

LSC 127 0430

**127th General Assembly
Regular Session
2007-2008**

. B. No.

A BILL

To amend sections 2305.234, 2925.01, 2925.09, 1
3715.01, 3715.64, 3719.01, 3719.12, 3719.121, 2
4303.34, 4729.01, 4729.06, 4729.15, 4729.16, 3
4729.18, 4729.26, 4729.28, 4729.38, 4729.55, and 4
4729.99, and to enact sections 4729.271 and 5
4729.42 to 4729.49 of the Revised Code to require 6
the State Board of Pharmacy to license and 7
regulate individuals who work as pharmacy 8
technicians. 9

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

Section 1. That sections 2305.234, 2925.01, 2925.09, 3715.01, 10
3715.64, 3719.01, 3719.12, 3719.121, 4303.34, 4729.01, 4729.06, 11
4729.15, 4729.16, 4729.18, 4729.26, 4729.28, 4729.38, 4729.55, and 12
4729.99 be amended and sections 4729.271, 4729.42, 4729.43, 13
4729.44, 4729.45, 4729.46, 4729.47, 4729.48, and 4729.49 of the 14
Revised Code be enacted to read as follows: 15

Sec. 2305.234. (A) As used in this section: 16

(1) "Chiropractic claim," "medical claim," and "optometric 17
claim" have the same meanings as in section 2305.113 of the 18
Revised Code. 19

(2) "Dental claim" has the same meaning as in section 20
2305.113 of the Revised Code, except that it does not include any 21

claim arising out of a dental operation or any derivative claim	22
for relief that arises out of a dental operation.	23
(3) "Governmental health care program" has the same meaning	24
as in section 4731.65 of the Revised Code.	25
(4) "Health care facility or location" means a hospital,	26
clinic, ambulatory surgical facility, office of a health care	27
professional or associated group of health care professionals,	28
training institution for health care professionals, or any other	29
place where medical, dental, or other health-related diagnosis,	30
care, or treatment is provided to a person.	31
(5) "Health care professional" means any of the following who	32
provide medical, dental, or other health-related diagnosis, care,	33
or treatment:	34
(a) Physicians authorized under Chapter 4731. of the Revised	35
Code to practice medicine and surgery or osteopathic medicine and	36
surgery;	37
(b) Registered nurses and licensed practical nurses licensed	38
under Chapter 4723. of the Revised Code and individuals who hold a	39
certificate of authority issued under that chapter that authorizes	40
the practice of nursing as a certified registered nurse	41
anesthetist, clinical nurse specialist, certified nurse-midwife,	42
or certified nurse practitioner;	43
(c) Physician assistants authorized to practice under Chapter	44
4730. of the Revised Code;	45
(d) Dentists and dental hygienists licensed under Chapter	46
4715. of the Revised Code;	47
(e) Physical therapists, physical therapist assistants,	48
occupational therapists, and occupational therapy assistants	49
licensed under Chapter 4755. of the Revised Code;	50
(f) Chiropractors licensed under Chapter 4734. of the Revised	51

Code;	52
(g) Optometrists licensed under Chapter 4725. of the Revised	53
Code;	54
(h) Podiatrists authorized under Chapter 4731. of the Revised	55
Code to practice podiatry;	56
(i) Dietitians licensed under Chapter 4759. of the Revised	57
Code;	58
(j) Pharmacists <u>and pharmacy technicians</u> licensed under	59
Chapter 4729. of the Revised Code;	60
(k) Emergency medical technicians-basic, emergency medical	61
technicians-intermediate, and emergency medical	62
technicians-paramedic, certified under Chapter 4765. of the	63
Revised Code;	64
(l) Respiratory care professionals licensed under Chapter	65
4761. of the Revised Code;	66
(m) Speech-language pathologists and audiologists licensed	67
under Chapter 4753. of the Revised Code.	68
(6) "Health care worker" means a person other than a health	69
care professional who provides medical, dental, or other	70
health-related care or treatment under the direction of a health	71
care professional with the authority to direct that individual's	72
activities, including medical technicians, medical assistants,	73
dental assistants, orderlies, aides, and individuals acting in	74
similar capacities.	75
(7) "Indigent and uninsured person" means a person who meets	76
all of the following requirements:	77
(a) The person's income is not greater than two hundred per	78
cent of the current poverty line as defined by the United States	79
office of management and budget and revised in accordance with	80
section 673(2) of the "Omnibus Budget Reconciliation Act of 1981,"	81

95 Stat. 511, 42 U.S.C. 9902, as amended.	82
(b) The person is not eligible to receive medical assistance under Chapter 5111. <u>4</u> disability medical assistance under Chapter 5115. of the Revised Code, <u>4</u> or assistance under any other governmental health care program.	83 84 85 86
(c) Either of the following applies:	87
(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.	88 89 90 91
(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.	92 93 94 95 96 97
(8) "Nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.	98 99 100 101
(9) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.	102 103 104 105 106 107 108 109 110 111 112

(10) "Tort action" means a civil action for damages for 113
injury, death, or loss to person or property other than a civil 114
action for damages for a breach of contract or another agreement 115
between persons or government entities. 116

(11) "Volunteer" means an individual who provides any 117
medical, dental, or other health-care related diagnosis, care, or 118
treatment without the expectation of receiving and without receipt 119
of any compensation or other form of remuneration from an indigent 120
and uninsured person, another person on behalf of an indigent and 121
uninsured person, any health care facility or location, any 122
nonprofit health care referral organization, or any other person 123
or government entity. 124

(12) "Community control sanction" has the same meaning as in 125
section 2929.01 of the Revised Code. 126

(13) "Deep sedation" means a drug-induced depression of 127
consciousness during which a patient cannot be easily aroused but 128
responds purposefully following repeated or painful stimulation, a 129
patient's ability to independently maintain ventilatory function 130
may be impaired, a patient may require assistance in maintaining a 131
patent airway and spontaneous ventilation may be inadequate, and 132
cardiovascular function is usually maintained. 133

(14) "General anesthesia" means a drug-induced loss of 134
consciousness during which a patient is not arousable, even by 135
painful stimulation, the ability to independently maintain 136
ventilatory function is often impaired, a patient often requires 137
assistance in maintaining a patent airway, positive pressure 138
ventilation may be required because of depressed spontaneous 139
ventilation or drug-induced depression of neuromuscular function, 140
and cardiovascular function may be impaired. 141

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 142
health care professional who is a volunteer and complies with 143

division (B)(2) of this section is not liable in damages to any
person or government entity in a tort or other civil action,
including an action on a medical, dental, chiropractic,
optometric, or other health-related claim, for injury, death, or
loss to person or property that allegedly arises from an action or
omission of the volunteer in the provision to an indigent and
uninsured person of medical, dental, or other health-related
diagnosis, care, or treatment, including the provision of samples
of medicine and other medical products, unless the action or
omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1)
of this section, a health care professional shall do all of the
following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured
person is mentally capable of giving informed consent to the
provision of the diagnosis, care, or treatment and is not subject
to duress or under undue influence;

(b) Inform the person of the provisions of this section,
including notifying the person that, by giving informed consent to
the provision of the diagnosis, care, or treatment, the person
cannot hold the health care professional liable for damages in a
tort or other civil action, including an action on a medical,
dental, chiropractic, optometric, or other health-related claim,
unless the action or omission of the health care professional
constitutes willful or wanton misconduct;

(c) Obtain the informed consent of the person and a written
waiver, signed by the person or by another individual on behalf of
and in the presence of the person, that states that the person is
mentally competent to give informed consent and, without being
subject to duress or under undue influence, gives informed consent
to the provision of the diagnosis, care, or treatment subject to

the provisions of this section. A written waiver under division 175
(B)(2)(c) of this section shall state clearly and in conspicuous 176
type that the person or other individual who signs the waiver is 177
signing it with full knowledge that, by giving informed consent to 178
the provision of the diagnosis, care, or treatment, the person 179
cannot bring a tort or other civil action, including an action on 180
a medical, dental, chiropractic, optometric, or other 181
health-related claim, against the health care professional unless 182
the action or omission of the health care professional constitutes 183
willful or wanton misconduct. 184

(3) A physician or podiatrist who is not covered by medical 185
malpractice insurance, but complies with division (B)(2) of this 186
section, is not required to comply with division (A) of section 187
4731.143 of the Revised Code. 188

(C) Subject to divisions (F) and (G)(3) of this section, 189
health care workers who are volunteers are not liable in damages 190
to any person or government entity in a tort or other civil 191
action, including an action upon a medical, dental, chiropractic, 192
optometric, or other health-related claim, for injury, death, or 193
loss to person or property that allegedly arises from an action or 194
omission of the health care worker in the provision to an indigent 195
and uninsured person of medical, dental, or other health-related 196
diagnosis, care, or treatment, unless the action or omission 197
constitutes willful or wanton misconduct. 198

(D) Subject to divisions (F) and (G)(3) of this section, a 199
nonprofit health care referral organization is not liable in 200
damages to any person or government entity in a tort or other 201
civil action, including an action on a medical, dental, 202
chiropractic, optometric, or other health-related claim, for 203
injury, death, or loss to person or property that allegedly arises 204
from an action or omission of the nonprofit health care referral 205
organization in referring indigent and uninsured persons to, or 206

arranging for the provision of, medical, dental, or other
health-related diagnosis, care, or treatment by a health care
professional described in division (B)(1) of this section or a
health care worker described in division (C) of this section,
unless the action or omission constitutes willful or wanton
misconduct.

(E) Subject to divisions (F) and (G)(3) of this section and
to the extent that the registration requirements of section
3701.071 of the Revised Code apply, a health care facility or
location associated with a health care professional described in
division (B)(1) of this section, a health care worker described in
division (C) of this section, or a nonprofit health care referral
organization described in division (D) of this section is not
liable in damages to any person or government entity in a tort or
other civil action, including an action on a medical, dental,
chiropractic, optometric, or other health-related claim, for
injury, death, or loss to person or property that allegedly arises
from an action or omission of the health care professional or
worker or nonprofit health care referral organization relative to
the medical, dental, or other health-related diagnosis, care, or
treatment provided to an indigent and uninsured person on behalf
of or at the health care facility or location, unless the action
or omission constitutes willful or wanton misconduct.

