any other identifying 2109
information about patients or complainants unless proper consent 2110
is given or, in the case of a patient, a waiver of the patient 2111
privilege exists under division (B) of section 2317.02 of the 2112
Revised Code, except that consent or a waiver of that nature is 2113
not required if the board possesses reliable and substantial 2114
evidence that no bona fide physician-patient relationship 2115
exists. 2116

The board may share any information it receives pursuant 2117
to an investigation or inspection, including patient records and 2118
patient record information, with law enforcement agencies, other 2119
licensing boards, and other governmental agencies that are 2120
prosecuting, adjudicating, or investigating alleged violations 2121
of statutes or administrative rules. An agency or board that 2122
receives the information shall comply with the same requirements 2123
regarding confidentiality as those with which the state medical 2124
board must comply, notwithstanding any conflicting provision of 2125
the Revised Code or procedure of the agency or board that 2126
applies when it is dealing with other information in its 2127
possession. In a judicial proceeding, the information may be 2128
admitted into evidence only in accordance with the Rules of 2129
Evidence, but the court shall require that appropriate measures 2130
are taken to ensure that confidentiality is maintained with 2131
respect to any part of the information that contains names or 2132
other identifying information about patients or complainants 2133
whose confidentiality was protected by the state medical board 2134
when the information was in the board's possession. Measures to 2135
ensure confidentiality that may be taken by the court include 2136
sealing its records or deleting specific information from its 2137
records. 2138

(6) On a quarterly basis, the board shall prepare a report 2139
that documents the disposition of all cases during the preceding 2140
three months. The report shall contain the following information 2141
for each case with which the board has completed its activities: 2142

(a) The case number assigned to the complaint or alleged 2143
violation; 2144

(b) The type of license or certificate to practice, if 2145
any, held by the individual against whom the complaint is 2146

directed; 2147

(c) A description of the allegations contained in the 2148
complaint; 2149

(d) The disposition of the case. 2150

The report shall state how many cases are still pending 2151
and shall be prepared in a manner that protects the identity of 2152
each person involved in each case. The report shall be a public 2153
record under section 149.43 of the Revised Code. 2154

(G) If the secretary and supervising member determine both 2155
of the following, they may recommend that the board suspend an 2156
individual's license or certificate to practice or certificate 2157
to recommend without a prior hearing: 2158

(1) That there is clear and convincing evidence that an 2159
individual has violated division (B) of this section; 2160

(2) That the individual's continued practice presents a 2161
danger of immediate and serious harm to the public. 2162

Written allegations shall be prepared for consideration by 2163
the board. The board, upon review of those allegations and by an 2164
affirmative vote of not fewer than six of its members, excluding 2165
the secretary and supervising member, may suspend a license or 2166
certificate without a prior hearing. A telephone conference call 2167
may be utilized for reviewing the allegations and taking the 2168
vote on the summary suspension. 2169

The board shall issue a written order of suspension by 2170
certified mail or in person in accordance with section 119.07 of 2171
the Revised Code. The order shall not be subject to suspension 2172
by the court during pendency of any appeal filed under section 2173
119.12 of the Revised Code. If the individual subject to the 2174

summary suspension requests an adjudicatory hearing by the 2175
board, the date set for the hearing shall be within fifteen 2176
days, but not earlier than seven days, after the individual 2177
requests the hearing, unless otherwise agreed to by both the 2178
board and the individual. 2179

Any summary suspension imposed under this division shall 2180
remain in effect, unless reversed on appeal, until a final 2181
adjudicative order issued by the board pursuant to this section 2182
and Chapter 119. of the Revised Code becomes effective. The 2183
board shall issue its final adjudicative order within seventy- 2184
five days after completion of its hearing. A failure to issue 2185
the order within seventy-five days shall result in dissolution 2186
of the summary suspension order but shall not invalidate any 2187
subsequent, final adjudicative order. 2188

(H) If the board takes action under division (B) (9), (11), 2189
or (13) of this section and the judicial finding of guilt, 2190
guilty plea, or judicial finding of eligibility for intervention 2191
in lieu of conviction is overturned on appeal, upon exhaustion 2192
of the criminal appeal, a petition for reconsideration of the 2193
order may be filed with the board along with appropriate court 2194
documents. Upon receipt of a petition of that nature and 2195
supporting court documents, the board shall reinstate the 2196
individual's license or certificate to practice. The board may 2197
then hold an adjudication under Chapter 119. of the Revised Code 2198
to determine whether the individual committed the act in 2199
question. Notice of an opportunity for a hearing shall be given 2200
in accordance with Chapter 119. of the Revised Code. If the 2201
board finds, pursuant to an adjudication held under this 2202
division, that the individual committed the act or if no hearing 2203
is requested, the board may order any of the sanctions 2204
identified under division (B) of this section. 2205

