

I_132_1044-2

132nd General Assembly
Regular Session
2017-2018

Sub. H. B. No. 167

A BILL

To amend sections 4715.30, 4715.302, 4729.01, 1
4729.75, 4729.77, 4729.79, 4731.052, 4731.055, 2
4731.056, and 4731.22 and to enact sections 3
4715.303, 4715.304, 4731.058, 4731.059, 4
4731.0510, and 5119.373 of the Revised Code 5
regarding addiction treatment and opioid 6
prescribing by physicians and dentists. 7

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

Section 1. That sections 4715.30, 4715.302, 4729.01, 8
4729.75, 4729.77, 4729.79, 4731.052, 4731.055, 4731.056, and 9
4731.22 be amended and sections 4715.303, 4715.304, 4731.058, 10
4731.059, 4731.0510, and 5119.373 of the Revised Code be enacted 11
to read as follows: 12

Sec. 4715.30. (A) An applicant for or holder of a 13
certificate or license issued under this chapter is subject to 14
disciplinary action by the state dental board for any of the 15
following reasons: 16

(1) Employing or cooperating in fraud or material 17



deception in applying for or obtaining a license or certificate;	18
(2) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	19 20 21
(3) Advertising services in a false or misleading manner or violating the board's rules governing time, place, and manner of advertising;	22 23 24
(4) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	25 26 27
(5) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	28 29 30
(6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony or of a misdemeanor committed in the course of practice;	31 32 33 34 35
(7) Engaging in lewd or immoral conduct in connection with the provision of dental services;	36 37
(8) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes, or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a violation of any federal or state law regulating the possession, distribution, or use of any drug;	38 39 40 41 42 43 44 45

(9) Providing or allowing dental hygienists, expanded 46
function dental auxiliaries, or other practitioners of auxiliary 47
dental occupations working under the certificate or license 48
holder's supervision, or a dentist holding a temporary limited 49
continuing education license under division (C) of section 50
4715.16 of the Revised Code working under the certificate or 51
license holder's direct supervision, to provide dental care that 52
departs from or fails to conform to accepted standards for the 53
profession, whether or not injury to a patient results; 54

(10) Inability to practice under accepted standards of the 55
profession because of physical or mental disability, dependence 56
on alcohol or other drugs, or excessive use of alcohol or other 57
drugs; 58

(11) Violation of any provision of this chapter or any 59
rule adopted thereunder; 60

(12) Failure to use universal blood and body fluid 61
precautions established by rules adopted under section 4715.03 62
of the Revised Code; 63

(13) Except as provided in division (H) of this section, 64
either of the following: 65

(a) Waiving the payment of all or any part of a deductible 66
or copayment that a patient, pursuant to a health insurance or 67
health care policy, contract, or plan that covers dental 68
services, would otherwise be required to pay if the waiver is 69
used as an enticement to a patient or group of patients to 70
receive health care services from that certificate or license 71
holder; 72

(b) Advertising that the certificate or license holder 73
will waive the payment of all or any part of a deductible or 74

copayment that a patient, pursuant to a health insurance or 75
health care policy, contract, or plan that covers dental 76
services, would otherwise be required to pay. 77

(14) Failure to comply with section 4715.302 or 4729.79 of 78
the Revised Code, unless the state board of pharmacy no longer 79
maintains a drug database pursuant to section 4729.75 of the 80
Revised Code; 81

(15) Any of the following actions taken by an agency 82
responsible for authorizing, certifying, or regulating an 83
individual to practice a health care occupation or provide 84
health care services in this state or another jurisdiction, for 85
any reason other than the nonpayment of fees: the limitation, 86
revocation, or suspension of an individual's license to 87
practice; acceptance of an individual's license surrender; 88
denial of a license; refusal to renew or reinstate a license; 89
imposition of probation; or issuance of an order of censure or 90
other reprimand; 91

(16) Failure to cooperate in an investigation conducted by 92
the board under division (D) of section 4715.03 of the Revised 93
Code, including failure to comply with a subpoena or order 94
issued by the board or failure to answer truthfully a question 95
presented by the board at a deposition or in written 96
interrogatories, except that failure to cooperate with an 97
investigation shall not constitute grounds for discipline under 98
this section if a court of competent jurisdiction has issued an 99
order that either quashes a subpoena or permits the individual 100
to withhold the testimony or evidence in issue; 101

(17) Failure to comply with the requirements in section 102
3719.061 of the Revised Code before issuing for a minor a 103
prescription for an opioid analgesic, as defined in section 104

3719.01 of the Revised Code;	105
<u>(18) Failure to comply with section 4715.303 of the</u>	106
<u>Revised Code;</u>	107
<u>(19) Failure to comply with section 4715.304 of the</u>	108
<u>Revised Code.</u>	109
(B) A manager, proprietor, operator, or conductor of a	110
dental facility shall be subject to disciplinary action if any	111
dentist, dental hygienist, expanded function dental auxiliary,	112
or qualified personnel providing services in the facility is	113
found to have committed a violation listed in division (A) of	114
this section and the manager, proprietor, operator, or conductor	115
knew of the violation and permitted it to occur on a recurring	116
basis.	117
(C) Subject to Chapter 119. of the Revised Code, the board	118
may take one or more of the following disciplinary actions if	119
one or more of the grounds for discipline listed in divisions	120
(A) and (B) of this section exist:	121
(1) Censure the license or certificate holder;	122
(2) Place the license or certificate on probationary	123
status for such period of time the board determines necessary	124
and require the holder to:	125
(a) Report regularly to the board upon the matters which	126
are the basis of probation;	127
(b) Limit practice to those areas specified by the board;	128
(c) Continue or renew professional education until a	129
satisfactory degree of knowledge or clinical competency has been	130
attained in specified areas.	131

(3) Suspend the certificate or license; 132

(4) Revoke the certificate or license. 133

Where the board places a holder of a license or 134
certificate on probationary status pursuant to division (C) (2) 135
of this section, the board may subsequently suspend or revoke 136
the license or certificate if it determines that the holder has 137
not met the requirements of the probation or continues to engage 138
in activities that constitute grounds for discipline pursuant to 139
division (A) or (B) of this section. 140

Any order suspending a license or certificate shall state 141
the conditions under which the license or certificate will be 142
restored, which may include a conditional restoration during 143
which time the holder is in a probationary status pursuant to 144
division (C) (2) of this section. The board shall restore the 145
license or certificate unconditionally when such conditions are 146
met. 147

(D) If the physical or mental condition of an applicant or 148
a license or certificate holder is at issue in a disciplinary 149
proceeding, the board may order the license or certificate 150
holder to submit to reasonable examinations by an individual 151
designated or approved by the board and at the board's expense. 152
The physical examination may be conducted by any individual 153
authorized by the Revised Code to do so, including a physician 154
assistant, a clinical nurse specialist, a certified nurse 155
practitioner, or a certified nurse-midwife. Any written 156
documentation of the physical examination shall be completed by 157
the individual who conducted the examination. 158

Failure to comply with an order for an examination shall 159
be grounds for refusal of a license or certificate or summary 160

suspension of a license or certificate under division (E) of 161
this section. 162

(E) If a license or certificate holder has failed to 163
comply with an order under division (D) of this section, the 164
board may apply to the court of common pleas of the county in 165
which the holder resides for an order temporarily suspending the 166
holder's license or certificate, without a prior hearing being 167
afforded by the board, until the board conducts an adjudication 168
hearing pursuant to Chapter 119. of the Revised Code. If the 169
court temporarily suspends a holder's license or certificate, 170
the board shall give written notice of the suspension personally 171
or by certified mail to the license or certificate holder. Such 172
notice shall inform the license or certificate holder of the 173
right to a hearing pursuant to Chapter 119. of the Revised Code. 174

(F) Any holder of a certificate or license issued under 175
this chapter who has pleaded guilty to, has been convicted of, 176
or has had a judicial finding of eligibility for intervention in 177
lieu of conviction entered against the holder in this state for 178
aggravated murder, murder, voluntary manslaughter, felonious 179
assault, kidnapping, rape, sexual battery, gross sexual 180
imposition, aggravated arson, aggravated robbery, or aggravated 181
burglary, or who has pleaded guilty to, has been convicted of, 182
or has had a judicial finding of eligibility for treatment or 183
intervention in lieu of conviction entered against the holder in 184
another jurisdiction for any substantially equivalent criminal 185
offense, is automatically suspended from practice under this 186
chapter in this state and any certificate or license issued to 187
the holder under this chapter is automatically suspended, as of 188
the date of the guilty plea, conviction, or judicial finding, 189
whether the proceedings are brought in this state or another 190
jurisdiction. Continued practice by an individual after the 191

suspension of the individual's certificate or license under this 192
division shall be considered practicing without a certificate or 193
license. The board shall notify the suspended individual of the 194
suspension of the individual's certificate or license under this 195
division by certified mail or in person in accordance with 196
section 119.07 of the Revised Code. If an individual whose 197
certificate or license is suspended under this division fails to 198
make a timely request for an adjudicatory hearing, the board 199
shall enter a final order revoking the individual's certificate 200
or license. 201

(G) If the supervisory investigative panel determines both 202
of the following, the panel may recommend that the board suspend 203
an individual's certificate or license without a prior hearing: 204

(1) That there is clear and convincing evidence that an 205
individual has violated division (A) of this section; 206

(2) That the individual's continued practice presents a 207
danger of immediate and serious harm to the public. 208

Written allegations shall be prepared for consideration by 209
the board. The board, upon review of those allegations and by an 210
affirmative vote of not fewer than four dentist members of the 211
board and seven of its members in total, excluding any member on 212
the supervisory investigative panel, may suspend a certificate 213
or license without a prior hearing. A telephone conference call 214
may be utilized for reviewing the allegations and taking the 215
vote on the summary suspension. 216

The board shall issue a written order of suspension by 217
certified mail or in person in accordance with section 119.07 of 218
the Revised Code. The order shall not be subject to suspension 219
by the court during pendency or any appeal filed under section 220

119.12 of the Revised Code. If the individual subject to the 221
summary suspension requests an adjudicatory hearing by the 222
board, the date set for the hearing shall be within fifteen 223
days, but not earlier than seven days, after the individual 224
requests the hearing, unless otherwise agreed to by both the 225
board and the individual. 226

Any summary suspension imposed under this division shall 227
remain in effect, unless reversed on appeal, until a final 228
adjudicative order issued by the board pursuant to this section 229
and Chapter 119. of the Revised Code becomes effective. The 230
board shall issue its final adjudicative order within seventy- 231
five days after completion of its hearing. A failure to issue 232
the order within seventy-five days shall result in dissolution 233
of the summary suspension order but shall not invalidate any 234
subsequent, final adjudicative order. 235

(H) Sanctions shall not be imposed under division (A) (13) 236
of this section against any certificate or license holder who 237
waives deductibles and copayments as follows: 238