(F)(1) Except as provided in division (F)(2) of this section,
the immunities provided by divisions (B), (C), (D), and (E) of
this section are not available to a health care professional,
health care worker, nonprofit health care referral organization,
or health care facility or location if, at the time of an alleged
injury, death, or loss to person or property, the health care
professionals or health care workers involved are providing one of
the following:

(a) Any medical, dental, or other health-related diagnosis,

care, or treatment pursuant to a community service work order 239
entered by a court under division (B) of section 2951.02 of the 240
Revised Code or imposed by a court as a community control 241
sanction; 242

(b) Performance of an operation to which any one of the 243
following applies: 244

(i) The operation requires the administration of deep 245
sedation or general anesthesia. 246

(ii) The operation is a procedure that is not typically 247
performed in an office. 248

(iii) The individual involved is a health care professional, 249
and the operation is beyond the scope of practice or the 250
education, training, and competence, as applicable, of the health 251
care professional. 252

(c) Delivery of a baby or any other purposeful termination of 253
a human pregnancy. 254

(2) Division (F)(1) of this section does not apply when a 255
health care professional or health care worker provides medical, 256
dental, or other health-related diagnosis, care, or treatment that 257
is necessary to preserve the life of a person in a medical 258
emergency. 259

(G)(1) This section does not create a new cause of action or 260
substantive legal right against a health care professional, health 261
care worker, nonprofit health care referral organization, or 262
health care facility or location. 263

(2) This section does not affect any immunities from civil 264
liability or defenses established by another section of the 265
Revised Code or available at common law to which a health care 266
professional, health care worker, nonprofit health care referral 267
organization, or health care facility or location may be entitled 268

in connection with the provision of emergency or other medical, 269
dental, or other health-related diagnosis, care, or treatment. 270

(3) This section does not grant an immunity from tort or 271
other civil liability to a health care professional, health care 272
worker, nonprofit health care referral organization, or health 273
care facility or location for actions that are outside the scope 274
of authority of health care professionals or health care workers. 275

(4) This section does not affect any legal responsibility of 276
a health care professional, health care worker, or nonprofit 277
health care referral organization to comply with any applicable 278
law of this state or rule of an agency of this state. 279

(5) This section does not affect any legal responsibility of 280
a health care facility or location to comply with any applicable 281
law of this state, rule of an agency of this state, or local code, 282
ordinance, or regulation that pertains to or regulates building, 283
housing, air pollution, water pollution, sanitation, health, fire, 284
zoning, or safety. 285

Sec. 2925.01. As used in this chapter: 286

(A) "Administer," "controlled substance," "dispense," 287
"distribute," "hypodermic," "manufacturer," "official written 288
order," "person," "pharmacist," "pharmacy intern," "pharmacy 289
technician," "pharmacy," "sale," "schedule I," "schedule II," 290
"schedule III," "schedule IV," "schedule V," and "wholesaler" have 291
the same meanings as in section 3719.01 of the Revised Code. 292

(B) "Drug dependent person" and "drug of abuse" have the same 293
meanings as in section 3719.011 of the Revised Code. 294

(C) "Drug," "dangerous drug," "licensed health professional 295
authorized to prescribe drugs," and "prescription" have the same 296
meanings as in section 4729.01 of the Revised Code. 297

(D) "Bulk amount" of a controlled substance means any of the 298

following:	299
(1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III, with the exception of marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in division (D)(2) or (5) of this section, whichever of the following is applicable:	300 301 302 303 304
(a) An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I opiate or opium derivative;	305 306 307 308
(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;	309 310 311
(c) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a schedule I stimulant or depressant;	312 313 314 315 316
(d) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II opiate or opium derivative;	317 318 319 320 321
(e) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;	322 323 324
(f) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains	325 326 327 328

any amount of a schedule II stimulant that is in a final dosage 329
form manufactured by a person authorized by the "Federal Food, 330
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as 331
amended, and the federal drug abuse control laws, as defined in 332
section 3719.01 of the Revised Code, that is or contains any 333
amount of a schedule II depressant substance or a schedule II 334
hallucinogenic substance; 335

(g) An amount equal to or exceeding three grams of a 336
compound, mixture, preparation, or substance that is or contains 337
any amount of a schedule II stimulant, or any of its salts or 338
isomers, that is not in a final dosage form manufactured by a 339
person authorized by the Federal Food, Drug, and Cosmetic Act and 340
the federal drug abuse control laws. 341

(2) An amount equal to or exceeding one hundred twenty grams 342
or thirty times the maximum daily dose in the usual dose range 343
specified in a standard pharmaceutical reference manual of a 344
compound, mixture, preparation, or substance that is or contains 345
any amount of a schedule III or IV substance other than an 346
anabolic steroid or a schedule III opiate or opium derivative; 347

(3) An amount equal to or exceeding twenty grams or five 348
times the maximum daily dose in the usual dose range specified in 349
a standard pharmaceutical reference manual of a compound, mixture, 350
preparation, or substance that is or contains any amount of a 351
schedule III opiate or opium derivative; 352

(4) An amount equal to or exceeding two hundred fifty 353
milliliters or two hundred fifty grams of a compound, mixture, 354
preparation, or substance that is or contains any amount of a 355
schedule V substance; 356

(5) An amount equal to or exceeding two hundred solid dosage 357
units, sixteen grams, or sixteen milliliters of a compound, 358
mixture, preparation, or substance that is or contains any amount 359

of a schedule III anabolic steroid. 360

(E) "Unit dose" means an amount or unit of a compound, 361
mixture, or preparation containing a controlled substance that is 362
separately identifiable and in a form that indicates that it is 363
the amount or unit by which the controlled substance is separately 364
administered to or taken by an individual. 365

(F) "Cultivate" includes planting, watering, fertilizing, or 366
tilling. 367

(G) "Drug abuse offense" means any of the following: 368

(1) A violation of division (A) of section 2913.02 that 369
constitutes theft of drugs, or a violation of section 2925.02, 370
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 371
2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 372
2925.37 of the Revised Code; 373

(2) A violation of an existing or former law of this or any 374
other state or of the United States that is substantially 375
equivalent to any section listed in division (G)(1) of this 376
section; 377

(3) An offense under an existing or former law of this or any 378
other state, or of the United States, of which planting, 379
cultivating, harvesting, processing, making, manufacturing, 380
producing, shipping, transporting, delivering, acquiring, 381
possessing, storing, distributing, dispensing, selling, inducing 382
another to use, administering to another, using, or otherwise 383
dealing with a controlled substance is an element; 384

(4) A conspiracy to commit, attempt to commit, or complicity 385
in committing or attempting to commit any offense under division 386
(G)(1), (2), or (3) of this section. 387

(H) "Felony drug abuse offense" means any drug abuse offense 388
that would constitute a felony under the laws of this state, any 389

other state, or the United States.	390
(I) "Harmful intoxicant" does not include beer or intoxicating liquor but means any of the following:	391 392
(1) Any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following:	393 394 395 396 397 398
(a) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;	399 400 401 402
(b) Any aerosol propellant;	403
(c) Any fluorocarbon refrigerant;	404
(d) Any anesthetic gas.	405
(2) Gamma Butyrolactone;	406
(3) 1,4 Butanediol.	407
(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.	408 409 410 411 412 413
(K) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.	414 415 416 417
(L) "Sample drug" means a drug or pharmaceutical preparation	418

that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(M) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of any of the following reference works:

(1) "The National Formulary";

(2) "The United States Pharmacopeia," prepared by authority of the United States Pharmacopeial Convention, Inc.;

(3) Other standard references that are approved by the state board of pharmacy.

(N) "Juvenile" means a person under eighteen years of age.

(O) "Counterfeit controlled substance" means any of the following:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to that trademark, trade name, or identifying mark;

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it;

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance;

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its

markings, labeling, packaging, distribution, or the price for 449
which it is sold or offered for sale. 450

(P) An offense is "committed in the vicinity of a school" if 451
the offender commits the offense on school premises, in a school 452
building, or within one thousand feet of the boundaries of any 453
school premises, regardless of whether the offender knows the 454
offense is being committed on school premises, in a school 455
building, or within one thousand feet of the boundaries of any 456
school premises. 457

(Q) "School" means any school operated by a board of 458
education, any community school established under Chapter 3314. of 459
the Revised Code, or any nonpublic school for which the state 460
board of education prescribes minimum standards under section 461
3301.07 of the Revised Code, whether or not any instruction, 462
extracurricular activities, or training provided by the school is 463
being conducted at the time a criminal offense is committed. 464

(R) "School premises" means either of the following: 465

(1) The parcel of real property on which any school is 466
situated, whether or not any instruction, extracurricular 467
activities, or training provided by the school is being conducted 468
on the premises at the time a criminal offense is committed; 469

(2) Any other parcel of real property that is owned or leased 470
by a board of education of a school, the governing authority of a 471
community school established under Chapter 3314. of the Revised 472
Code, or the governing body of a nonpublic school for which the 473
state board of education prescribes minimum standards under 474
section 3301.07 of the Revised Code and on which some of the 475
instruction, extracurricular activities, or training of the school 476
is conducted, whether or not any instruction, extracurricular 477
activities, or training provided by the school is being conducted 478
on the parcel of real property at the time a criminal offense is 479

committed. 480

(S) "School building" means any building in which any of the 481
instruction, extracurricular activities, or training provided by a 482
school is conducted, whether or not any instruction, 483
extracurricular activities, or training provided by the school is 484
being conducted in the school building at the time a criminal 485
offense is committed. 486

(T) "Disciplinary counsel" means the disciplinary counsel 487
appointed by the board of commissioners on grievances and 488
discipline of the supreme court under the Rules for the Government 489
of the Bar of Ohio. 490