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

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

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the board shall enter an order suspending the individual's

license or certificate to practice for a period of at least one 2237
year or, if determined appropriate by the board, imposing a more 2238
serious sanction involving the individual's license or 2239
certificate to practice. 2240

(2) In all circumstances in which division (I)(1) of this 2241
section does not apply, enter a final order permanently revoking 2242
the individual's license or certificate to practice. 2243

(J) If the board is required by Chapter 119. of the 2244
Revised Code to give notice of an opportunity for a hearing and 2245
if the individual subject to the notice does not timely request 2246
a hearing in accordance with section 119.07 of the Revised Code, 2247
the board is not required to hold a hearing, but may adopt, by 2248
an affirmative vote of not fewer than six of its members, a 2249
final order that contains the board's findings. In that final 2250
order, the board may order any of the sanctions identified under 2251
division (A) or (B) of this section. 2252

(K) Any action taken by the board under division (B) of 2253
this section resulting in a suspension from practice shall be 2254
accompanied by a written statement of the conditions under which 2255
the individual's license or certificate to practice may be 2256
reinstated. The board shall adopt rules governing conditions to 2257
be imposed for reinstatement. Reinstatement of a license or 2258
certificate suspended pursuant to division (B) of this section 2259
requires an affirmative vote of not fewer than six members of 2260
the board. 2261

(L) When the board refuses to grant or issue a license or 2262
certificate to practice to an applicant, revokes an individual's 2263
license or certificate to practice, refuses to renew an 2264
individual's license or certificate to practice, or refuses to 2265
reinstate an individual's license or certificate to practice, 2266

the board may specify that its action is permanent. An 2267
individual subject to a permanent action taken by the board is 2268
forever thereafter ineligible to hold a license or certificate 2269
to practice and the board shall not accept an application for 2270
reinstatement of the license or certificate or for issuance of a 2271
new license or certificate. 2272

(M) Notwithstanding any other provision of the Revised 2273
Code, all of the following apply: 2274

(1) The surrender of a license or certificate issued under 2275
this chapter shall not be effective unless or until accepted by 2276
the board. A telephone conference call may be utilized for 2277
acceptance of the surrender of an individual's license or 2278
certificate to practice. The telephone conference call shall be 2279
considered a special meeting under division (F) of section 2280
121.22 of the Revised Code. Reinstatement of a license or 2281
certificate surrendered to the board requires an affirmative 2282
vote of not fewer than six members of the board. 2283

(2) An application for a license or certificate made under 2284
the provisions of this chapter may not be withdrawn without 2285
approval of the board. 2286

(3) Failure by an individual to renew a license or 2287
certificate to practice in accordance with this chapter or a 2288
certificate to recommend in accordance with rules adopted under 2289
section 4731.301 of the Revised Code shall not remove or limit 2290
the board's jurisdiction to take any disciplinary action under 2291
this section against the individual. 2292

(4) At the request of the board, a license or certificate 2293
holder shall immediately surrender to the board a license or 2294
certificate that the board has suspended, revoked, or 2295

permanently revoked. 2296

(N) Sanctions shall not be imposed under division (B) (28) 2297
of this section against any person who waives deductibles and 2298
copayments as follows: 2299

(1) In compliance with the health benefit plan that 2300
expressly allows such a practice. Waiver of the deductibles or 2301
copayments shall be made only with the full knowledge and 2302
consent of the plan purchaser, payer, and third-party 2303
administrator. Documentation of the consent shall be made 2304
available to the board upon request. 2305

(2) For professional services rendered to any other person 2306
authorized to practice pursuant to this chapter, to the extent 2307
allowed by this chapter and rules adopted by the board. 2308

(O) Under the board's investigative duties described in 2309
this section and subject to division (F) of this section, the 2310
board shall develop and implement a quality intervention program 2311
designed to improve through remedial education the clinical and 2312
communication skills of individuals authorized under this 2313
chapter to practice medicine and surgery, osteopathic medicine 2314
and surgery, and podiatric medicine and surgery. In developing 2315
and implementing the quality intervention program, the board may 2316
do all of the following: 2317