(1) In compliance with the health benefit plan that 239
expressly allows such a practice. Waiver of the deductibles or 240
copayments shall be made only with the full knowledge and 241
consent of the plan purchaser, payer, and third-party 242
administrator. Documentation of the consent shall be made 243
available to the board upon request. 244

(2) For professional services rendered to any other person 245
who holds a certificate or license issued pursuant to this 246
chapter to the extent allowed by this chapter and the rules of 247
the board. 248

(I) In no event shall the board consider or raise during a 249

hearing required by Chapter 119. of the Revised Code the 250
circumstances of, or the fact that the board has received, one 251
or more complaints about a person unless the one or more 252
complaints are the subject of the hearing or resulted in the 253
board taking an action authorized by this section against the 254
person on a prior occasion. 255

(J) The board may share any information it receives 256
pursuant to an investigation under division (D) of section 257
4715.03 of the Revised Code, including patient records and 258
patient record information, with law enforcement agencies, other 259
licensing boards, and other governmental agencies that are 260
prosecuting, adjudicating, or investigating alleged violations 261
of statutes or administrative rules. An agency or board that 262
receives the information shall comply with the same requirements 263
regarding confidentiality as those with which the state dental 264
board must comply, notwithstanding any conflicting provision of 265
the Revised Code or procedure of the agency or board that 266
applies when it is dealing with other information in its 267
possession. In a judicial proceeding, the information may be 268
admitted into evidence only in accordance with the Rules of 269
Evidence, but the court shall require that appropriate measures 270
are taken to ensure that confidentiality is maintained with 271
respect to any part of the information that contains names or 272
other identifying information about patients or complainants 273
whose confidentiality was protected by the state dental board 274
when the information was in the board's possession. Measures to 275
ensure confidentiality that may be taken by the court include 276
sealing its records or deleting specific information from its 277
records. 278

Sec. 4715.302. (A) As used in this section: 279

(1) "Drug database" means the database established and 280
maintained by the state board of pharmacy pursuant to section 281
4729.75 of the Revised Code. 282

(2) "Opioid analgesic" and "benzodiazepine" have the same 283
meanings as in section 3719.01 of the Revised Code. 284

(B) Except as provided in divisions (C) and (E) of this 285
section, a dentist shall comply with all of the following as 286
conditions of prescribing a drug that is either an opioid 287
analgesic or a benzodiazepine, or personally furnishing a 288
complete or partial supply of such a drug, as part of a 289
patient's course of treatment for a particular condition: 290

(1) Before initially prescribing or furnishing the drug, 291
the dentist or the dentist's delegate shall request from the 292
drug database a report of information related to the patient 293
that covers at least the twelve months immediately preceding the 294
date of the request. If the dentist practices primarily in a 295
county of this state that adjoins another state, the dentist or 296
delegate also shall request a report of any information 297
available in the drug database that pertains to prescriptions 298
issued or drugs furnished to the patient in the state adjoining 299
that county. 300

(2) If the patient's course of treatment for the condition 301
continues for more than ninety days after the initial report is 302
requested, the dentist or delegate shall make periodic requests 303
for reports of information from the drug database until the 304
course of treatment has ended. The requests shall be made at 305
intervals not exceeding ninety days, determined according to the 306
date the initial request was made. The request shall be made in 307
the same manner provided in division (B)(1) of this section for 308
requesting the initial report of information from the drug 309

database. 310

(3) On receipt of a report under division (B) (1) or (2) of 311
this section, the dentist shall assess the information in the 312
report. The dentist shall document in the patient's record that 313
the report was received and the information was assessed. 314

(C) ~~(1)~~ Division (B) of this section does not apply if a 315
drug database report regarding the patient is not available. In 316
this event, the dentist shall document in the patient's record 317
the reason that the report is not available. 318

~~(2) Division (B) of this section does not apply if the 319
drug is prescribed or personally furnished in an amount 320
indicated for a period not to exceed seven days. 321~~

(D) The state dental board may adopt rules that establish 322
standards and procedures to be followed by a dentist regarding 323
the review of patient information available through the drug 324
database under division (A) (5) of section 4729.80 of the Revised 325
Code. The rules shall be adopted in accordance with Chapter 119. 326
of the Revised Code. 327

(E) This section and any rules adopted under it do not 328
apply if the state board of pharmacy no longer maintains the 329
drug database. 330

Sec. 4715.303. (A) As used in this section, "opioid 331
analgesic" has the same meaning as in section 3719.01 of the 332
Revised Code. 333

(B) A dentist may prescribe or personally furnish an 334
opioid analgesic only if all of the following are the case: 335

(1) The drug is not an extended release or long-acting 336
opioid analgesic. 337

(2) The morphine equivalent daily dose for the drug does 338
not exceed thirty milligrams. 339

(3) In the case of an adult patient, the drug is 340
prescribed or furnished in an amount indicated for a period that 341
does not exceed seven days. 342

(4) In the case of a minor patient, the drug is prescribed 343
or furnished in an amount indicated for a period that does not 344
exceed five days. 345

(C) (1) Before prescribing or furnishing an opioid 346
analgesic, the dentist shall do both of the following: 347

(a) Perform a physical examination of the patient and 348
obtain the patient's medical history; 349

(b) Consider treatment options other than opioid 350
analgesics. 351

(2) If the dentist determines that an opioid analgesic is 352
necessary, the dentist shall prescribe or furnish the drug in 353
the minimum amount and potency appropriate for the expected 354
duration of the pain, generally an amount indicated for a period 355
that does not exceed three days. 356

(D) When prescribing an opioid analgesic under this 357
section, a dentist shall record on the prescription the reason 358
for prescribing the drug by listing the relevant diagnosis code 359
from the international statistical classification of diseases 360
and related health problems or a successor classification. A 361
dentist who personally furnishes an opioid analgesic under this 362
section shall comply with division (A) (11) of section 4729.79 of 363
the Revised Code. 364

Sec. 4715.304. (A) As used in this section, "opioid" 365

analgesic" has the same meaning as in section 3719.01 of the 366
Revised Code. 367

(B) A dentist shall not do any of the following if the 368
patient or patient's representative informs the dentist that the 369
patient refuses treatment with opioid analgesics: 370

(1) Issue for the patient a prescription for an opioid 371
analgesic; 372

(2) Administer to the patient an opioid analgesic; 373

(3) Personally furnish to the patient an opioid analgesic. 374

(C) If a patient refuses treatment with opioid analgesics, 375
the dentist shall consider other treatment options and discuss 376
them with the patient when deciding on a course of treatment. 377

Sec. 4729.01. As used in this chapter: 378

(A) "Pharmacy," except when used in a context that refers 379
to the practice of pharmacy, means any area, room, rooms, place 380
of business, department, or portion of any of the foregoing 381
where the practice of pharmacy is conducted. 382

(B) "Practice of pharmacy" means providing pharmacist care 383
requiring specialized knowledge, judgment, and skill derived 384
from the principles of biological, chemical, behavioral, social, 385
pharmaceutical, and clinical sciences. As used in this division, 386
"pharmacist care" includes the following: 387

(1) Interpreting prescriptions; 388

(2) Dispensing drugs and drug therapy related devices; 389

(3) Compounding drugs; 390

(4) Counseling individuals with regard to their drug 391
therapy, recommending drug therapy related devices, and 392

assisting in the selection of drugs and appliances for treatment 393
of common diseases and injuries and providing instruction in the 394
proper use of the drugs and appliances; 395

(5) Performing drug regimen reviews with individuals by 396
discussing all of the drugs that the individual is taking and 397
explaining the interactions of the drugs; 398

(6) Performing drug utilization reviews with licensed 399
health professionals authorized to prescribe drugs when the 400
pharmacist determines that an individual with a prescription has 401
a drug regimen that warrants additional discussion with the 402
prescriber; 403

(7) Advising an individual and the health care 404
professionals treating an individual with regard to the 405
individual's drug therapy; 406

(8) Acting pursuant to a consult agreement with one or 407
more physicians authorized under Chapter 4731. of the Revised 408
Code to practice medicine and surgery or osteopathic medicine 409
and surgery, if an agreement has been established; 410

(9) Engaging in the administration of immunizations to the 411
extent authorized by section 4729.41 of the Revised Code; 412

(10) Engaging in the administration of drugs to the extent 413
authorized by section 4729.45 of the Revised Code. 414

(C) "Compounding" means the preparation, mixing, 415
assembling, packaging, and labeling of one or more drugs in any 416
of the following circumstances: 417

(1) Pursuant to a prescription issued by a licensed health 418
professional authorized to prescribe drugs; 419

(2) Pursuant to the modification of a prescription made in 420

accordance with a consult agreement;	421
(3) As an incident to research, teaching activities, or chemical analysis;	422 423
(4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns;	424 425 426
(5) Pursuant to a request made by a licensed health professional authorized to prescribe drugs for a drug that is to be used by the professional for the purpose of direct administration to patients in the course of the professional's practice, if all of the following apply:	427 428 429 430 431
(a) At the time the request is made, the drug is not commercially available regardless of the reason that the drug is not available, including the absence of a manufacturer for the drug or the lack of a readily available supply of the drug from a manufacturer.	432 433 434 435 436
(b) A limited quantity of the drug is compounded and provided to the professional.	437 438
(c) The drug is compounded and provided to the professional as an occasional exception to the normal practice of dispensing drugs pursuant to patient-specific prescriptions.	439 440 441
(D) "Consult agreement" means an agreement that has been entered into under section 4729.39 of the Revised Code.	442 443
(E) "Drug" means:	444
(1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	445 446 447 448

(2) Any other article intended for use in the diagnosis, 449
cure, mitigation, treatment, or prevention of disease in humans 450
or animals; 451

(3) Any article, other than food, intended to affect the 452
structure or any function of the body of humans or animals; 453

(4) Any article intended for use as a component of any 454
article specified in division (E) (1), (2), or (3) of this 455
section; but does not include devices or their components, 456
parts, or accessories. 457

(F) "Dangerous drug" means any of the following: 458

(1) Any drug to which either of the following applies: 459

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 460
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is 461
required to bear a label containing the legend "Caution: Federal 462
law prohibits dispensing without prescription" or "Caution: 463
Federal law restricts this drug to use by or on the order of a 464
licensed veterinarian" or any similar restrictive statement, or 465
the drug may be dispensed only upon a prescription; 466

(b) Under Chapter 3715. or 3719. of the Revised Code, the 467
drug may be dispensed only upon a prescription. 468

(2) Any drug that contains a schedule V controlled 469
substance and that is exempt from Chapter 3719. of the Revised 470
Code or to which that chapter does not apply; 471

(3) Any drug intended for administration by injection into 472
the human body other than through a natural orifice of the human 473
body; 474