(U) "Certified grievance committee" means a duly constituted 491
and organized committee of the Ohio state bar association or of 492
one or more local bar associations of the state of Ohio that 493
complies with the criteria set forth in Rule V, section 6 of the 494
Rules for the Government of the Bar of Ohio. 495

(V) "Professional license" means any license, permit, 496
certificate, registration, qualification, admission, temporary 497
license, temporary permit, temporary certificate, or temporary 498
registration that is described in divisions (W)(1) to (36) of this 499
section and that qualifies a person as a professionally licensed 500
person. 501

(W) "Professionally licensed person" means any of the 502
following: 503

(1) A person who has obtained a license as a manufacturer of 504
controlled substances or a wholesaler of controlled substances 505
under Chapter 3719. of the Revised Code; 506

(2) A person who has received a certificate or temporary 507
certificate as a certified public accountant or who has registered 508
as a public accountant under Chapter 4701. of the Revised Code and 509

who holds an Ohio permit issued under that chapter;	510
(3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Chapter 4703. of the Revised Code;	511 512 513
(4) A person who is registered as a landscape architect under Chapter 4703. of the Revised Code or who holds a permit as a landscape architect issued under that chapter;	514 515 516
(5) A person licensed under Chapter 4707. of the Revised Code;	517 518
(6) A person who has been issued a certificate of registration as a registered barber under Chapter 4709. of the Revised Code;	519 520 521
(7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter 4710. of the Revised Code;	522 523 524
(8) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Chapter 4713. of the Revised Code;	525 526 527 528 529 530 531 532 533 534
(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under Chapter 4715. of the Revised Code;	535 536 537 538 539

(10) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Chapter 4717. of the Revised Code;	540 541 542 543
(11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Chapter 4723. of the Revised Code;	544 545 546 547
(12) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;	548 549 550
(13) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;	551 552
(14) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;	553 554
(15) A person licensed as a pharmacist, a pharmacy intern, <u>a pharmacy technician</u> , a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under Chapter 4729. of the Revised Code;	555 556 557 558
(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;	559 560
(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under Chapter 4731. of the Revised Code;	561 562 563 564
(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;	565 566
(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;	567 568
(20) A person who has been issued a license to practice	569

chiropractic under Chapter 4734. of the Revised Code;	570
(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;	571 572
(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;	573 574
(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;	575 576
(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;	577 578
(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;	579 580
(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code;	581 582 583 584
(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;	585 586 587
(28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Chapter 4749. of the Revised Code;	588 589 590
(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;	591 592 593
(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;	594 595 596
(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;	597 598

(32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under Chapter 4757. of the Revised Code;	599 600 601 602
(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;	603 604
(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;	605 606 607
(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;	608 609
(36) A person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.	610 611 612
(X) "Cocaine" means any of the following:	613
(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;	614 615
(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine;	616 617 618 619
(3) A salt, compound, derivative, or preparation of a substance identified in division (X)(1) or (2) of this section that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.	620 621 622 623 624 625
(Y) "L.S.D." means lysergic acid diethylamide.	626
(Z) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid	627 628

concentrate, liquid extract, or liquid distillate form. 629

(AA) "Marihuana" has the same meaning as in section 3719.01 630
of the Revised Code, except that it does not include hashish. 631

(BB) An offense is "committed in the vicinity of a juvenile" 632
if the offender commits the offense within one hundred feet of a 633
juvenile or within the view of a juvenile, regardless of whether 634
the offender knows the age of the juvenile, whether the offender 635
knows the offense is being committed within one hundred feet of or 636
within view of the juvenile, or whether the juvenile actually 637
views the commission of the offense. 638

(CC) "Presumption for a prison term" or "presumption that a 639
prison term shall be imposed" means a presumption, as described in 640
division (D) of section 2929.13 of the Revised Code, that a prison 641
term is a necessary sanction for a felony in order to comply with 642
the purposes and principles of sentencing under section 2929.11 of 643
the Revised Code. 644

(DD) "Major drug offender" has the same meaning as in section 645
2929.01 of the Revised Code. 646

(EE) "Minor drug possession offense" means either of the 647
following: 648

(1) A violation of section 2925.11 of the Revised Code as it 649
existed prior to July 1, 1996; 650

(2) A violation of section 2925.11 of the Revised Code as it 651
exists on and after July 1, 1996, that is a misdemeanor or a 652
felony of the fifth degree. 653

(FF) "Mandatory prison term" has the same meaning as in 654
section 2929.01 of the Revised Code. 655

(GG) "Crack cocaine" means a compound, mixture, preparation, 656
or substance that is or contains any amount of cocaine that is 657
analytically identified as the base form of cocaine or that is in 658

a form that resembles rocks or pebbles generally intended for individual use. 659
660

(HH) "Adulterate" means to cause a drug to be adulterated as described in section 3715.63 of the Revised Code. 661
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(II) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort. 663
664
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(JJ) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine. 666
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Sec. 2925.09. (A) No person shall administer, dispense, distribute, manufacture, possess, sell, or use any drug, other than a controlled substance, that is not approved by the United States food and drug administration, or the United States department of agriculture, unless one of the following applies: 670
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(1) The United States food and drug administration has approved an application for investigational use in accordance with the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the drug is used only for the approved investigational use; 675
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(2) The United States department of agriculture has approved an application for investigational use in accordance with the federal "Virus-Serum-Toxin Act," 37 Stat. 832 (1913), 21 U.S.C.A. 151, as amended, and the drug is used only for the approved investigational use; 680
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(3) A licensed health professional authorized to prescribe drugs, other than a veterinarian, prescribes or combines two or more drugs as a single product for medical purposes; 685
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(4) A pharmacist, ~~pursuant to a prescription~~ or a pharmacy 688

intern or pharmacy technician working under the direct supervision 689
of a pharmacist as described in Chapter 4729. of the Revised Code, 690
compounds and dispenses two or more drugs as a single product for 691
medical purposes pursuant to a prescription. 692

(B)(1) As used in this division, "dangerous drug," 693
"prescription," "sale at retail," "wholesale distributor of 694
dangerous drugs," and "terminal distributor of dangerous drugs," 695
have the same meanings as in section 4729.01 of the Revised Code. 696

(2) Except as provided in division (B)(3) of this section, no 697
person shall administer, dispense, distribute, manufacture, 698
possess, sell, or use any dangerous drug to or for livestock or 699
any animal that is generally used for food or in the production of 700
food, unless the drug is prescribed by a licensed veterinarian by 701
prescription or other written order and the drug is used in 702
accordance with the veterinarian's order or direction. 703

(3) Division (B)(2) of this section does not apply to a 704
registered wholesale distributor of dangerous drugs, a licensed 705
terminal distributor of dangerous drugs, or a person who 706
possesses, possesses for sale, or sells, at retail, a drug in 707
accordance with Chapters 3719., 4729., or 4741. of the Revised 708
Code. 709

(C) Whoever violates division (A) or (B)(2) of this section 710
is guilty of a felony of the fifth degree on a first offense and 711
of a felony of the fourth degree on each subsequent offense. 712

Sec. 3715.01. (A) As used in this chapter: 713

(1) "Public health council" means the public health council 714
established by section 3701.33 of the Revised Code. 715

(2) "Person" means an individual, partnership, corporation, 716
or association. 717

(3) "Food" means: 718

(a) Articles used for food or drink for humans or animals;	719
(b) Chewing gum;	720
(c) Articles used for components of any such articles.	721
(4) "Drug" means:	722
(a) Articles recognized in the United States pharmacopoeia and national formulary, or any supplement to them;	723 724
(b) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	725 726 727
(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals;	728 729
(d) Articles intended for use as a component of any of the foregoing articles, other than devices or their components, parts, or accessories.	730 731 732
(5) "Device," except when used in division (B)(1) of this section and in division (A)(10) of section 3715.52, division (F) of section 3715.60, division (A)(5) of section 3715.64, and division (C) of section 3715.67 of the Revised Code, means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is any of the following:	733 734 735 736 737 738 739
(a) Recognized in the United States pharmacopoeia and national formulary, or any supplement to them;	740 741
(b) Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease in humans or animals;	742 743 744
(c) Intended to affect the structure or any function of the body of humans or animals, and that does not achieve any of its principal intended purposes through chemical action within or on	745 746 747

the body of humans or animals and is not dependent upon being 748
metabolized for the achievement of any of its principal intended 749
purposes. 750

(6) "Cosmetic" means: 751

(a) Articles intended to be rubbed, poured, sprinkled, or 752
sprayed on, introduced into, or otherwise applied to the human 753
body or any part thereof for cleansing, beautifying, promoting 754
attractiveness, or altering the appearance; 755

(b) Articles intended for use as a component of any such 756
article, except that "cosmetic" does not include soap. 757

(7) "Label" means a display of written, printed, or graphic 758
matter upon the immediate container, exclusive of package liners, 759
of any article. 760

Any word, statement, or other information required by this 761
chapter to appear on the label must appear on the outside 762
container or wrapper, if any, of the retail package of the 763
article, or the label must be easily legible through the outside 764
container or wrapper. 765

(8) "Labeling" means all labels and other written, printed, 766
or graphic matter: 767

(a) Upon an article or any of its containers or wrappers; 768

(b) Accompanying such article. 769

(9) "Advertisement" means all representations disseminated in 770
any manner or by any means, other than by labeling, for the 771
purpose of inducing, or that are likely to induce, directly or 772
indirectly, the purchase of food, drugs, devices, or cosmetics. 773

(10) "New drug" means: 774

(a) Any drug the composition of which is such that the drug 775
is not generally recognized among experts qualified by scientific 776

training and experience to evaluate the safety of drugs, as safe 777
for use under the conditions prescribed, recommended, or suggested 778
in the labeling thereof; 779

(b) Any drug the composition of which is such that the drug, 780
as a result of investigation to determine its safety for use under 781
such conditions, has become so recognized, but that has not, other 782
than in an investigation, been used to a material extent or for a 783
material time under such conditions. 784

(11) "Contaminated with filth" applies to any food, drug, 785
device, or cosmetic that has not been protected as far as may be 786
necessary by all reasonable means from dust, dirt, and all foreign 787
or injurious substances. 788

(12) "Honey" means the nectar and saccharine exudation of 789
plants that has been gathered, modified, and stored in a honeycomb 790
by honeybees. 791

(13) "Finished dosage form" means the form of a drug that is, 792
or is intended to be, dispensed or administered to humans or 793
animals and requires no further manufacturing or processing other 794
than packaging, reconstituting, or labeling. 795

(14)(a) "Manufacture" means the planting, cultivating, 796
harvesting, processing, making, preparing, or otherwise engaging 797
in any part of the production of a drug by propagating, 798
compounding, converting, or processing, either directly or 799
indirectly by extracting from substances of natural origin, or 800
independently by means of chemical synthesis, or by a combination 801
of extraction and chemical synthesis, and includes the following: 802

(i) Any packaging or repackaging of the drug or labeling or 803
relabeling of its container, the promotion and marketing of the 804
drug, and other activities incident to production; 805

(ii) The preparation and promotion of commercially available 806

products from bulk compounds for resale by pharmacies, licensed
health professionals authorized to prescribe drugs, or other
persons.