(1) Offer in appropriate cases as determined by the board 2318
an educational and assessment program pursuant to an 2319
investigation the board conducts under this section; 2320

(2) Select providers of educational and assessment 2321
services, including a quality intervention program panel of case 2322
reviewers; 2323

(3) Make referrals to educational and assessment service 2324

providers and approve individual educational programs 2325
recommended by those providers. The board shall monitor the 2326
progress of each individual undertaking a recommended individual 2327
educational program. 2328

(4) Determine what constitutes successful completion of an 2329
individual educational program and require further monitoring of 2330
the individual who completed the program or other action that 2331
the board determines to be appropriate; 2332

(5) Adopt rules in accordance with Chapter 119. of the 2333
Revised Code to further implement the quality intervention 2334
program. 2335

An individual who participates in an individual 2336
educational program pursuant to this division shall pay the 2337
financial obligations arising from that educational program. 2338

(P) The board may impose a fine against a physician who 2339
fails to comply with division (C) of section 3702.411 of the 2340
Revised Code. 2341

Sec. 4731.84. (A) As used in this section: 2342

(1) "Acute pain" means pain that normally fades with 2343
healing, is related to tissue damage, significantly alters a 2344
patient's typical function, and is expected to be time limited. 2345

(2) "Chronic pain" has the same meaning as in section 2346
4731.052 of the Revised Code. 2347

(3) "Opioid analgesic" has the same meaning as in section 2348
3719.01 of the Revised Code. 2349

(4) "Physician" means an individual authorized by this 2350
chapter to practice medicine and surgery or osteopathic medicine 2351
and surgery. 2352

(5) "Podiatrist" means an individual authorized by this 2353
chapter to practice podiatric medicine and surgery. 2354

(B) (1) A physician shall comply with section 3719.063 of 2355
the Revised Code before initiating a plan of treatment that 2356
includes the use of an opioid analgesic for acute pain or 2357
chronic pain. 2358

A podiatrist shall comply with section 3719.063 of the 2359
Revised Code before initiating a plan of treatment that includes 2360
the use of an opioid analgesic for acute pain. 2361

(C) Division (B) (1) of this section is in addition to any 2362
requirement that applies to a physician under section 4731.052 2363
of the Revised Code or the rules adopted under it with respect 2364
to the diagnosis and treatment of chronic pain. 2365

Section 2. That existing sections 1739.05, 4715.30, 2366
4723.28, 4723.481, 4730.25, 4730.41, 4731.052, and 4731.22 of 2367
the Revised Code are hereby repealed. 2368

Section 3. Sections 1739.05 and 1751.76 of the Revised 2369
Code, as amended or enacted by this act, apply only to multiple 2370
employer welfare arrangements and health insuring corporation 2371
policies, contracts, and agreements that are created, delivered, 2372
issued for delivery, or renewed in this state on or after July 2373
1, 2019. Section 3923.86 of the Revised Code, as enacted by this 2374
act, applies only to policies of sickness and accident insurance 2375
delivered, issued for delivery, or renewed in this state on or 2376
after July 1, 2019, and only to public employee benefit plans 2377
that are established or modified in this state on or after July 2378
1, 2019. 2379

Section 4. The General Assembly, applying the principle 2380
stated in division (B) of section 1.52 of the Revised Code that 2381

amendments are to be harmonized if reasonably capable of 2382
simultaneous operation, finds that the following sections, 2383
presented in this act as composites of the sections as amended 2384
by the acts indicated, are the resulting versions of the 2385
sections in effect prior to the effective date of the sections 2386
as presented in this act: 2387

Section 1739.05 of the Revised Code as amended by both 2388
Sub. H.B. 463 and Sub. S.B. 319 of the 131st General Assembly. 2389

Section 4730.25 of the Revised Code as amended by both Am. 2390
Sub. H.B. 64 and Sub. S.B. 110 of the 131st General Assembly and 2391
both Am. Sub. H.B. 394 and Am. Sub. S.B. 276 of the 130th 2392
General Assembly. 2393

Section 4730.41 of the Revised Code as amended by Sub. 2394
S.B. 110 of the 131st General Assembly and both Am. Sub. H.B. 2395
394 and Am. Sub. S.B. 276 of the 130th General Assembly. 2396