(4) Any drug that is a biological product, as defined in 475
section 3715.01 of the Revised Code. 476

(G) "Federal drug abuse control laws" has the same meaning 477
as in section 3719.01 of the Revised Code. 478

(H) "Prescription" means all of the following: 479

(1) A written, electronic, or oral order for drugs or 480
combinations or mixtures of drugs to be used by a particular 481
individual or for treating a particular animal, issued by a 482
licensed health professional authorized to prescribe drugs; 483

(2) For purposes of sections 2925.61, 4723.488, 4729.44, 484
4730.431, and 4731.94 of the Revised Code, a written, 485
electronic, or oral order for naloxone issued to and in the name 486
of a family member, friend, or other individual in a position to 487
assist an individual who there is reason to believe is at risk 488
of experiencing an opioid-related overdose. 489

(3) For purposes of sections 4723.4810, 4729.282, 490
4730.432, and 4731.93 of the Revised Code, a written, 491
electronic, or oral order for a drug to treat chlamydia, 492
gonorrhoea, or trichomoniasis issued to and in the name of a 493
patient who is not the intended user of the drug but is the 494
sexual partner of the intended user; 495

(4) For purposes of sections 3313.7110, 3313.7111, 496
3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 497
4731.96, and 5101.76 of the Revised Code, a written, electronic, 498
or oral order for an epinephrine autoinjector issued to and in 499
the name of a school, school district, or camp; 500

(5) For purposes of Chapter 3728. and sections 4723.483, 501
4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 502
electronic, or oral order for an epinephrine autoinjector issued 503
to and in the name of a qualified entity, as defined in section 504
3728.01 of the Revised Code. 505

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

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

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

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

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

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

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

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

or both. 535

(K) "Wholesale sale" and "sale at wholesale" mean any sale 536
in which the purpose of the purchaser is to resell the article 537
purchased or received by the purchaser. 538

(L) "Retail sale" and "sale at retail" mean any sale other 539
than a wholesale sale or sale at wholesale. 540

(M) "Retail seller" means any person that sells any 541
dangerous drug to consumers without assuming control over and 542
responsibility for its administration. Mere advice or 543
instructions regarding administration do not constitute control 544
or establish responsibility. 545

(N) "Price information" means the price charged for a 546
prescription for a particular drug product and, in an easily 547
understandable manner, all of the following: 548

(1) The proprietary name of the drug product; 549

(2) The established (generic) name of the drug product; 550

(3) The strength of the drug product if the product 551
contains a single active ingredient or if the drug product 552
contains more than one active ingredient and a relevant strength 553
can be associated with the product without indicating each 554
active ingredient. The established name and quantity of each 555
active ingredient are required if such a relevant strength 556
cannot be so associated with a drug product containing more than 557
one ingredient. 558

(4) The dosage form; 559

(5) The price charged for a specific quantity of the drug 560
product. The stated price shall include all charges to the 561
consumer, including, but not limited to, the cost of the drug 562

product, professional fees, handling fees, if any, and a 563
statement identifying professional services routinely furnished 564
by the pharmacy. Any mailing fees and delivery fees may be 565
stated separately without repetition. The information shall not 566
be false or misleading. 567

(O) "Wholesale distributor of dangerous drugs" or 568
"wholesale distributor" means a person engaged in the sale of 569
dangerous drugs at wholesale and includes any agent or employee 570
of such a person authorized by the person to engage in the sale 571
of dangerous drugs at wholesale. 572

(P) "Manufacturer of dangerous drugs" or "manufacturer" 573
means a person, other than a pharmacist or prescriber, who 574
manufactures dangerous drugs and who is engaged in the sale of 575
those dangerous drugs. 576

(Q) "Terminal distributor of dangerous drugs" or "terminal 577
distributor" means a person who is engaged in the sale of 578
dangerous drugs at retail, or any person, other than a 579
manufacturer, repackager, outsourcing facility, third-party 580
logistics provider, wholesale distributor, or pharmacist, who 581
has possession, custody, or control of dangerous drugs for any 582
purpose other than for that person's own use and consumption. 583
"Terminal distributor" includes pharmacies, hospitals, nursing 584
homes, and laboratories and all other persons who procure 585
dangerous drugs for sale or other distribution by or under the 586
supervision of a pharmacist or licensed health professional 587
authorized to prescribe drugs. 588

(R) "Promote to the public" means disseminating a 589
representation to the public in any manner or by any means, 590
other than by labeling, for the purpose of inducing, or that is 591
likely to induce, directly or indirectly, the purchase of a 592

dangerous drug at retail. 593

(S) "Person" includes any individual, partnership, 594
association, limited liability company, or corporation, the 595
state, any political subdivision of the state, and any district, 596
department, or agency of the state or its political 597
subdivisions. 598

(T) "Animal shelter" means a facility operated by a humane 599
society or any society organized under Chapter 1717. of the 600
Revised Code or a dog pound operated pursuant to Chapter 955. of 601
the Revised Code. 602

(U) "Food" has the same meaning as in section 3715.01 of 603
the Revised Code. 604

(V) "Pain management clinic" has the same meaning as in 605
section 4731.054 of the Revised Code. 606

(W) "Investigational drug or product" means a drug or 607
product that has successfully completed phase one of the United 608
States food and drug administration clinical trials and remains 609
under clinical trial, but has not been approved for general use 610
by the United States food and drug administration. 611
"Investigational drug or product" does not include controlled 612
substances in schedule I, as established pursuant to section 613
3719.41 of the Revised Code, and as amended. 614

(X) "Product," when used in reference to an 615
investigational drug or product, means a biological product, 616
other than a drug, that is made from a natural human, animal, or 617
microorganism source and is intended to treat a disease or 618
medical condition. 619

(Y) "Third-party logistics provider" means a person that 620
provides or coordinates warehousing or other logistics services 621

pertaining to dangerous drugs including distribution, on behalf 622
of a manufacturer, wholesale distributor, or terminal 623
distributor of dangerous drugs, but does not take ownership of 624
the drugs or have responsibility to direct the sale or 625
disposition of the drugs. 626

(Z) "Repackager of dangerous drugs" or "repackager" means 627
a person that repacks and relabels dangerous drugs for sale or 628
distribution. 629

(AA) "Outsourcing facility" means a facility that is 630
engaged in the compounding and sale of sterile drugs and is 631
registered as an outsourcing facility with the United States 632
food and drug administration. 633

(BB) "Opioid analgesic" has the same meaning as in section 634
3719.01 of the Revised Code. 635

Sec. 4729.75. The state board of pharmacy may establish 636
and maintain a drug database. The board shall use the drug 637
database to monitor the misuse and diversion of the following: 638
controlled substances, as defined in section 3719.01 of the 639
Revised Code; medical marijuana, as authorized under Chapter 640
3796. of the Revised Code; naltrexone; and other dangerous drugs 641
the board includes in the database pursuant to rules adopted 642
under section 4729.84 of the Revised Code. In establishing and 643
maintaining the database, the board shall electronically collect 644
information pursuant to sections 4729.77, 4729.771, and 4729.79 645
of the Revised Code and shall disseminate information as 646
authorized or required by sections 4729.80 and 4729.81 of the 647
Revised Code. The board's collection and dissemination of 648
information shall be conducted in accordance with rules adopted 649
under section 4729.84 of the Revised Code. 650

Sec. 4729.77. (A) If the state board of pharmacy 651
establishes and maintains a drug database pursuant to section 652
4729.75 of the Revised Code, each pharmacy licensed as a 653
terminal distributor of dangerous drugs that dispenses drugs to 654
patients in this state and is included in the types of 655
pharmacies specified in rules adopted under section 4729.84 of 656
the Revised Code shall submit to the board the following 657
prescription information: 658

- (1) Terminal distributor identification; 659
- (2) Patient identification; 660
- (3) Prescriber identification; 661
- (4) Date prescription was issued by prescriber; 662
- (5) Date drug was dispensed; 663
- (6) Indication of whether the drug dispensed is new or a 664
refill; 665
- (7) Name, strength, and national drug code of the drug 666
dispensed; 667
- (8) Quantity of drug dispensed; 668
- (9) Number of days' supply of drug dispensed; 669
- (10) Serial or prescription number assigned by the 670
terminal distributor; 671
- (11) Source of payment for the drug dispensed; 672
- (12) If applicable, the morphine equivalent daily dose of 673
the drug dispensed; 674
- (13) If applicable, the diagnosis code included on the 675
prescription. 676

(B) (1) The information shall be transmitted as specified 677
by the board in rules adopted under section 4729.84 of the 678
Revised Code. 679

(2) The information shall be submitted electronically in 680
the format specified by the board, except that the board may 681
grant a waiver allowing the distributor to submit the 682
information in another format. 683

(3) The information shall be submitted in accordance with 684
any time limits specified by the board, except that the board 685
may grant an extension if either of the following occurs: 686

(a) The distributor suffers a mechanical or electronic 687
failure, or cannot meet the deadline for other reasons beyond 688
the distributor's control. 689

(b) The board is unable to receive electronic submissions. 690

(C) This section does not apply to a prescriber personally 691
furnishing or administering dangerous drugs to the prescriber's 692
patient. 693

Sec. 4729.79. (A) If the state board of pharmacy 694
establishes and maintains a drug database pursuant to section 695
4729.75 of the Revised Code, each licensed health professional 696
authorized to prescribe drugs, except as provided in division 697
(C) of this section, who personally furnishes to a patient a 698
controlled substance, naltrexone, or other dangerous drug the 699
board includes in the database pursuant to rules adopted under 700
section 4729.84 of the Revised Code shall submit to the board 701
the following information: 702

(1) Prescriber identification; 703

(2) Patient identification; 704

(3) Date drug was furnished by the prescriber;	705
(4) Indication of whether the drug furnished is new or a refill;	706 707
(5) Name, strength, and national drug code of drug furnished;	708 709
(6) Quantity of drug furnished;	710
(7) Number of days' supply of drug furnished;	711
(8) Source of payment for the drug furnished;	712
(9) Identification of the owner of the drug furnished;	713
<u>(10) If applicable, the morphine equivalent daily dose of the drug furnished;</u>	714 715
<u>(11) In the case of either of the following drugs furnished by a dentist or physician, the reason for furnishing the drug, including the relevant diagnosis code from the international statistical classification of diseases and related health problems or a successor organization:</u>	716 717 718 719 720
<u>(a) An opioid analgesic subject to section 4715.303 or 4731.059 of the Revised Code;</u>	721 722
<u>(b) A controlled substance subject to section 4731.052 of the Revised Code.</u>	723 724
(B) (1) The information shall be transmitted as specified by the board in rules adopted under section 4729.84 of the Revised Code.	725 726 727
(2) The information shall be submitted electronically in the format specified by the board, except that the board may grant a waiver allowing the prescriber to submit the information in another format.	728 729 730 731