(b) "Manufacture" does not include the preparation,
compounding, packaging, or labeling of a drug by a pharmacist, or
a pharmacy intern or pharmacy technician working under the direct
supervision of a pharmacist as authorized by Chapter 4729. of the
Revised Code, as an incident to either of the following:

(i) Dispensing a drug in the usual course of professional
practice or work;

(ii) Providing a licensed health professional authorized to
prescribe drugs with a drug for the purpose of administering to
patients or for using the drug in treating patients in the
professional's office.

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

(16) "Generically equivalent drug" means a drug that contains
identical amounts of the identical active ingredients, but not
necessarily containing the same inactive ingredients, that meets
the identical compendial or other applicable standard of identity,
strength, quality, and purity, including potency, and where
applicable, content uniformity, disintegration times, or
dissolution rates, as the prescribed brand name drug and the
manufacturer or distributor holds, if applicable, either an
approved new drug application or an approved abbreviated new drug
application unless other approval by law or from the federal food
and drug administration is required.

No drug shall be considered a generically equivalent drug for
the purposes of this chapter if it has been listed by the federal
food and drug administration as having proven bioequivalence
problems.

(17) "Licensed health professional authorized to prescribe 838
drugs" and "prescriber" have the same meanings as in section 839
4729.01 of the Revised Code. 840

(18) "Home" means the primary residence occupied by the 841
residence's owner, on the condition that the residence contains 842
only one stove or oven used for cooking, which may be a double 843
oven, designed for common residence usage and not for commercial 844
usage, and that the stove or oven be operated in an ordinary 845
kitchen within the residence. 846

(19) "Potentially hazardous food" means a food that is 847
natural or synthetic, to which any of the following apply: 848

(a) It has a pH level greater than 4.6 when measured at 849
seventy-five degrees fahrenheit or twenty-four degrees celsius. 850

(b) It has a water activity value greater than 0.85. 851

(c) It requires temperature control because it is in a form 852
capable of supporting the rapid and progressive growth of 853
infectious or toxigenic microorganisms, the growth and toxin 854
production of clostridium botulinium, or in the case of raw shell 855
eggs, the growth of salmonella enteritidis. 856

(20) "Cottage food production operation" means a person who, 857
in the person's home, produces food items that are not potentially 858
hazardous foods, including bakery products, jams, jellies, candy, 859
fruit butter, and similar products specified in rules adopted 860
pursuant to section 3715.025 of the Revised Code. 861

(B) For the purposes of sections 3715.52 to 3715.72 of the 862
Revised Code: 863

(1) If an article is alleged to be misbranded because the 864
labeling is misleading, or if an advertisement is alleged to be 865
false because it is misleading, then in determining whether the 866
labeling or advertisement is misleading, there shall be taken into 867

account, among other things, not only representations made or 868
suggested by statement, word, design, device, sound, or in any 869
combination thereof, but also the extent to which the labeling or 870
advertisement fails to reveal facts material in the light of such 871
representations or material with respect to consequence which may 872
result from the use of the article to which the labeling or 873
advertisement relates under the conditions of use prescribed in 874
the labeling or advertisement thereof or under such conditions of 875
use as are customary or usual. 876

(2) The provisions regarding the selling of food, drugs, 877
devices, or cosmetics include the manufacture, production, 878
processing, packing, exposure, offer, possession, and holding of 879
any such article for sale; and the sale, dispensing, and giving of 880
any such article, and the supplying or applying of any such 881
articles in the conduct of any food, drug, or cosmetic 882
establishment. The provisions do not prohibit a licensed health 883
professional authorized to prescribe drugs from administering or 884
personally furnishing a drug or device to a patient. 885

(3) The representation of a drug, in its labeling or 886
advertisement, as an antiseptic is a representation that it is a 887
germicide, except in the case of a drug purporting to be, or 888
represented as, an antiseptic for inhibitory use as a wet 889
dressing, ointment, dusting powder, or other use that involves 890
prolonged contact with the body. 891

(4) Whenever jurisdiction is vested in the director of 892
agriculture or the state board of pharmacy, the jurisdiction of 893
the board shall be limited to the sale, offering for sale, giving 894
away, delivery, or dispensing in any manner of drugs at the 895
wholesale and retail levels or to the consumer and shall be 896
exclusive in the case of such sale, offering for sale, giving 897
away, delivery, or dispensing in any manner of drugs at the 898
wholesale and retail levels or to the consumer in any place where 899

prescriptions are dispensed or compounded. 900

(5) To assist in effectuating the provisions of those 901
sections, the director of agriculture or state board of pharmacy 902
may request assistance or data from any government or private 903
agency or individual. 904

Sec. 3715.64. (A) A drug or device is misbranded within the 905
meaning of sections 3715.01 and 3715.52 to 3715.72 of the Revised 906
Code, if: 907

(1) Its labeling is false or misleading in any particular. 908

(2) It is in package form and does not bear a label 909
containing both of the following: 910

(a) In clearly legible form, the name and place of business 911
of the manufacturer, packer, or distributor; 912

(b) An accurate statement of the quantity of the contents in 913
terms of weight, measure, or numerical count; but reasonable 914
variations shall be permitted, and exemptions as to small packages 915
shall apply as established by rules adopted by the director of 916
agriculture or state board of pharmacy. 917

(3) It is a dangerous drug and does not bear a label 918
containing in clearly legible form the name and place of business 919
of the manufacturer of the finished dosage form and, if different, 920
the packer or distributor. 921

(4) It is a dangerous drug in finished solid oral dosage form 922
and it does not have clearly and prominently marked or imprinted 923
on it an individual symbol, company name, national drug code 924
number or other number, words, letters, or any combination 925
thereof, identifying the drug and its manufacturer or distributor. 926
This requirement does not apply to drugs that are compounded by a 927
licensed pharmacist or by a licensed pharmacy intern or pharmacy 928
technician working under the direct supervision of a pharmacist as 929

authorized by Chapter 4729. of the Revised Code. The manufacturer 930
or distributor of each such drug shall make available to the state 931
board of pharmacy descriptive material identifying the mark or 932
imprint used by the manufacturer or distributor. The board shall 933
provide this information to all poison control centers in this 934
state. Upon application by a manufacturer or distributor, the 935
board may exempt a drug from the requirements of this division on 936
the grounds that marking or imprinting the drug is not feasible 937
because of its size, texture, or other unique characteristic. 938

(5) Any word, statement, or other information that is 939
required by or under authority of sections 3715.01 and 3715.52 to 940
3715.72 of the Revised Code to appear on the label or labeling is 941
not prominently placed on the label or labeling in a conspicuous 942
manner, as compared with other words, statements, designs, or 943
devices on the label or labeling, and in terms that render it 944
likely to be read and understood by the ordinary individual under 945
customary conditions of purchase and use. 946

(6) It is a drug and it is not designated solely by a name 947
recognized in the United States pharmacopoeia and national 948
formulary, or any supplement to them, unless its label bears: 949

(a) The common or usual name of the drug, if any; 950

(b) In case it is fabricated from two or more ingredients, 951
the common or usual name of each active ingredient the drug 952
contains, including the kind and quantity or proportion of any 953
alcohol, and also including whether active or not, the name and 954
quantity or proportion of any bromides, ether, chloroform, 955
acetanalid, acetophenetidin, aminopyrine, atropine, hyoscine, 956
hyoscyamine, arsenic, digitalis, digitalis glycosides, mercury, 957
ouabain, strophanthin, strychnine, thyroid, or any derivative or 958
preparation of any such substances; but to the extent that 959
compliance with these requirements is impracticable, exemptions 960
shall apply as established by rules adopted by the director of 961

agriculture or state board of pharmacy. 962

(7) Its labeling does not bear the following: 963

(a) Adequate directions for use of the drug or device, except 964
that when compliance with this requirement is not necessary for a 965
particular drug or device to protect the public health, the 966
director shall adopt rules exempting the drug or device from the 967
requirement; 968

(b) Adequate warnings against use in those pathological 969
conditions or by children when its use may be dangerous to health, 970
or against unsafe dosage or methods or duration of administration 971
or application, presented in a manner and form as necessary for 972
the protection of users. 973

(8) It purports to be a drug the name of which is recognized 974
in the United States pharmacopoeia and national formulary, or any 975
supplement to them, and it is not packaged and labeled as 976
prescribed in those compendiums, except that the method of packing 977
may be modified with the consent of the director of agriculture. 978
Whenever a drug is recognized in both the homoeopathic 979
pharmacopoeia of the United States and in the United States 980
pharmacopoeia and national formulary, including their supplements, 981
it shall be subject to the requirements of the United States 982
pharmacopoeia and national formulary with respect to packaging and 983
labeling unless it is labeled and offered for sale as a 984
homoeopathic drug, in which case it shall be subject to the 985
provisions of the homoeopathic pharmacopoeia of the United States 986
and not to those of the United States pharmacopoeia and national 987
formulary. 988

(9) It has been found by the director of agriculture to be a 989
drug liable to deterioration, unless it is packaged in the form 990
and manner, and its label bears a statement of precautions, as 991
required by rules adopted by the director as necessary for the 992

protection of public health. No rule shall be established for any
drug recognized in the United States pharmacopoeia and national
formulary, or any supplements to them, until the director has
informed the appropriate bodies charged with the revision of those
compendiums of the need for packaging or labeling requirements and
those bodies have failed within a reasonable time to prescribe
such requirements.

(10)(a) It is a drug and its container is so made, formed, or
filled as to be misleading.

(b) It is an imitation of another drug.

(c) It is offered for sale under the name of another drug.

(d) The drug sold or dispensed is not the brand or drug
specifically prescribed or ordered or, when dispensed by a
pharmacist upon prescription, is neither the brand or drug
prescribed nor a generically equivalent drug.

(11) It is dangerous to health when used in the dosage, or
with the frequency or duration prescribed, recommended, or
suggested in its labeling.

(12) It is a drug intended for human use to which the
following apply:

(a) Because of its toxicity or other potentiality for harmful
effect, the method of its use, or the collateral measures
necessary to its use, the drug is not safe for use except under
the supervision of a licensed health professional authorized to
prescribe drugs;

(b) The drug is limited by an effective application under
section 505 of the "Federal Food, Drug, and Cosmetic Act," 52
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, to use under
professional supervision by a licensed health professional
authorized to prescribe drugs, unless it is dispensed only:

(i) Upon a written or electronic prescription;	1023
(ii) Upon an oral prescription, which is reduced promptly to writing by the pharmacist;	1024 1025
(iii) By refilling a prescription if refilling is authorized by the prescriber either in the original prescription or by oral order, which is promptly reduced to writing by the pharmacist.	1026 1027 1028
(B) Any drug dispensed pursuant to a written, electronic, or oral prescription of a licensed health professional authorized to prescribe drugs shall be exempt from the requirements of division (A) of this section, except divisions (A)(1) and (10) of this section, if the drug bears a label containing the name and address of the dispenser, the serial number and the date the prescription is dispensed, the name of the prescriber, the name of the patient, and, if stated in the prescription, the directions for use and cautionary statements. Unless the prescription directions prohibit labeling, the label shall include the brand name of the drug dispensed. If the drug dispensed has no brand name, the generic name and the distributor of the finished dosage form shall be included.	1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041
Sec. 3719.01. As used in this chapter:	1042
(A) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person or an animal.	1043 1044 1045
(B) "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.	1046 1047 1048
(C) "Controlled substance" means a drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V.	1049 1050 1051
(D) "Dangerous drug" has the same meaning as in section	1052

4729.01 of the Revised Code.	1053
(E) "Dispense" means to sell, leave with, give away, dispose of, or deliver.	1054 1055
(F) "Distribute" means to deal in, ship, transport, or deliver but does not include administering or dispensing a drug.	1056 1057
(G) "Drug" has the same meaning as in section 4729.01 of the Revised Code.	1058 1059
(H) "Drug abuse offense," "felony drug abuse offense," "cocaine," and "hashish" have the same meanings as in section 2925.01 of the Revised Code.	1060 1061 1062
(I) "Federal drug abuse control laws" means the "Comprehensive Drug Abuse Prevention and Control Act of 1970," 84 Stat. 1242, 21 U.S.C. 801, as amended.	1063 1064 1065
(J) "Hospital" means an institution for the care and treatment of the sick and injured that is certified by the department of health and approved by the state board of pharmacy as proper to be entrusted with the custody of controlled substances and the professional use of controlled substances.	1066 1067 1068 1069 1070
(K) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.	1071 1072
(L) "Isomer," except as otherwise expressly stated, means the optical isomer.	1073 1074
(M) "Laboratory" means a laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.	1075 1076 1077 1078
(N) "Manufacturer" means a person who manufactures a controlled substance, as "manufacture" is defined in section 3715.01 of the Revised Code.	1079 1080 1081

(O) "Marihuana" means all parts of a plant of the genus 1082
cannabis, whether growing or not; the seeds of a plant of that 1083
type; the resin extracted from a part of a plant of that type; and 1084
every compound, manufacture, salt, derivative, mixture, or 1085
preparation of a plant of that type or of its seeds or resin. 1086
"Marihuana" does not include the mature stalks of the plant, fiber 1087
produced from the stalks, oils or cake made from the seeds of the 1088
plant, or any other compound, manufacture, salt, derivative, 1089
mixture, or preparation of the mature stalks, except the resin 1090
extracted from the mature stalks, fiber, oil or cake, or the 1091
sterilized seed of the plant that is incapable of germination. 1092

(P) "Narcotic drugs" means coca leaves, opium, isonipecaine, 1093
amidone, isoamidone, ketobemidone, as defined in this division, 1094
and every substance not chemically distinguished from them and 1095
every drug, other than cannabis, that may be included in the 1096
meaning of "narcotic drug" under the federal drug abuse control 1097
laws. As used in this division: 1098

(1) "Coca leaves" includes cocaine and any compound, 1099
manufacture, salt, derivative, mixture, or preparation of coca 1100
leaves, except derivatives of coca leaves, that does not contain 1101
cocaine, ecgonine, or substances from which cocaine or ecgonine 1102
may be synthesized or made. 1103

(2) "Isonipecaine" means any substance identified chemically 1104
as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or 1105
any salt thereof, by whatever trade name designated. 1106

(3) "Amidone" means any substance identified chemically as 1107
4-4-diphenyl-6-dimethylamino-heptanone-3, or any salt thereof, by 1108
whatever trade name designated. 1109

(4) "Isoamidone" means any substance identified chemically as 1110
4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3, or any salt 1111
thereof, by whatever trade name designated. 1112

(5) "Ketobemidone" means any substance identified chemically 1113
as 4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone 1114
hydrochloride, or any salt thereof, by whatever trade name 1115
designated. 1116

(Q) "Official written order" means an order written on a form 1117
provided for that purpose by the director of the United States 1118
drug enforcement administration, under any laws of the United 1119
States making provision for the order, if the order forms are 1120
authorized and required by federal law. 1121

(R) "Opiate" means any substance having an addiction-forming 1122
or addiction-sustaining liability similar to morphine or being 1123
capable of conversion into a drug having addiction-forming or 1124
addiction-sustaining liability. "Opiate" does not include, unless 1125
specifically designated as controlled under section 3719.41 of the 1126
Revised Code, the dextrorotatory isomer of 1127
3-methoxy-N-methylmorphinan and its salts (dextro-methorphan). 1128
"Opiate" does include its racemic and levoratory forms. 1129

(S) "Opium poppy" means the plant of the species papaver 1130
somniferum L., except its seeds. 1131

(T) "Person" means any individual, corporation, government, 1132
governmental subdivision or agency, business trust, estate, trust, 1133
partnership, association, or other legal entity. 1134

(U) "Pharmacist" means a person licensed under Chapter 4729. 1135
of the Revised Code to engage in the practice of pharmacy. 1136

(V) "Pharmacy" has the same meaning as in section 4729.01 of 1137
the Revised Code. 1138

(W) "Poison" means any drug, chemical, or preparation likely 1139
to be deleterious or destructive to adult human life in quantities 1140
of four grams or less. 1141

(X) "Poppy straw" means all parts, except the seeds, of the 1142

opium poppy, after mowing. 1143

(Y) "Licensed health professional authorized to prescribe 1144
drugs," "prescriber," and "prescription" have the same meanings as 1145
in section 4729.01 of the Revised Code. 1146

(Z) "Registry number" means the number assigned to each 1147
person registered under the federal drug abuse control laws. 1148

(AA) "Sale" includes delivery, barter, exchange, transfer, or 1149
gift, or offer thereof, and each transaction of those natures made 1150
by any person, whether as principal, proprietor, agent, servant, 1151
or employee. 1152

(BB) "Schedule I," "schedule II," "schedule III," "schedule 1153
IV," and "schedule V" mean controlled substance schedules I, II, 1154
III, IV, and V, respectively, established pursuant to section 1155
3719.41 of the Revised Code, as amended pursuant to section 1156
3719.43 or 3719.44 of the Revised Code. 1157

(CC) "Wholesaler" means a person who, on official written 1158
orders other than prescriptions, supplies controlled substances 1159
that the person has not manufactured, produced, or prepared 1160
personally and includes a "wholesale distributor of dangerous 1161
drugs" as defined in section 4729.01 of the Revised Code. 1162

(DD) "Animal shelter" means a facility operated by a humane 1163
society or any society organized under Chapter 1717. of the 1164
Revised Code or a dog pound operated pursuant to Chapter 955. of 1165
the Revised Code. 1166

(EE) "Terminal distributor of dangerous drugs" has the same 1167
meaning as in section 4729.01 of the Revised Code. 1168

(FF) "Category III license" means a license issued to a 1169
terminal distributor of dangerous drugs as set forth in section 1170
4729.54 of the Revised Code. 1171