(3) The information shall be submitted in accordance with 732
any time limits specified by the board, except that the board 733
may grant an extension if either of the following occurs: 734

(a) The prescriber's transmission system suffers a 735
mechanical or electronic failure, or the prescriber cannot meet 736
the deadline for other reasons beyond the prescriber's control. 737

(b) The board is unable to receive electronic submissions. 738

(C) (1) The information required to be submitted under 739
division (A) of this section may be submitted on behalf of the 740
prescriber by the owner of the drug being personally furnished 741
or by a delegate approved by that owner. 742

(2) The requirements of this section to submit information 743
to the board do not apply to a prescriber who is a veterinarian. 744

(D) If the board becomes aware of a prescriber's failure 745
to comply with this section, the board shall notify the 746
government entity responsible for licensing the prescriber. 747

Sec. 4731.052. (A) As used in this section: 748

(1) "Chronic pain" means pain that has persisted after 749
reasonable medical efforts have been made to relieve the pain or 750
cure its cause and that has continued, either continuously or 751
episodically, for longer than three continuous months. "Chronic 752
pain" does not include pain associated with a terminal condition 753
or with a progressive disease that, in the normal course of 754
progression, may reasonably be expected to result in a terminal 755
condition. 756

(2) "Controlled substance" has the same meaning as in 757
section 3719.01 of the Revised Code. 758

(3) "Physician" means an individual authorized under this 759

chapter to practice medicine and surgery or osteopathic medicine 760
and surgery. 761

(B) The state medical board shall adopt rules in 762
accordance with Chapter 119. of the Revised Code that establish 763
standards and procedures to be followed by physicians in the 764
diagnosis and treatment of chronic pain, including standards for 765
a physician's consultation with one or more other physicians who 766
specialize in the treatment of the area, system, or organ of the 767
body perceived as the source of pain and managing chronic pain 768
by prescribing, personally furnishing, or administering 769
controlled substances or products containing tramadol. 770

(C) When a physician diagnoses a patient as having chronic 771
pain, the physician may, subject to division (D) of this 772
section, treat the pain by managing it with controlled 773
substances and products containing tramadol. ~~The~~, if at least 774
one of the following applies: 775

(1) The physician holds a subspecialty certificate in pain 776
management issued by a medical specialty certifying board 777
recognized by the American board of medical specialties. 778

(2) The physician holds a certificate of added 779
qualification in pain medicine issued by a medical specialty 780
certifying board recognized by the American osteopathic 781
association. 782

(3) The physician is board-certified in pain medicine by 783
the American board of pain medicine. 784

(4) The physician is board-certified in interventional 785
pain management by the American board of interventional pain 786
physicians. 787

The physician's diagnosis and treatment decisions shall be 788

made according to accepted and prevailing standards for medical 789
care. For the purpose of assisting with the diagnosis of chronic 790
pain, the physician shall obtain and review all available 791
medical records or detailed written summaries of the patient's 792
treatment for chronic pain or the condition causing the chronic 793
pain. It is recommended that the physician also consider having 794
the patient evaluated by one or more other physicians who 795
specialize in the treatment of the area, system, or organ of the 796
body perceived as the source of the pain. 797

(D) (1) For each patient a physician diagnoses as having 798
chronic pain, the physician shall maintain a written record of 799
all of the following: 800

~~(1)~~ (a) Medical history and physical examination of the 801
patient; 802

~~(2)~~ (b) The diagnosis of chronic pain, including signs, 803
symptoms, and causes; 804

~~(3)~~ (c) The plan of treatment proposed, the patient's 805
response to treatment, and any modification to the plan of 806
treatment, including all of the following: 807

~~(a)~~ (i) Documentation that other medically reasonable 808
treatments for relief of the patient's chronic pain have been 809
offered or attempted without adequate or reasonable success; 810

~~(b)~~ (ii) Periodic assessment and documentation of the 811
patient's functional status, including the ability to engage in 812
work or other purposeful activities, the pain intensity and its 813
interference with activities of daily living, quality of family 814
life and social activities, and physical activity of the 815
patient; 816

~~(c)~~ (iii) Periodic assessment and documentation of the 817

patient's progress toward treatment objectives, including the 818
intended role of controlled substances or products containing 819
tramadol within the overall plan of treatment; 820

~~(d)~~ (iv) Periodic assessment and documentation for 821
indicators of possible addiction, drug abuse, or drug diversion; 822

~~(e)~~ (v) Notation of any adverse drug effects. 823

~~(4)~~ (d) The dates on which controlled substances or 824
products containing tramadol were prescribed, furnished, or 825
administered, the name and address of the patient to or for whom 826
the controlled substances or products containing tramadol were 827
prescribed, furnished, or administered, and the amounts ~~and,~~ 828
dosage forms, and if applicable, morphine equivalent daily dose 829
for the controlled substances or products containing tramadol 830
prescribed, furnished, or administered; 831

~~(5)~~ (e) A copy of any record or report made by another 832
physician that was used or consulted for the purpose of 833
diagnosing the patient's chronic pain or treating the patient 834
for chronic pain. 835

(2) When prescribing a controlled substance under this 836
section, a physician must record on the prescription the reason 837
for prescribing the drug by listing the relevant diagnosis code 838
from the international statistical classification of diseases 839
and related health problems or a successor organization. A 840
physician who personally furnishes a controlled substance under 841
this section shall comply with division (A) (11) of section 842
4729.79 of the Revised Code. 843

(E) A physician shall not prescribe, personally furnish, 844
or administer to a patient a controlled substance or product 845
containing tramadol without taking into account the potential 846

for abuse of the controlled substance or product, the 847
possibility the controlled substance or product may lead to 848
dependence, the possibility the patient will obtain the 849
controlled substance or product for a nontherapeutic use or 850
distribute it to other persons, and the potential existence of 851
an illicit market for the controlled substance or product. In 852
addition, the physician shall address with the patient the risks 853
associated with protracted treatment with controlled substances 854
or products containing tramadol, including informing the patient 855
of the potential for dependence, tolerance, and addiction and 856
the clinical or monitoring tools the physician may use if signs 857
of addiction, drug abuse, or drug diversion are present. 858

(F) A physician who treats chronic pain by managing it 859
with controlled substances or products containing tramadol is 860
not subject to disciplinary action by the board under section 861
4731.22 of the Revised Code solely because the physician treated 862
the chronic pain with controlled substances or products 863
containing tramadol. 864

Sec. 4731.055. (A) As used in this section: 865

(1) "Drug database" means the database established and 866
maintained by the state board of pharmacy pursuant to section 867
4729.75 of the Revised Code. 868

(2) "Physician" means an individual authorized under this 869
chapter to practice medicine and surgery, osteopathic medicine 870
and surgery, or podiatric medicine and surgery. 871

(3) "Opioid analgesic" and "benzodiazepine" have the same 872
meanings as in section 3719.01 of the Revised Code. 873

(B) Except as provided in divisions (C) and (E) of this 874
section, a physician shall comply with all of the following as 875

conditions of prescribing a drug that is either an opioid 876
analgesic or a benzodiazepine, or personally furnishing a 877
complete or partial supply of such a drug, as part of a 878
patient's course of treatment for a particular condition: 879

(1) Before initially prescribing or furnishing the drug, 880
the physician or the physician's delegate shall request from the 881
drug database a report of information related to the patient 882
that covers at least the twelve months immediately preceding the 883
date of the request. If the physician practices primarily in a 884
county of this state that adjoins another state, the physician 885
or delegate also shall request a report of any information 886
available in the drug database that pertains to prescriptions 887
issued or drugs furnished to the patient in the state adjoining 888
that county. 889

(2) If the patient's course of treatment for the condition 890
continues for more than ninety days after the initial report is 891
requested, the physician or delegate shall make periodic 892
requests for reports of information from the drug database until 893
the course of treatment has ended. The requests shall be made at 894
intervals not exceeding ninety days, determined according to the 895
date the initial request was made. The request shall be made in 896
the same manner provided in division (B)(1) of this section for 897
requesting the initial report of information from the drug 898
database. 899

(3) On receipt of a report under division (B)(1) or (2) of 900
this section, the physician shall assess the information in the 901
report. The physician shall document in the patient's record 902
that the report was received and the information was assessed. 903

(C) Division (B) of this section does not apply in any of 904
the following circumstances: 905

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

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

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

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

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

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

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

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

Sec. 4731.056. (A) As used in this section:

(1) "Controlled substance," "schedule III," "schedule IV,"

and "schedule V" have the same meanings as in section 3719.01 of 934
the Revised Code. 935

(2) "Medication-assisted treatment" has the same meaning 936
as in section 340.01 of the Revised Code. 937

(3) "Physician" means an individual authorized by this 938
chapter to practice medicine and surgery or osteopathic medicine 939
and surgery. 940

(B) The state medical board shall adopt rules that 941
establish standards and procedures to be followed by physicians 942
in the use of all drugs approved by the United States food and 943
drug administration for use in medication-assisted treatment, 944
including controlled substances in schedule III, IV, or V. The 945
rules shall address detoxification, relapse prevention, patient 946
assessment, individual treatment planning, counseling and 947
recovery supports, diversion control, and other topics selected 948
by the board after considering best practices in medication- 949
assisted treatment. 950

The board may apply the rules to all circumstances in 951
which a physician prescribes drugs for use in medication- 952
assisted treatment or limit the application of the rules to 953
prescriptions for medication-assisted treatment for patients 954
being treated in office-based practices or other practice types 955
or locations specified by the board. 956

(C) A physician may issue from an office-based practice a 957
prescription for a drug to be used in medication-assisted 958
treatment only if the physician has completed a course of study 959
approved by the board on the physical and mental health effects 960
of addiction. The board shall establish standards and procedures 961
for course approval and content. 962

(D) All rules adopted under this section shall be adopted 963
in accordance with Chapter 119. of the Revised Code. The rules 964
shall be consistent with rules adopted under sections 4723.51 965
and 4730.55 of the Revised Code. 966

Sec. 4731.058. (A) As used in this section: 967

(1) "Controlled substance," "schedule III," "schedule IV," 968
and "schedule V" have the same meanings as in section 3719.01 of 969
the Revised Code. 970

(2) "Opioid treatment program" has the same meaning as in 971
42 C.F.R. 8.2. 972

(3) "Physician" means an individual authorized under this 973
chapter to practice medicine and surgery or osteopathic medicine 974
and surgery. 975

(B) To the extent permitted by federal law, a patient 976
accepted for treatment of opioid dependence or addiction by 977
either of the following shall be offered treatment with each 978
drug approved by the United States food and drug administration 979
for the treatment of opioid dependence or addiction: 980

(1) An opioid treatment program that is the subject of a 981
valid certification pursuant to 42 C.F.R. 8.11; 982

(2) A physician who practices in a location other than an 983
opioid treatment program, but holds a waiver pursuant to 21 984
U.S.C. 823(g) (2) and is authorized to issue prescriptions from 985
the practice location for schedule III, IV, or V controlled 986
substances approved by the United States food and drug 987
administration for the treatment of opioid dependence or 988
addiction. 989

(C) When offering treatment under this section, a 990

physician shall do all of the following: 991

(1) Discuss with the patient the benefits and risks of 992
treatment with each drug approved by the United States food and 993
drug administration for the treatment of opioid dependence or 994
addiction; 995

(2) Obtain a consent form signed by the patient indicating 996
the drug to be used in treatment; 997

(3) Sign the consent form after it is signed by the 998
patient; 999

(4) Place in the patient's medical record a copy of the 1000
consent form signed by the patient and physician. 1001

(D) If a physician described in division (B) (2) of this 1002
section is not authorized to prescribe the drug to be used in 1003
treatment, the physician shall refer the patient to an opioid 1004
treatment program described in division (B) (1) of this section. 1005

Sec. 4731.059. (A) As used in this section: 1006

(1) "Opioid analgesic" has the same meaning as in section 1007
3719.01 of the Revised Code. 1008

(2) "Physician" means an individual authorized under this 1009
chapter to practice medicine and surgery, osteopathic medicine 1010
and surgery, or podiatric medicine and surgery. 1011

(B) A physician may prescribe or personally furnish an 1012
opioid analgesic for the treatment of acute pain only if all of 1013
the following are the case: 1014

(1) The drug is not an extended release or long-acting 1015
opioid analgesic. 1016

(2) The morphine equivalent daily dose for the drug does 1017

not exceed thirty milligrams. 1018

(3) In the case of an adult patient, the drug is 1019
prescribed or furnished in an amount indicated for a period that 1020
does not exceed seven days. 1021

(4) In the case of a minor patient, the drug is prescribed 1022
or furnished in an amount indicated for a period that does not 1023
exceed five days. 1024

(C) (1) Before prescribing or furnishing an opioid 1025
analgesic to treat acute pain, the physician shall do both of 1026
the following: 1027

(a) Perform a physical examination of the patient and 1028
obtain the patient's medical history; 1029

(b) Consider treatment options other than opioid 1030
analgesics. 1031

(2) If the physician determines that an opioid analgesic 1032
is necessary, the physician shall prescribe or furnish the drug 1033
in the minimum amount and potency appropriate for the expected 1034
duration of the pain, generally an amount indicated for a period 1035
that does not exceed three days. 1036

(D) This section does not apply when, as part of the 1037
physician's regular practice, a physician prescribes or 1038
personally furnishes opioid analgesics in any of the following 1039
circumstances: 1040

(1) For the treatment of cancer or another condition 1041
associated with cancer or history of cancer; 1042

(2) To an individual who is a hospice patient or in a 1043
hospice care program, as those terms are defined in section 1044
3712.01 of the Revised Code, or to any other patient diagnosed 1045

as terminally ill; 1046

(3) To an inpatient for administration in a hospital; 1047

(4) To treat chronic pain in accordance with section 1048
4731.052 of the Revised Code; 1049

(5) To treat opioid dependence or addiction. 1050

(E) When prescribing an opioid analgesic under this 1051
section, a physician must record on the prescription the reason 1052
for prescribing the drug by listing the relevant diagnosis code 1053
from the international statistical classification of diseases 1054
and related health problems or a successor organization. A 1055
physician who personally furnishes an opioid analgesic under 1056
this section shall comply with division (A)(11) of section 1057
4729.79 of the Revised Code. 1058

Sec. 4731.0510. (A) As used in this section: 1059

(1) "Opioid analgesic" has the same meaning as in section 1060
3719.01 of the Revised Code. 1061

(2) "Physician" means an individual authorized to practice 1062
medicine and surgery, osteopathic medicine and surgery, or 1063
podiatric medicine and surgery. 1064

(B) A physician shall not do any of the following if the 1065
patient or patient's representative informs the physician that 1066
the patient refuses treatment with opioid analgesics: 1067

(1) Issue for the patient a prescription for an opioid 1068
analgesic; 1069

(2) Administer to the patient an opioid analgesic; 1070

(3) Personally furnish to the patient an opioid analgesic. 1071

(C) If a patient refuses treatment with opioid analgesics, 1072

the physician shall consider other treatment options and shall 1073
discuss them with the patient when deciding on a course of 1074
treatment. 1075

Sec. 4731.22. (A) The state medical board, by an 1076
affirmative vote of not fewer than six of its members, may 1077
limit, revoke, or suspend a license or certificate to practice 1078
or certificate to recommend, refuse to grant a license or 1079
certificate, refuse to renew a license or certificate, refuse to 1080
reinstate a license or certificate, or reprimand or place on 1081
probation the holder of a license or certificate if the 1082
individual applying for or holding the license or certificate is 1083
found by the board to have committed fraud during the 1084
administration of the examination for a license or certificate 1085
to practice or to have committed fraud, misrepresentation, or 1086
deception in applying for, renewing, or securing any license or 1087
certificate to practice or certificate to recommend issued by 1088
the board. 1089

(B) The board, by an affirmative vote of not fewer than 1090
six members, shall, to the extent permitted by law, limit, 1091
revoke, or suspend a license or certificate to practice or 1092
certificate to recommend, refuse to issue a license or 1093
certificate, refuse to renew a license or certificate, refuse to 1094
reinstate a license or certificate, or reprimand or place on 1095
probation the holder of a license or certificate for one or more 1096
of the following reasons: 1097

(1) Permitting one's name or one's license or certificate 1098
to practice to be used by a person, group, or corporation when 1099
the individual concerned is not actually directing the treatment 1100
given; 1101

(2) Failure to maintain minimal standards applicable to 1102

the selection or administration of drugs, or failure to employ 1103
acceptable scientific methods in the selection of drugs or other 1104
modalities for treatment of disease; 1105

(3) Except as provided in section 4731.97 of the Revised 1106
Code, selling, giving away, personally furnishing, prescribing, 1107
or administering drugs for other than legal and legitimate 1108
therapeutic purposes or a plea of guilty to, a judicial finding 1109
of guilt of, or a judicial finding of eligibility for 1110
intervention in lieu of conviction of, a violation of any 1111
federal or state law regulating the possession, distribution, or 1112
use of any drug; 1113

(4) Willfully betraying a professional confidence. 1114

For purposes of this division, "willfully betraying a 1115
professional confidence" does not include providing any 1116
information, documents, or reports under sections 307.621 to 1117
307.629 of the Revised Code to a child fatality review board; 1118
does not include providing any information, documents, or 1119
reports to the director of health pursuant to guidelines 1120
established under section 3701.70 of the Revised Code; does not 1121
include written notice to a mental health professional under 1122
section 4731.62 of the Revised Code; and does not include the 1123
making of a report of an employee's use of a drug of abuse, or a 1124
report of a condition of an employee other than one involving 1125
the use of a drug of abuse, to the employer of the employee as 1126
described in division (B) of section 2305.33 of the Revised 1127
Code. Nothing in this division affects the immunity from civil 1128
liability conferred by section 2305.33 or 4731.62 of the Revised 1129
Code upon a physician who makes a report in accordance with 1130
section 2305.33 or notifies a mental health professional in 1131
accordance with section 4731.62 of the Revised Code. As used in 1132

this division, "employee," "employer," and "physician" have the 1133
same meanings as in section 2305.33 of the Revised Code. 1134

(5) Making a false, fraudulent, deceptive, or misleading 1135
statement in the solicitation of or advertising for patients; in 1136
relation to the practice of medicine and surgery, osteopathic 1137
medicine and surgery, podiatric medicine and surgery, or a 1138
limited branch of medicine; or in securing or attempting to 1139
secure any license or certificate to practice issued by the 1140
board. 1141

As used in this division, "false, fraudulent, deceptive, 1142
or misleading statement" means a statement that includes a 1143
misrepresentation of fact, is likely to mislead or deceive 1144
because of a failure to disclose material facts, is intended or 1145
is likely to create false or unjustified expectations of 1146
favorable results, or includes representations or implications 1147
that in reasonable probability will cause an ordinarily prudent 1148
person to misunderstand or be deceived. 1149

(6) A departure from, or the failure to conform to, 1150
minimal standards of care of similar practitioners under the 1151
same or similar circumstances, whether or not actual injury to a 1152
patient is established; 1153

(7) Representing, with the purpose of obtaining 1154
compensation or other advantage as personal gain or for any 1155
other person, that an incurable disease or injury, or other 1156
incurable condition, can be permanently cured; 1157

(8) The obtaining of, or attempting to obtain, money or 1158
anything of value by fraudulent misrepresentations in the course 1159
of practice; 1160

(9) A plea of guilty to, a judicial finding of guilt of, 1161

or a judicial finding of eligibility for intervention in lieu of 1162
conviction for, a felony; 1163

(10) Commission of an act that constitutes a felony in 1164
this state, regardless of the jurisdiction in which the act was 1165
committed; 1166

(11) A plea of guilty to, a judicial finding of guilt of, 1167
or a judicial finding of eligibility for intervention in lieu of 1168
conviction for, a misdemeanor committed in the course of 1169
practice; 1170

(12) Commission of an act in the course of practice that 1171
constitutes a misdemeanor in this state, regardless of the 1172
jurisdiction in which the act was committed; 1173

(13) A plea of guilty to, a judicial finding of guilt of, 1174
or a judicial finding of eligibility for intervention in lieu of 1175
conviction for, a misdemeanor involving moral turpitude; 1176

(14) Commission of an act involving moral turpitude that 1177
constitutes a misdemeanor in this state, regardless of the 1178
jurisdiction in which the act was committed; 1179

(15) Violation of the conditions of limitation placed by 1180
the board upon a license or certificate to practice; 1181

(16) Failure to pay license renewal fees specified in this 1182
chapter; 1183

(17) Except as authorized in section 4731.31 of the 1184
Revised Code, engaging in the division of fees for referral of 1185
patients, or the receiving of a thing of value in return for a 1186
specific referral of a patient to utilize a particular service 1187
or business; 1188

(18) Subject to section 4731.226 of the Revised Code, 1189

violation of any provision of a code of ethics of the American 1190
medical association, the American osteopathic association, the 1191
American podiatric medical association, or any other national 1192
professional organizations that the board specifies by rule. The 1193
state medical board shall obtain and keep on file current copies 1194
of the codes of ethics of the various national professional 1195
organizations. The individual whose license or certificate is 1196
being suspended or revoked shall not be found to have violated 1197
any provision of a code of ethics of an organization not 1198
appropriate to the individual's profession. 1199