(GG) "Prosecutor" has the same meaning as in section 2935.01 1172

of the Revised Code.	1173
<u>(HH) "Pharmacy intern" means a person licensed under Chapter 4729. of the Revised Code to participate in the pharmacy intern program established by the state board of pharmacy.</u>	1174 1175 1176
<u>(II) "Pharmacy technician" means a person licensed under Chapter 4729. of the Revised Code to work as a pharmacy technician.</u>	1177 1178 1179
Sec. 3719.12. Unless a report has been made pursuant to section 2929.42 of the Revised Code, on the conviction of a manufacturer, wholesaler, terminal distributor of dangerous drugs, pharmacist, pharmacy intern, <u>pharmacy technician</u> , dentist, chiropractor, physician, podiatrist, registered nurse, licensed practical nurse, physician assistant, optometrist, or veterinarian of the violation of this chapter or Chapter 2925. of the Revised Code, the prosecutor in the case promptly shall report the conviction to the board that licensed, certified, or registered the person to practice or to carry on business. The responsible board shall provide forms to the prosecutor. Within thirty days of the receipt of this information, the board shall initiate action in accordance with Chapter 119. of the Revised Code to determine whether to suspend or revoke the person's license, certificate, or registration.	1180 1181 1182 1183 1184 1185 1186 1187 1188 1189 1190 1191 1192 1193 1194
Sec. 3719.121. (A) Except as otherwise provided in section 4723.28, 4723.35, <u>4729.16</u> , 4730.25, 4731.22, 4734.39, or 4734.41 of the Revised Code, the license, certificate, or registration of any dentist, chiropractor, physician, podiatrist, registered nurse, licensed practical nurse, physician assistant, pharmacist, pharmacy intern, <u>pharmacy technician</u> , optometrist, or veterinarian who is or becomes addicted to the use of controlled substances shall be suspended by the board that authorized the person's	1195 1196 1197 1198 1199 1200 1201 1202

license, certificate, or registration until the person offers 1203
satisfactory proof to the board that the person no longer is 1204
addicted to the use of controlled substances. 1205

(B) If the board under which a person has been issued a 1206
license, certificate, or evidence of registration determines that 1207
there is clear and convincing evidence that continuation of the 1208
person's professional practice or method of prescribing or 1209
personally furnishing controlled substances presents a danger of 1210
immediate and serious harm to others, the board may suspend the 1211
person's license, certificate, or registration without a hearing. 1212
Except as otherwise provided in sections 4715.30, 4723.281, 1213
4729.16, 4730.25, 4731.22, and 4734.36 of the Revised Code, the 1214
board shall follow the procedure for suspension without a prior 1215
hearing in section 119.07 of the Revised Code. The suspension 1216
shall remain in effect, unless removed by the board, until the 1217
board's final adjudication order becomes effective, except that if 1218
the board does not issue its final adjudication order within 1219
ninety days after the hearing, the suspension shall be void on the 1220
ninety-first day after the hearing. 1221

(C) On receiving notification pursuant to section 2929.42 or 1222
3719.12 of the Revised Code, the board under which a person has 1223
been issued a license, certificate, or evidence of registration 1224
immediately shall suspend the license, certificate, or 1225
registration of that person on a plea of guilty to, a finding by a 1226
jury or court of the person's guilt of, or conviction of a felony 1227
drug abuse offense; a finding by a court of the person's 1228
eligibility for intervention in lieu of conviction; a plea of 1229
guilty to, or a finding by a jury or court of the person's guilt 1230
of, or the person's conviction of an offense in another 1231
jurisdiction that is essentially the same as a felony drug abuse 1232
offense; or a finding by a court of the person's eligibility for 1233
treatment or intervention in lieu of conviction in another 1234

jurisdiction. The board shall notify the holder of the license,
certificate, or registration of the suspension, which shall remain
in effect until the board holds an adjudicatory hearing under
Chapter 119. of the Revised Code.

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Sec. 4303.34. The sale of alcohol under G and I permits is
subject to the following restrictions in addition to those imposed
by the rules or orders of the division of liquor control:

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(A) All sales under such permits shall be made by the
licensed pharmacist in charge of the store or by a licensed
pharmacy intern, or pharmacy technician working under the direct
supervision of a pharmacist and lawfully employed therein.

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(B) All sales to hospitals, infirmaries, and medical or
educational institutions for the uses authorized by such permits
shall be made only upon the written, signed, dated, and sworn
application of the superintendent of such institution.

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(C) All sales of alcohol to physicians, dentists, and
veterinary surgeons shall be made only on the written, signed,
dated, and sworn application of such physician, dentist, or
veterinary surgeon, personally presented by the applicant.

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(D) All sales of alcohol for mechanical, chemical, or
scientific purposes shall be made only upon the written
application of the purchaser known by the pharmacist, or a
pharmacy intern or pharmacy technician working under the direct
supervision of a pharmacist, to be a person engaged in such
mechanical, chemical, or scientific pursuits, which application
shall be dated, signed, and sworn to by the purchaser.

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All applications required by this section shall state clearly
and specifically the kind and quantity of alcohol required and the
use to which it is to be put by the person purchasing it, and that
the person will not use any of the alcohol procured for any other

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use than that stated in the application. 1265

All prescriptions and applications required by this section 1266
shall be canceled as soon as filled by the person filling the 1267
same, by having "canceled" plainly written or stamped thereon and 1268
signed and dated by the person who filled the same, and shall be 1269
kept open to public inspection. No person shall furnish alcohol 1270
more than once on any such prescription or application. 1271

Each holder of such a permit shall register in an 1272
alphabetically arranged book, kept exclusively for that purpose, 1273
all prescriptions of physicians and dentists, in the following 1274
order: the name of the physician or dentist, the name of the 1275
person prescribed for, the quantity and kind of alcohol, and the 1276
use for which prescribed. 1277

The person making the sale shall indorse upon the 1278
prescription the date upon which it was filled and the person's 1279
own name. Each such holder shall keep a record of applications, 1280
showing the date of each, by whom made, the quantity and kind of 1281
alcohol supplied, and when, where, and for what purpose and by 1282
whom such alcohol was to be used. Each applicant shall certify to 1283
the same by signing the applicant's name in such record book. Such 1284
book shall be open at all times during business hours to the 1285
inspection of the division. 1286

Any licensed pharmacist ~~or~~, pharmacy intern, or pharmacy 1287
technician may administer the oath required by this section. 1288

Sec. 4729.01. As used in this chapter: 1289

(A) "Pharmacy," except when used in a context that refers to 1290
the practice of pharmacy, means any area, room, rooms, place of 1291
business, department, or portion of any of the foregoing where the 1292
practice of pharmacy is conducted. 1293

(B) "Practice of pharmacy" means providing pharmacist care 1294

requiring specialized knowledge, judgment, and skill derived from	1295
the principles of biological, chemical, behavioral, social,	1296
pharmaceutical, and clinical sciences. As used in this division,	1297
"pharmacist care" includes the following:	1298
(1) Interpreting prescriptions;	1299
(2) Dispensing drugs and drug therapy related devices;	1300
(3) Compounding drugs;	1301
(4) Counseling individuals with regard to their drug therapy,	1302
recommending drug therapy related devices, and assisting in the	1303
selection of drugs and appliances for treatment of common diseases	1304
and injuries and providing instruction in the proper use of the	1305
drugs and appliances;	1306
(5) Performing drug regimen reviews with individuals by	1307
discussing all of the drugs that the individual is taking and	1308
explaining the interactions of the drugs;	1309
(6) Performing drug utilization reviews with licensed health	1310
professionals authorized to prescribe drugs when the pharmacist	1311
determines that an individual with a prescription has a drug	1312
regimen that warrants additional discussion with the prescriber;	1313
(7) Advising an individual and the health care professionals	1314
treating an individual with regard to the individual's drug	1315
therapy;	1316
(8) Acting pursuant to a consult agreement with a physician	1317
authorized under Chapter 4731. of the Revised Code to practice	1318
medicine and surgery or osteopathic medicine and surgery, if an	1319
agreement has been established with the physician;	1320
(9) Administering the adult immunizations specified in	1321
section 4729.41 of the Revised Code, if the pharmacist has met the	1322
requirements of that section.	1323
(C) "Compounding" means the preparation, mixing, assembling,	1324

packaging, and labeling of one or more drugs in any of the	1325
following circumstances:	1326
(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;	1327 1328
(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;	1329 1330
(3) As an incident to research, teaching activities, or chemical analysis;	1331 1332
(4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns;	1333 1334 1335
(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:	1336 1337 1338 1339 1340
(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.	1341 1342 1343 1344 1345
(b) A limited quantity of the drug is compounded and provided to the professional.	1346 1347
(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.	1348 1349 1350
(D) "Consult agreement" means an agreement to manage an individual's drug therapy that has been entered into by a pharmacist and a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic	1351 1352 1353 1354

medicine and surgery.	1355
(E) "Drug" means:	1356
(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;	1357 1358 1359 1360
(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	1361 1362 1363
(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;	1364 1365
(4) Any article intended for use as a component of any article specified in division (E)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.	1366 1367 1368 1369
(F) "Dangerous drug" means any of the following:	1370
(1) Any drug to which either of the following applies:	1371
(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;	1372 1373 1374 1375 1376 1377 1378
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	1379 1380
(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;	1381 1382 1383

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.	1384 1385 1386
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	1387 1388
(H) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.	1389 1390 1391 1392
(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:	1393 1394 1395 1396 1397
(1) A dentist licensed under Chapter 4715. of the Revised Code;	1398 1399
(2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code;	1400 1401 1402
(3) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;	1403 1404 1405
(4) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	1406 1407 1408
(5) A physician assistant who holds a certificate to prescribe issued under Chapter 4730. of the Revised Code;	1409 1410
(6) A veterinarian licensed under Chapter 4741. of the Revised Code.	1411 1412
(J) "Sale" and "sell" include delivery, transfer, barter,	1413

exchange, or gift, or offer therefor, and each such transaction 1414
made by any person, whether as principal proprietor, agent, or 1415
employee. 1416

(K) "Wholesale sale" and "sale at wholesale" mean any sale in 1417
which the purpose of the purchaser is to resell the article 1418
purchased or received by the purchaser. 1419

(L) "Retail sale" and "sale at retail" mean any sale other 1420
than a wholesale sale or sale at wholesale. 1421

(M) "Retail seller" means any person that sells any dangerous 1422
drug to consumers without assuming control over and responsibility 1423
for its administration. Mere advice or instructions regarding 1424
administration do not constitute control or establish 1425
responsibility. 1426

(N) "Price information" means the price charged for a 1427
prescription for a particular drug product and, in an easily 1428
understandable manner, all of the following: 1429