For purposes of this division, a "provision of a code of 1200
ethics of a national professional organization" does not include 1201
any provision that would preclude the making of a report by a 1202
physician of an employee's use of a drug of abuse, or of a 1203
condition of an employee other than one involving the use of a 1204
drug of abuse, to the employer of the employee as described in 1205
division (B) of section 2305.33 of the Revised Code. Nothing in 1206
this division affects the immunity from civil liability 1207
conferred by that section upon a physician who makes either type 1208
of report in accordance with division (B) of that section. As 1209
used in this division, "employee," "employer," and "physician" 1210
have the same meanings as in section 2305.33 of the Revised 1211
Code. 1212

(19) Inability to practice according to acceptable and 1213
prevailing standards of care by reason of mental illness or 1214
physical illness, including, but not limited to, physical 1215
deterioration that adversely affects cognitive, motor, or 1216
perceptive skills. 1217

In enforcing this division, the board, upon a showing of a 1218
possible violation, may compel any individual authorized to 1219

practice by this chapter or who has submitted an application 1220
pursuant to this chapter to submit to a mental examination, 1221
physical examination, including an HIV test, or both a mental 1222
and a physical examination. The expense of the examination is 1223
the responsibility of the individual compelled to be examined. 1224
Failure to submit to a mental or physical examination or consent 1225
to an HIV test ordered by the board constitutes an admission of 1226
the allegations against the individual unless the failure is due 1227
to circumstances beyond the individual's control, and a default 1228
and final order may be entered without the taking of testimony 1229
or presentation of evidence. If the board finds an individual 1230
unable to practice because of the reasons set forth in this 1231
division, the board shall require the individual to submit to 1232
care, counseling, or treatment by physicians approved or 1233
designated by the board, as a condition for initial, continued, 1234
reinstated, or renewed authority to practice. An individual 1235
affected under this division shall be afforded an opportunity to 1236
demonstrate to the board the ability to resume practice in 1237
compliance with acceptable and prevailing standards under the 1238
provisions of the individual's license or certificate. For the 1239
purpose of this division, any individual who applies for or 1240
receives a license or certificate to practice under this chapter 1241
accepts the privilege of practicing in this state and, by so 1242
doing, shall be deemed to have given consent to submit to a 1243
mental or physical examination when directed to do so in writing 1244
by the board, and to have waived all objections to the 1245
admissibility of testimony or examination reports that 1246
constitute a privileged communication. 1247

(20) Except as provided in division (F)(1)(b) of section 1248
4731.282 of the Revised Code or when civil penalties are imposed 1249
under section 4731.225 of the Revised Code, and subject to 1250

section 4731.226 of the Revised Code, violating or attempting to 1251
violate, directly or indirectly, or assisting in or abetting the 1252
violation of, or conspiring to violate, any provisions of this 1253
chapter or any rule promulgated by the board. 1254

This division does not apply to a violation or attempted 1255
violation of, assisting in or abetting the violation of, or a 1256
conspiracy to violate, any provision of this chapter or any rule 1257
adopted by the board that would preclude the making of a report 1258
by a physician of an employee's use of a drug of abuse, or of a 1259
condition of an employee other than one involving the use of a 1260
drug of abuse, to the employer of the employee as described in 1261
division (B) of section 2305.33 of the Revised Code. Nothing in 1262
this division affects the immunity from civil liability 1263
conferred by that section upon a physician who makes either type 1264
of report in accordance with division (B) of that section. As 1265
used in this division, "employee," "employer," and "physician" 1266
have the same meanings as in section 2305.33 of the Revised 1267
Code. 1268

(21) The violation of section 3701.79 of the Revised Code 1269
or of any abortion rule adopted by the director of health 1270
pursuant to section 3701.341 of the Revised Code; 1271

(22) Any of the following actions taken by an agency 1272
responsible for authorizing, certifying, or regulating an 1273
individual to practice a health care occupation or provide 1274
health care services in this state or another jurisdiction, for 1275
any reason other than the nonpayment of fees: the limitation, 1276
revocation, or suspension of an individual's license to 1277
practice; acceptance of an individual's license surrender; 1278
denial of a license; refusal to renew or reinstate a license; 1279
imposition of probation; or issuance of an order of censure or 1280

other reprimand; 1281

(23) The violation of section 2919.12 of the Revised Code 1282
or the performance or inducement of an abortion upon a pregnant 1283
woman with actual knowledge that the conditions specified in 1284
division (B) of section 2317.56 of the Revised Code have not 1285
been satisfied or with a heedless indifference as to whether 1286
those conditions have been satisfied, unless an affirmative 1287
defense as specified in division (H) (2) of that section would 1288
apply in a civil action authorized by division (H) (1) of that 1289
section; 1290

(24) The revocation, suspension, restriction, reduction, 1291
or termination of clinical privileges by the United States 1292
department of defense or department of veterans affairs or the 1293
termination or suspension of a certificate of registration to 1294
prescribe drugs by the drug enforcement administration of the 1295
United States department of justice; 1296

(25) Termination or suspension from participation in the 1297
medicare or medicaid programs by the department of health and 1298
human services or other responsible agency for any act or acts 1299
that also would constitute a violation of division (B) (2), (3), 1300
(6), (8), or (19) of this section; 1301

(26) Impairment of ability to practice according to 1302
acceptable and prevailing standards of care because of habitual 1303
or excessive use or abuse of drugs, alcohol, or other substances 1304
that impair ability to practice. 1305

For the purposes of this division, any individual 1306
authorized to practice by this chapter accepts the privilege of 1307
practicing in this state subject to supervision by the board. By 1308
filing an application for or holding a license or certificate to 1309

practice under this chapter, an individual shall be deemed to 1310
have given consent to submit to a mental or physical examination 1311
when ordered to do so by the board in writing, and to have 1312
waived all objections to the admissibility of testimony or 1313
examination reports that constitute privileged communications. 1314

If it has reason to believe that any individual authorized 1315
to practice by this chapter or any applicant for licensure or 1316
certification to practice suffers such impairment, the board may 1317
compel the individual to submit to a mental or physical 1318
examination, or both. The expense of the examination is the 1319
responsibility of the individual compelled to be examined. Any 1320
mental or physical examination required under this division 1321
shall be undertaken by a treatment provider or physician who is 1322
qualified to conduct the examination and who is chosen by the 1323
board. 1324

Failure to submit to a mental or physical examination 1325
ordered by the board constitutes an admission of the allegations 1326
against the individual unless the failure is due to 1327
circumstances beyond the individual's control, and a default and 1328
final order may be entered without the taking of testimony or 1329
presentation of evidence. If the board determines that the 1330
individual's ability to practice is impaired, the board shall 1331
suspend the individual's license or certificate or deny the 1332
individual's application and shall require the individual, as a 1333
condition for initial, continued, reinstated, or renewed 1334
licensure or certification to practice, to submit to treatment. 1335

Before being eligible to apply for reinstatement of a 1336
license or certificate suspended under this division, the 1337
impaired practitioner shall demonstrate to the board the ability 1338
to resume practice in compliance with acceptable and prevailing 1339

standards of care under the provisions of the practitioner's 1340
license or certificate. The demonstration shall include, but 1341
shall not be limited to, the following: 1342

(a) Certification from a treatment provider approved under 1343
section 4731.25 of the Revised Code that the individual has 1344
successfully completed any required inpatient treatment; 1345

(b) Evidence of continuing full compliance with an 1346
aftercare contract or consent agreement; 1347

(c) Two written reports indicating that the individual's 1348
ability to practice has been assessed and that the individual 1349
has been found capable of practicing according to acceptable and 1350
prevailing standards of care. The reports shall be made by 1351
individuals or providers approved by the board for making the 1352
assessments and shall describe the basis for their 1353
determination. 1354

The board may reinstate a license or certificate suspended 1355
under this division after that demonstration and after the 1356
individual has entered into a written consent agreement. 1357

When the impaired practitioner resumes practice, the board 1358
shall require continued monitoring of the individual. The 1359
monitoring shall include, but not be limited to, compliance with 1360
the written consent agreement entered into before reinstatement 1361
or with conditions imposed by board order after a hearing, and, 1362
upon termination of the consent agreement, submission to the 1363
board for at least two years of annual written progress reports 1364
made under penalty of perjury stating whether the individual has 1365
maintained sobriety. 1366

(27) A second or subsequent violation of section 4731.66 1367
or 4731.69 of the Revised Code; 1368

- (28) Except as provided in division (N) of this section: 1369
- (a) Waiving the payment of all or any part of a deductible 1370
or copayment that a patient, pursuant to a health insurance or 1371
health care policy, contract, or plan that covers the 1372
individual's services, otherwise would be required to pay if the 1373
waiver is used as an enticement to a patient or group of 1374
patients to receive health care services from that individual; 1375
- (b) Advertising that the individual will waive the payment 1376
of all or any part of a deductible or copayment that a patient, 1377
pursuant to a health insurance or health care policy, contract, 1378
or plan that covers the individual's services, otherwise would 1379
be required to pay. 1380
- (29) Failure to use universal blood and body fluid 1381
precautions established by rules adopted under section 4731.051 1382
of the Revised Code; 1383
- (30) Failure to provide notice to, and receive 1384
acknowledgment of the notice from, a patient when required by 1385
section 4731.143 of the Revised Code prior to providing 1386
nonemergency professional services, or failure to maintain that 1387
notice in the patient's medical record; 1388
- (31) Failure of a physician supervising a physician 1389
assistant to maintain supervision in accordance with the 1390
requirements of Chapter 4730. of the Revised Code and the rules 1391
adopted under that chapter; 1392
- (32) Failure of a physician or podiatrist to enter into a 1393
standard care arrangement with a clinical nurse specialist, 1394
certified nurse-midwife, or certified nurse practitioner with 1395
whom the physician or podiatrist is in collaboration pursuant to 1396
section 4731.27 of the Revised Code or failure to fulfill the 1397

responsibilities of collaboration after entering into a standard	1398
care arrangement;	1399
(33) Failure to comply with the terms of a consult	1400
agreement entered into with a pharmacist pursuant to section	1401
4729.39 of the Revised Code;	1402
(34) Failure to cooperate in an investigation conducted by	1403
the board under division (F) of this section, including failure	1404
to comply with a subpoena or order issued by the board or	1405
failure to answer truthfully a question presented by the board	1406
in an investigative interview, an investigative office	1407
conference, at a deposition, or in written interrogatories,	1408
except that failure to cooperate with an investigation shall not	1409
constitute grounds for discipline under this section if a court	1410
of competent jurisdiction has issued an order that either	1411
quashes a subpoena or permits the individual to withhold the	1412
testimony or evidence in issue;	1413
(35) Failure to supervise an oriental medicine	1414
practitioner or acupuncturist in accordance with Chapter 4762.	1415
of the Revised Code and the board's rules for providing that	1416
supervision;	1417
(36) Failure to supervise an anesthesiologist assistant in	1418
accordance with Chapter 4760. of the Revised Code and the	1419
board's rules for supervision of an anesthesiologist assistant;	1420
(37) Assisting suicide, as defined in section 3795.01 of	1421
the Revised Code;	1422
(38) Failure to comply with the requirements of section	1423
2317.561 of the Revised Code;	1424
(39) Failure to supervise a radiologist assistant in	1425
accordance with Chapter 4774. of the Revised Code and the	1426

board's rules for supervision of radiologist assistants;	1427
(40) Performing or inducing an abortion at an office or	1428
facility with knowledge that the office or facility fails to	1429
post the notice required under section 3701.791 of the Revised	1430
Code;	1431
(41) Failure to comply with the standards and procedures	1432
established in rules under section 4731.054 of the Revised Code	1433
for the operation of or the provision of care at a pain	1434
management clinic;	1435
(42) Failure to comply with the standards and procedures	1436
established in rules under section 4731.054 of the Revised Code	1437
for providing supervision, direction, and control of individuals	1438
at a pain management clinic;	1439
(43) Failure to comply with the requirements of section	1440
4729.79 or 4731.055 of the Revised Code, unless the state board	1441
of pharmacy no longer maintains a drug database pursuant to	1442
section 4729.75 of the Revised Code;	1443
(44) Failure to comply with the requirements of section	1444
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	1445
to submit to the department of health in accordance with a court	1446
order a complete report as described in section 2919.171 or	1447
2919.202 of the Revised Code;	1448
(45) Practicing at a facility that is subject to licensure	1449
as a category III terminal distributor of dangerous drugs with a	1450
pain management clinic classification unless the person	1451
operating the facility has obtained and maintains the license	1452
with the classification;	1453
(46) Owning a facility that is subject to licensure as a	1454
category III terminal distributor of dangerous drugs with a pain	1455

management clinic classification unless the facility is licensed	1456
with the classification;	1457
(47) Failure to comply with the requirement regarding	1458
maintaining notes described in division (B) of section 2919.191	1459
of the Revised Code or failure to satisfy the requirements of	1460
section 2919.191 of the Revised Code prior to performing or	1461
inducing an abortion upon a pregnant woman;	1462
(48) Failure to comply with the requirements in section	1463
3719.061 of the Revised Code before issuing for a minor a	1464
prescription for an opioid analgesic, as defined in section	1465
3719.01 of the Revised Code;	1466
(49) Failure to comply with the requirements of section	1467
4731.30 of the Revised Code or rules adopted under section	1468
4731.301 of the Revised Code when recommending treatment with	1469
medical marijuana;	1470
(50) Practicing at a facility, clinic, or other location	1471
that is subject to licensure as a category III terminal	1472
distributor of dangerous drugs with an office-based opioid	1473
treatment classification unless the person operating that place	1474
has obtained and maintains the license with the classification;	1475
(51) Owning a facility, clinic, or other location that is	1476
subject to licensure as a category III terminal distributor of	1477
dangerous drugs with an office-based opioid treatment	1478
classification unless that place is licensed with the	1479
classification;	1480
<u>(52) Failure to comply with section 4731.059 of the</u>	1481
<u>Revised Code;</u>	1482
<u>(53) Failure to comply with section 4731.0510 of the</u>	1483
<u>Revised Code.</u>	1484

(C) Disciplinary actions taken by the board under 1485
divisions (A) and (B) of this section shall be taken pursuant to 1486
an adjudication under Chapter 119. of the Revised Code, except 1487
that in lieu of an adjudication, the board may enter into a 1488
consent agreement with an individual to resolve an allegation of 1489
a violation of this chapter or any rule adopted under it. A 1490
consent agreement, when ratified by an affirmative vote of not 1491
fewer than six members of the board, shall constitute the 1492
findings and order of the board with respect to the matter 1493
addressed in the agreement. If the board refuses to ratify a 1494
consent agreement, the admissions and findings contained in the 1495
consent agreement shall be of no force or effect. 1496

A telephone conference call may be utilized for 1497
ratification of a consent agreement that revokes or suspends an 1498
individual's license or certificate to practice or certificate 1499
to recommend. The telephone conference call shall be considered 1500
a special meeting under division (F) of section 121.22 of the 1501
Revised Code. 1502

If the board takes disciplinary action against an 1503
individual under division (B) of this section for a second or 1504
subsequent plea of guilty to, or judicial finding of guilt of, a 1505
violation of section 2919.123 of the Revised Code, the 1506
disciplinary action shall consist of a suspension of the 1507
individual's license or certificate to practice for a period of 1508
at least one year or, if determined appropriate by the board, a 1509
more serious sanction involving the individual's license or 1510
certificate to practice. Any consent agreement entered into 1511
under this division with an individual that pertains to a second 1512
or subsequent plea of guilty to, or judicial finding of guilt 1513
of, a violation of that section shall provide for a suspension 1514
of the individual's license or certificate to practice for a 1515

period of at least one year or, if determined appropriate by the 1516
board, a more serious sanction involving the individual's 1517
license or certificate to practice. 1518

(D) For purposes of divisions (B)(10), (12), and (14) of 1519
this section, the commission of the act may be established by a 1520
finding by the board, pursuant to an adjudication under Chapter 1521
119. of the Revised Code, that the individual committed the act. 1522
The board does not have jurisdiction under those divisions if 1523
the trial court renders a final judgment in the individual's 1524
favor and that judgment is based upon an adjudication on the 1525
merits. The board has jurisdiction under those divisions if the 1526
trial court issues an order of dismissal upon technical or 1527
procedural grounds. 1528

(E) The sealing of conviction records by any court shall 1529
have no effect upon a prior board order entered under this 1530
section or upon the board's jurisdiction to take action under 1531
this section if, based upon a plea of guilty, a judicial finding 1532
of guilt, or a judicial finding of eligibility for intervention 1533
in lieu of conviction, the board issued a notice of opportunity 1534
for a hearing prior to the court's order to seal the records. 1535
The board shall not be required to seal, destroy, redact, or 1536
otherwise modify its records to reflect the court's sealing of 1537
conviction records. 1538

(F)(1) The board shall investigate evidence that appears 1539
to show that a person has violated any provision of this chapter 1540
or any rule adopted under it. Any person may report to the board 1541
in a signed writing any information that the person may have 1542
that appears to show a violation of any provision of this 1543
chapter or any rule adopted under it. In the absence of bad 1544
faith, any person who reports information of that nature or who 1545

testifies before the board in any adjudication conducted under 1546
Chapter 119. of the Revised Code shall not be liable in damages 1547
in a civil action as a result of the report or testimony. Each 1548
complaint or allegation of a violation received by the board 1549
shall be assigned a case number and shall be recorded by the 1550
board. 1551

(2) Investigations of alleged violations of this chapter 1552
or any rule adopted under it shall be supervised by the 1553
supervising member elected by the board in accordance with 1554
section 4731.02 of the Revised Code and by the secretary as 1555
provided in section 4731.39 of the Revised Code. The president 1556
may designate another member of the board to supervise the 1557
investigation in place of the supervising member. No member of 1558
the board who supervises the investigation of a case shall 1559
participate in further adjudication of the case. 1560

(3) In investigating a possible violation of this chapter 1561
or any rule adopted under this chapter, or in conducting an 1562
inspection under division (E) of section 4731.054 of the Revised 1563
Code, the board may question witnesses, conduct interviews, 1564
administer oaths, order the taking of depositions, inspect and 1565
copy any books, accounts, papers, records, or documents, issue 1566
subpoenas, and compel the attendance of witnesses and production 1567
of books, accounts, papers, records, documents, and testimony, 1568
except that a subpoena for patient record information shall not 1569
be issued without consultation with the attorney general's 1570
office and approval of the secretary and supervising member of 1571
the board. 1572

(a) Before issuance of a subpoena for patient record 1573
information, the secretary and supervising member shall 1574
determine whether there is probable cause to believe that the 1575

complaint filed alleges a violation of this chapter or any rule 1576
adopted under it and that the records sought are relevant to the 1577
alleged violation and material to the investigation. The 1578
subpoena may apply only to records that cover a reasonable 1579
period of time surrounding the alleged violation. 1580

(b) On failure to comply with any subpoena issued by the 1581
board and after reasonable notice to the person being 1582
subpoenaed, the board may move for an order compelling the 1583
production of persons or records pursuant to the Rules of Civil 1584
Procedure. 1585

(c) A subpoena issued by the board may be served by a 1586
sheriff, the sheriff's deputy, or a board employee designated by 1587
the board. Service of a subpoena issued by the board may be made 1588
by delivering a copy of the subpoena to the person named 1589
therein, reading it to the person, or leaving it at the person's 1590
usual place of residence, usual place of business, or address on 1591
file with the board. When serving a subpoena to an applicant for 1592
or the holder of a license or certificate issued under this 1593
chapter, service of the subpoena may be made by certified mail, 1594
return receipt requested, and the subpoena shall be deemed 1595
served on the date delivery is made or the date the person 1596
refuses to accept delivery. If the person being served refuses 1597
to accept the subpoena or is not located, service may be made to 1598
an attorney who notifies the board that the attorney is 1599
representing the person. 1600

(d) A sheriff's deputy who serves a subpoena shall receive 1601
the same fees as a sheriff. Each witness who appears before the 1602
board in obedience to a subpoena shall receive the fees and 1603
mileage provided for under section 119.094 of the Revised Code. 1604

(4) All hearings, investigations, and inspections of the 1605

board shall be considered civil actions for the purposes of 1606
section 2305.252 of the Revised Code. 1607

(5) A report required to be submitted to the board under 1608
this chapter, a complaint, or information received by the board 1609
pursuant to an investigation or pursuant to an inspection under 1610
division (E) of section 4731.054 of the Revised Code is 1611
confidential and not subject to discovery in any civil action. 1612

The board shall conduct all investigations or inspections 1613
and proceedings in a manner that protects the confidentiality of 1614
patients and persons who file complaints with the board. The 1615
board shall not make public the names or any other identifying 1616
information about patients or complainants unless proper consent 1617
is given or, in the case of a patient, a waiver of the patient 1618
privilege exists under division (B) of section 2317.02 of the 1619
Revised Code, except that consent or a waiver of that nature is 1620
not required if the board possesses reliable and substantial 1621
evidence that no bona fide physician-patient relationship 1622
exists. 1623

The board may share any information it receives pursuant 1624
to an investigation or inspection, including patient records and 1625
patient record information, with law enforcement agencies, other 1626
licensing boards, and other governmental agencies that are 1627
prosecuting, adjudicating, or investigating alleged violations 1628
of statutes or administrative rules. An agency or board that 1629
receives the information shall comply with the same requirements 1630
regarding confidentiality as those with which the state medical 1631
board must comply, notwithstanding any conflicting provision of 1632
the Revised Code or procedure of the agency or board that 1633
applies when it is dealing with other information in its 1634
possession. In a judicial proceeding, the information may be 1635

admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

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

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

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

(d) The disposition of the case.