(1) The proprietary name of the drug product; 1430

(2) The established (generic) name of the drug product; 1431

(3) The strength of the drug product if the product contains 1432
a single active ingredient or if the drug product contains more 1433
than one active ingredient and a relevant strength can be 1434
associated with the product without indicating each active 1435
ingredient. The established name and quantity of each active 1436
ingredient are required if such a relevant strength cannot be so 1437
associated with a drug product containing more than one 1438
ingredient. 1439

(4) The dosage form; 1440

(5) The price charged for a specific quantity of the drug 1441
product. The stated price shall include all charges to the 1442
consumer, including, but not limited to, the cost of the drug 1443

product, professional fees, handling fees, if any, and a statement 1444
identifying professional services routinely furnished by the 1445
pharmacy. Any mailing fees and delivery fees may be stated 1446
separately without repetition. The information shall not be false 1447
or misleading. 1448

(O) "Wholesale distributor of dangerous drugs" means a person 1449
engaged in the sale of dangerous drugs at wholesale and includes 1450
any agent or employee of such a person authorized by the person to 1451
engage in the sale of dangerous drugs at wholesale. 1452

(P) "Manufacturer of dangerous drugs" means a person, other 1453
than a pharmacist, who manufactures dangerous drugs and who is 1454
engaged in the sale of those dangerous drugs within this state. 1455

(Q) "Terminal distributor of dangerous drugs" means a person 1456
who is engaged in the sale of dangerous drugs at retail, or any 1457
person, other than a wholesale distributor or a pharmacist, who 1458
has possession, custody, or control of dangerous drugs for any 1459
purpose other than for that person's own use and consumption, and 1460
includes pharmacies, hospitals, nursing homes, and laboratories 1461
and all other persons who procure dangerous drugs for sale or 1462
other distribution by or under the supervision of a pharmacist or 1463
licensed health professional authorized to prescribe drugs. 1464

(R) "Promote to the public" means disseminating a 1465
representation to the public in any manner or by any means, other 1466
than by labeling, for the purpose of inducing, or that is likely 1467
to induce, directly or indirectly, the purchase of a dangerous 1468
drug at retail. 1469

(S) "Person" includes any individual, partnership, 1470
association, limited liability company, or corporation, the state, 1471
any political subdivision of the state, and any district, 1472
department, or agency of the state or its political subdivisions. 1473

(T) "Finished dosage form" has the same meaning as in section 1474

3715.01 of the Revised Code. 1475

(U) "Generically equivalent drug" has the same meaning as in 1476
section 3715.01 of the Revised Code. 1477

(V) "Animal shelter" means a facility operated by a humane 1478
society or any society organized under Chapter 1717. of the 1479
Revised Code or a dog pound operated pursuant to Chapter 955. of 1480
the Revised Code. 1481

(W) "Food" has the same meaning as in section 3715.01 of the 1482
Revised Code. 1483

(X) "Pharmacy technician" means an individual who has been 1484
issued a license and identification card under section 4729.43 of 1485
the Revised Code to work as a pharmacy technician in this state. 1486

Sec. 4729.06. (A) The state board of pharmacy shall keep a 1487
record of its proceedings and a register of all persons to whom 1488
identification cards and licenses have been granted as pharmacists 1489
~~or~~, pharmacy interns, and pharmacy technicians together with each 1490
renewal and suspension or revocation of an identification card and 1491
license. The books and registers of the board shall be prima-facie 1492
evidence of the matters therein recorded. The president and 1493
executive director of the board may administer oaths. 1494

~~A statement signed by the executive director to which is 1495
affixed the official seal of the board to the effect that it 1496
appears from the records of the board that the board has not 1497
issued an identification card and license to practice pharmacy, or 1498
any of its branches, to the person specified in the statement, or 1499
that an identification card and license, if issued, has been 1500
revoked or suspended, shall be received as prima-facie evidence of 1501
the record of the board in any court or before any officer of this 1502
state. 1503~~

(B) A court or officer of this state shall receive as 1504

prima-facie evidence of the record of the board a statement, 1505
signed by the board's executive director and containing the 1506
board's official seal, providing for either or both of the 1507
following: 1508

(1) That the records of the board show that the board has not 1509
issued an identification card and license to practice pharmacy or 1510
any of its branches, or to work as a pharmacy technician, to the 1511
person specified in the statement; 1512

(2) That the records of the board show that an identification 1513
card and license, if issued, has been revoked or suspended. 1514

Sec. 4729.15. The state board of pharmacy shall charge the 1515
following fees: 1516

(A) For applying for a license to practice as a pharmacist, 1517
an amount adequate to cover all rentals, compensation for 1518
proctors, and other expenses of the board related to examination 1519
except the expenses of procuring and grading the examination, 1520
which fee shall not be returned if the applicant fails to pass the 1521
examination; 1522

(B) For the examination of an applicant for licensure as a 1523
pharmacist, an amount adequate to cover any expenses to the board 1524
of procuring and grading the examination or any part thereof, 1525
which fee shall not be returned if the applicant fails to pass the 1526
examination; 1527

(C) For issuing a license and an identification card to an 1528
individual who passes the examination described in section 4729.07 1529
of the Revised Code or applies for a license to work as a pharmacy 1530
technician, an amount that is adequate to cover the expense; 1531

(D) For a pharmacist or pharmacy technician applying for 1532
renewal of an identification card ~~within~~ not later than sixty days 1533
after the expiration date, ninety-seven dollars and fifty cents or 1534

the amount determined by the board, respectively, which fee shall 1535
not be returned if the applicant fails to qualify for renewal; 1536

(E) For a pharmacist or pharmacy technician applying for 1537
renewal of an identification card that has lapsed for more than 1538
sixty days, but for less than three years, one hundred thirty-five 1539
dollars or the amount determined by the board, respectively, which 1540
fee shall not be returned if the applicant fails to qualify for 1541
renewal; 1542

(F) For a pharmacist or pharmacy technician applying for 1543
renewal of an identification card that has lapsed for more than 1544
three years, three hundred thirty-seven dollars and fifty cents or 1545
the amount determined by the board, respectively, which fee shall 1546
not be returned if the applicant fails to qualify for renewal; 1547

(G) For a pharmacist applying for a license and 1548
identification card, on presentation of a pharmacist license 1549
granted by another state, three hundred thirty-seven dollars and 1550
fifty cents, which fee shall not be returned if the applicant 1551
fails to qualify for licensure. 1552

(H) For a license and identification card to practice as a 1553
pharmacy intern, twenty-two dollars and fifty cents, which fee 1554
shall not be returned if the applicant fails to qualify for 1555
licensure; 1556

(I) For the renewal of a pharmacy intern identification card, 1557
twenty-two dollars and fifty cents, which fee shall not be 1558
returned if the applicant fails to qualify for renewal; 1559

(J) For a license and identification card to practice as a 1560
pharmacy technician, an amount determined by the board not to 1561
exceed fifty dollars, which fee shall not be returned if the 1562
applicant fails to qualify for licensure; 1563

(K) For issuing a replacement license to a pharmacist, 1564
twenty-two dollars and fifty cents; 1565

(K) (L) For issuing a replacement license to a pharmacy intern <u>or pharmacy technician</u> , seven dollars and fifty cents;	1566 1567
(L) (M) For issuing a replacement identification card to a pharmacist, thirty-seven dollars and fifty cents, or pharmacy intern <u>or pharmacy technician</u> , seven dollars and fifty cents;	1568 1569 1570
(M) (N) For certifying licensure and grades for reciprocal licensure, ten dollars;	1571 1572
(N) (O) For making copies of any application, affidavit, or other document filed in the state board of pharmacy office, an amount fixed by the board that is adequate to cover the expense, except that for copies required by federal or state agencies or law enforcement officers for official purposes, no charge need be made;	1573 1574 1575 1576 1577 1578
(O) (P) For certifying and affixing the seal of the board, an amount fixed by the board that is adequate to cover the expense, except that for certifying and affixing the seal of the board to a document required by federal or state agencies or law enforcement officers for official purposes, no charge need be made;	1579 1580 1581 1582 1583
(P) (Q) For each copy of a book or pamphlet that includes laws administered by the state board of pharmacy, rules adopted by the board, and chapters of the Revised Code with which the board is required to comply, an amount fixed by the board that is adequate to cover the expense of publishing and furnishing the book or pamphlet.	1584 1585 1586 1587 1588 1589
Sec. 4729.16. (A) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense, or in the case of a	1590 1591 1592 1593 1594 1595

violation of a section of the Revised Code that does not bear a 1596
penalty, a monetary penalty or forfeiture of not more than five 1597
hundred dollars, if the board finds a ~~pharmacist or pharmacy~~ 1598
~~intern~~ an individual licensed under, or who has applied for 1599
licensure under, section 4729.08, 4729.09, 4729.11, 4729.42, or 1600
4729.43 of the Revised Code: 1601

(1) Guilty of a felony or gross immorality; 1602

(2) Guilty of dishonesty or unprofessional conduct in the 1603
practice of pharmacy or work as a pharmacy technician; 1604

(3) Addicted to or abusing liquor or drugs or impaired 1605
physically or mentally to such a degree as to render the 1606
~~pharmacist or pharmacy intern~~ individual unfit to practice 1607
pharmacy or to work as a pharmacy technician; 1608

(4) Has been convicted of a misdemeanor related to, or 1609
committed in, the practice of pharmacy or work as a pharmacy 1610
technician; 1611

(5) Guilty of willfully violating, conspiring to violate, 1612
attempting to violate, or aiding and abetting the violation of any 1613
of the provisions of this chapter, sections 3715.52 to 3715.72 of 1614
the Revised Code, Chapter 2925. or 3719. of the Revised Code, or 1615
any rule adopted by the board under those provisions; 1616

(6) Guilty of permitting anyone other than a pharmacist or 1617
pharmacy intern to practice pharmacy or anyone other than a 1618
pharmacy technician to work as a pharmacy technician; 1619

(7) Guilty of knowingly lending the pharmacist's or pharmacy 1620
intern's name to an illegal practitioner of pharmacy or having 1621
professional connection with an illegal practitioner of pharmacy; 1622