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

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or certificate to practice or certificate

to recommend without a prior hearing: 1665

(1) That there is clear and convincing evidence that an 1666
individual has violated division (B) of this section; 1667

(2) That the individual's continued practice presents a 1668
danger of immediate and serious harm to the public. 1669

Written allegations shall be prepared for consideration by 1670
the board. The board, upon review of those allegations and by an 1671
affirmative vote of not fewer than six of its members, excluding 1672
the secretary and supervising member, may suspend a license or 1673
certificate without a prior hearing. A telephone conference call 1674
may be utilized for reviewing the allegations and taking the 1675
vote on the summary suspension. 1676

The board shall issue a written order of suspension by 1677
certified mail or in person in accordance with section 119.07 of 1678
the Revised Code. The order shall not be subject to suspension 1679
by the court during pendency of any appeal filed under section 1680
119.12 of the Revised Code. If the individual subject to the 1681
summary suspension requests an adjudicatory hearing by the 1682
board, the date set for the hearing shall be within fifteen 1683
days, but not earlier than seven days, after the individual 1684
requests the hearing, unless otherwise agreed to by both the 1685
board and the individual. 1686

Any summary suspension imposed under this division shall 1687
remain in effect, unless reversed on appeal, until a final 1688
adjudicative order issued by the board pursuant to this section 1689
and Chapter 119. of the Revised Code becomes effective. The 1690
board shall issue its final adjudicative order within seventy- 1691
five days after completion of its hearing. A failure to issue 1692
the order within seventy-five days shall result in dissolution 1693

of the summary suspension order but shall not invalidate any 1694
subsequent, final adjudicative order. 1695

(H) If the board takes action under division (B) (9), (11), 1696
or (13) of this section and the judicial finding of guilt, 1697
guilty plea, or judicial finding of eligibility for intervention 1698
in lieu of conviction is overturned on appeal, upon exhaustion 1699
of the criminal appeal, a petition for reconsideration of the 1700
order may be filed with the board along with appropriate court 1701
documents. Upon receipt of a petition of that nature and 1702
supporting court documents, the board shall reinstate the 1703
individual's license or certificate to practice. The board may 1704
then hold an adjudication under Chapter 119. of the Revised Code 1705
to determine whether the individual committed the act in 1706
question. Notice of an opportunity for a hearing shall be given 1707
in accordance with Chapter 119. of the Revised Code. If the 1708
board finds, pursuant to an adjudication held under this 1709
division, that the individual committed the act or if no hearing 1710
is requested, the board may order any of the sanctions 1711
identified under division (B) of this section. 1712

(I) The license or certificate to practice issued to an 1713
individual under this chapter and the individual's practice in 1714
this state are automatically suspended as of the date of the 1715
individual's second or subsequent plea of guilty to, or judicial 1716
finding of guilt of, a violation of section 2919.123 of the 1717
Revised Code. In addition, the license or certificate to 1718
practice or certificate to recommend issued to an individual 1719
under this chapter and the individual's practice in this state 1720
are automatically suspended as of the date the individual pleads 1721
guilty to, is found by a judge or jury to be guilty of, or is 1722
subject to a judicial finding of eligibility for intervention in 1723
lieu of conviction in this state or treatment or intervention in 1724

lieu of conviction in another jurisdiction for any of the 1725
following criminal offenses in this state or a substantially 1726
equivalent criminal offense in another jurisdiction: aggravated 1727
murder, murder, voluntary manslaughter, felonious assault, 1728
kidnapping, rape, sexual battery, gross sexual imposition, 1729
aggravated arson, aggravated robbery, or aggravated burglary. 1730
Continued practice after suspension shall be considered 1731
practicing without a license or certificate. 1732

The board shall notify the individual subject to the 1733
suspension by certified mail or in person in accordance with 1734
section 119.07 of the Revised Code. If an individual whose 1735
license or certificate is automatically suspended under this 1736
division fails to make a timely request for an adjudication 1737
under Chapter 119. of the Revised Code, the board shall do 1738
whichever of the following is applicable: 1739

(1) If the automatic suspension under this division is for 1740
a second or subsequent plea of guilty to, or judicial finding of 1741
guilt of, a violation of section 2919.123 of the Revised Code, 1742
the board shall enter an order suspending the individual's 1743
license or certificate to practice for a period of at least one 1744
year or, if determined appropriate by the board, imposing a more 1745
serious sanction involving the individual's license or 1746
certificate to practice. 1747

(2) In all circumstances in which division (I)(1) of this 1748
section does not apply, enter a final order permanently revoking 1749
the individual's license or certificate to practice. 1750

(J) If the board is required by Chapter 119. of the 1751
Revised Code to give notice of an opportunity for a hearing and 1752
if the individual subject to the notice does not timely request 1753
a hearing in accordance with section 119.07 of the Revised Code, 1754

the board is not required to hold a hearing, but may adopt, by 1755
an affirmative vote of not fewer than six of its members, a 1756
final order that contains the board's findings. In that final 1757
order, the board may order any of the sanctions identified under 1758
division (A) or (B) of this section. 1759

(K) Any action taken by the board under division (B) of 1760
this section resulting in a suspension from practice shall be 1761
accompanied by a written statement of the conditions under which 1762
the individual's license or certificate to practice may be 1763
reinstated. The board shall adopt rules governing conditions to 1764
be imposed for reinstatement. Reinstatement of a license or 1765
certificate suspended pursuant to division (B) of this section 1766
requires an affirmative vote of not fewer than six members of 1767
the board. 1768

(L) When the board refuses to grant or issue a license or 1769
certificate to practice to an applicant, revokes an individual's 1770
license or certificate to practice, refuses to renew an 1771
individual's license or certificate to practice, or refuses to 1772
reinstatement an individual's license or certificate to practice, 1773
the board may specify that its action is permanent. An 1774
individual subject to a permanent action taken by the board is 1775
forever thereafter ineligible to hold a license or certificate 1776
to practice and the board shall not accept an application for 1777
reinstatement of the license or certificate or for issuance of a 1778
new license or certificate. 1779

(M) Notwithstanding any other provision of the Revised 1780
Code, all of the following apply: 1781

(1) The surrender of a license or certificate issued under 1782
this chapter shall not be effective unless or until accepted by 1783
the board. A telephone conference call may be utilized for 1784

acceptance of the surrender of an individual's license or 1785
certificate to practice. The telephone conference call shall be 1786
considered a special meeting under division (F) of section 1787
121.22 of the Revised Code. Reinstatement of a license or 1788
certificate surrendered to the board requires an affirmative 1789
vote of not fewer than six members of the board. 1790

(2) An application for a license or certificate made under 1791
the provisions of this chapter may not be withdrawn without 1792
approval of the board. 1793

(3) Failure by an individual to renew a license or 1794
certificate to practice in accordance with this chapter or a 1795
certificate to recommend in accordance with rules adopted under 1796
section 4731.301 of the Revised Code shall not remove or limit 1797
the board's jurisdiction to take any disciplinary action under 1798
this section against the individual. 1799

(4) At the request of the board, a license or certificate 1800
holder shall immediately surrender to the board a license or 1801
certificate that the board has suspended, revoked, or 1802
permanently revoked. 1803

(N) Sanctions shall not be imposed under division (B)(28) 1804
of this section against any person who waives deductibles and 1805
copayments as follows: 1806

(1) In compliance with the health benefit plan that 1807
expressly allows such a practice. Waiver of the deductibles or 1808
copayments shall be made only with the full knowledge and 1809
consent of the plan purchaser, payer, and third-party 1810
administrator. Documentation of the consent shall be made 1811
available to the board upon request. 1812

(2) For professional services rendered to any other person 1813

authorized to practice pursuant to this chapter, to the extent 1814
allowed by this chapter and rules adopted by the board. 1815

(O) Under the board's investigative duties described in 1816
this section and subject to division (F) of this section, the 1817
board shall develop and implement a quality intervention program 1818
designed to improve through remedial education the clinical and 1819
communication skills of individuals authorized under this 1820
chapter to practice medicine and surgery, osteopathic medicine 1821
and surgery, and podiatric medicine and surgery. In developing 1822
and implementing the quality intervention program, the board may 1823
do all of the following: 1824

(1) Offer in appropriate cases as determined by the board 1825
an educational and assessment program pursuant to an 1826
investigation the board conducts under this section; 1827

(2) Select providers of educational and assessment 1828
services, including a quality intervention program panel of case 1829
reviewers; 1830

(3) Make referrals to educational and assessment service 1831
providers and approve individual educational programs 1832
recommended by those providers. The board shall monitor the 1833
progress of each individual undertaking a recommended individual 1834
educational program. 1835

(4) Determine what constitutes successful completion of an 1836
individual educational program and require further monitoring of 1837
the individual who completed the program or other action that 1838
the board determines to be appropriate; 1839

(5) Adopt rules in accordance with Chapter 119. of the 1840
Revised Code to further implement the quality intervention 1841
program. 1842

An individual who participates in an individual 1843
educational program pursuant to this division shall pay the 1844
financial obligations arising from that educational program. 1845

Sec. 5119.373. (A) As used in this section, "controlled 1846
substance," "schedule III," "schedule IV," and "schedule V" have 1847
the same meanings as in section 3719.01 of the Revised Code. 1848

(B) The department of mental health and addiction services 1849
shall develop and make available one or more online courses that 1850
provide the counseling and other ancillary services required by 1851
21 C.F.R. 1301.28(b)(1)(ii) to the patients of a physician who 1852
meets all of the following criteria: 1853

(1) Is authorized under Chapter 4731. of the Revised Code 1854
to practice medicine and surgery or osteopathic medicine and 1855
surgery; 1856

(2) Holds a waiver issued pursuant to 21 U.S.C. 823(g)(2); 1857

(3) Practices in a location other than an opioid treatment 1858
program and is authorized to issue prescriptions from the 1859
practice location for schedule III, IV, or V controlled 1860
substances approved by the United States food and drug 1861
administration for the treatment of opioid dependence or 1862
addiction. 1863

(C) In developing the online courses required by this 1864
section, the department may consult with one or more individuals 1865
or entities specializing in providing services, including 1866
counseling, educational, or vocational services, to persons 1867
treated for opioid dependence or addiction. 1868

Section 2. That existing sections 4715.30, 4715.302, 1869
4729.01, 4729.75, 4729.77, 4729.79, 4731.052, 4731.055, 1870
4731.056, and 4731.22 of the Revised Code are hereby repealed. 1871

Section 3. Section 4731.052 of the Revised Code, as 1872
amended by this act, takes effect one year after the effective 1873
date of this act. 1874

Section 4. This act shall be known as "Daniel's Law." 1875