(8) Guilty of dividing or agreeing to divide remuneration 1623
made in the practice of pharmacy with any other individual, 1624
including, but not limited to, any licensed health professional 1625

authorized to prescribe drugs or any owner, manager, or employee	1626
of a health care facility, residential care facility, or nursing	1627
home;	1628
(9) Has violated the terms of a consult agreement entered	1629
into pursuant to section 4729.39 of the Revised Code;	1630
(10) Has committed fraud, misrepresentation, or deception in	1631
applying for or securing a license or identification card issued	1632
by the board under this chapter or under Chapter 3715. or 3719. of	1633
the Revised Code.	1634
(B) Any individual whose identification card is revoked,	1635
suspended, or refused, shall return the identification card and	1636
license to the offices of the state board of pharmacy within ten	1637
days after receipt of notice of such action.	1638
(C) As used in this section:	1639
"Unprofessional conduct in the practice of pharmacy" includes	1640
any of the following:	1641
(1) Advertising or displaying signs that promote dangerous	1642
drugs to the public in a manner that is false or misleading;	1643
(2) Except as provided in section 4729.281 of the Revised	1644
Code, the sale of any drug for which a prescription is required,	1645
without having received a prescription for the drug;	1646
(3) Knowingly dispensing medication pursuant to false or	1647
forged prescriptions;	1648
(4) Knowingly failing to maintain complete and accurate	1649
records of all dangerous drugs received or dispensed in compliance	1650
with federal laws and regulations and state laws and rules;	1651
(5) Obtaining any remuneration by fraud, misrepresentation,	1652
or deception.	1653
(D) The board may suspend a license or identification card	1654

under division (B) of section 3719.121 of the Revised Code by 1655
utilizing a telephone conference call to review the allegations 1656
and take a vote. 1657

(E) If, pursuant to an adjudication under Chapter 119. of the 1658
Revised Code, the board has reasonable cause to believe that a 1659
pharmacist ~~or~~, pharmacy intern, or pharmacy technician is 1660
physically or mentally impaired, the board may require the 1661
pharmacist ~~or~~, pharmacy intern, or pharmacy technician to submit 1662
to a physical or mental examination, or both. 1663

Sec. 4729.18. The state board of pharmacy shall adopt rules 1664
in accordance with Chapter 119. of the Revised Code establishing 1665
standards for approving and designating physicians and facilities 1666
as treatment providers for ~~pharmacists~~ individuals licensed under 1667
section 4729.08, 4729.09, 4729.11, or 4729.43 of the Revised Code 1668
with substance abuse problems and shall approve and designate 1669
treatment providers in accordance with the rules. The rules shall 1670
include standards for both inpatient and outpatient treatment. The 1671
rules shall provide that to be approved, a treatment provider must 1672
be capable of making an initial examination to determine the type 1673
of treatment required for a ~~pharmacist~~ licensee with substance 1674
abuse problems. Subject to the rules, the board shall review and 1675
approve treatment providers on a regular basis and may, at its 1676
discretion, withdraw or deny approval. 1677

An approved treatment provider shall: 1678

(A) Report to the board the name of any ~~pharmacist~~ licensee 1679
suffering or showing evidence of suffering impairment by reason of 1680
being addicted to or abusing liquor or drugs as described in 1681
division (A)(3) of section 4729.16 of the Revised Code who fails 1682
to comply within one week with a referral for examination; 1683

(B) Report to the board the name of any impaired ~~pharmacist~~ 1684

<u>licensee</u> who fails to enter treatment within forty-eight hours	1685
following the provider's determination that the pharmacist	1686
<u>licensee</u> needs treatment;	1687
(C) Require every pharmacist <u>licensee</u> who enters treatment to	1688
agree to a treatment contract establishing the terms of treatment	1689
and aftercare, including any required supervision or restrictions	1690
of practice <u>or work</u> during treatment or aftercare;	1691
(D) Require a pharmacist <u>licensee</u> to suspend practice <u>or work</u>	1692
on entering any required inpatient treatment;	1693
(E) Report to the board any failure by an impaired pharmacist	1694
<u>licensee</u> to comply with the terms of the treatment contract during	1695
inpatient or outpatient treatment or aftercare;	1696
(F) Report to the board the resumption of practice <u>or work</u> of	1697
any impaired pharmacist <u>licensee</u> before the treatment provider has	1698
made a clear determination that the pharmacist <u>licensee</u> is capable	1699
of practicing <u>or working</u> according to acceptable and prevailing	1700
standards;	1701
(G) Require a pharmacist <u>licensee</u> who resumes practice <u>or</u>	1702
<u>work</u> after completion of treatment to comply with an aftercare	1703
contract that meets the requirements of rules adopted by the board	1704
for approval of treatment providers;	1705
(H) Report to the board any pharmacist <u>licensee</u> who suffers a	1706
relapse at any time during or following aftercare.	1707
Any pharmacist <u>licensee</u> who enters into treatment by an	1708
approved treatment provider shall be deemed to have waived any	1709
confidentiality requirements that would otherwise prevent the	1710
treatment provider from making reports required under this	1711
section.	1712
In the absence of fraud or bad faith, no professional	1713
association of pharmacists, <u>pharmacy interns, or pharmacy</u>	1714

technicians licensed under this chapter that sponsors a committee 1715
or program to provide peer assistance to ~~pharmacists~~ licensee with 1716
substance abuse problems, no representative or agent of such a 1717
committee or program, and no member of the state board of pharmacy 1718
shall be liable to any person for damages in a civil action by 1719
reason of actions taken to refer a ~~pharmacist~~ licensee to a 1720
treatment provider designated by the board or actions or omissions 1721
of the provider in treating a ~~pharmacist~~ licensee. 1722

In the absence of fraud or bad faith, no person who reports 1723
to the board a ~~pharmacist~~ licensee with a suspected substance 1724
abuse problem shall be liable to any person for damages in a civil 1725
action as a result of the report. 1726

Sec. 4729.26. The state board of pharmacy may adopt rules in 1727
accordance with Chapter 119. of the Revised Code, not inconsistent 1728
with the law, as may be necessary to carry out the purposes of and 1729
to enforce the provisions of this chapter. The rules shall be 1730
published and made available by the board to each pharmacist, 1731
pharmacy intern, and pharmacy technician licensed under this 1732
chapter. 1733

Sec. 4729.271. A person who owns, manages, or conducts a 1734
pharmacy shall do both of the following with respect to 1735
individuals who are not pharmacists, pharmacy interns, or pharmacy 1736
technicians but who aid such individuals in the operation of the 1737
pharmacy: 1738

(A) Create and maintain a record on each aide; 1739

(B) Develop a written policy regarding the activities the 1740
aides are authorized to perform and educate the aides regarding 1741
the policy. 1742

Sec. 4729.28. No person who is not a pharmacist, or a 1743

pharmacy intern or pharmacy technician working under the personal 1744
supervision of a pharmacist as authorized by this chapter, shall 1745
compound, dispense, or sell dangerous drugs or otherwise engage in 1746
the practice of pharmacy or work as a pharmacy technician. 1747

Sec. 4729.38. (A) Unless instructed otherwise by the person 1748
receiving the drug pursuant to the prescription, a pharmacist 1749
filling a prescription for a drug prescribed by its brand name may 1750
select a generically equivalent drug, as defined in section 1751
3715.01 of the Revised Code, subject to the following conditions: 1752

(1) The pharmacist shall not select a generically equivalent 1753
drug if the prescriber handwrites "dispense as written," or 1754
"D.A.W.," on the written prescription, or, when ordering a 1755
prescription electronically or orally, the prescriber specifies 1756
that the prescribed drug is medically necessary. These 1757
designations shall not be preprinted or stamped on the 1758
prescription. Division (A)(1) of this section does not preclude a 1759
reminder of the procedure required to prohibit the selection of a 1760
generically equivalent drug from being preprinted on the 1761
prescription. 1762

(2) The pharmacist shall not select a generically equivalent 1763
drug unless its price to the patient is less than or equal to the 1764
price of the prescribed drug. 1765

(3) The pharmacist, or ~~the pharmacist's~~ a pharmacy intern, 1766
pharmacy technician, or agent, aide, assistant, or employee of the 1767
pharmacist shall inform the patient or the patient's agent if a 1768
generically equivalent drug is available at a lower or equal cost, 1769
and of the person's right to refuse the drug selected. Division 1770
(A)(3) of this section does not apply to any: 1771

(a) Prescription that is billed to any agency, division, or 1772
department of this state which will reimburse the pharmacy; 1773

(b) Prescriptions for patients of a hospital, nursing home, 1774
or similar patient care facility. 1775

(B) Unless the prescriber instructs otherwise, the label for 1776
every drug dispensed shall include the drug's brand name, if any, 1777
or its generic name and the name of the distributor, using 1778
abbreviations if necessary. When dispensing at retail a 1779
generically equivalent drug for the brand name drug prescribed, 1780
the pharmacist shall indicate on the drug's label or container 1781
that a generic substitution was made. The labeling requirements 1782
established by this division are in addition to all other labeling 1783
requirements of Chapter 3715. of the Revised Code. 1784

(C) A pharmacist who selects a generically equivalent drug 1785
pursuant to this section assumes no greater liability for 1786
selecting the dispensed drug than would be incurred in filling a 1787
prescription for a drug prescribed by its brand name. 1788

(D) The failure of a prescriber to restrict a prescription by 1789
specifying "dispense as written," or "D.A.W.," pursuant to 1790
division (A)(1) of this section shall not constitute evidence of 1791
the prescriber's negligence unless the prescriber had reasonable 1792
cause to believe that the health condition of the patient for whom 1793
the drug was intended warranted the prescription of a specific 1794
brand name drug and no other. No prescriber shall be liable for 1795
civil damages or in any criminal prosecution arising from the 1796
interchange of a generically equivalent drug for a prescribed 1797
brand name drug by a pharmacist, unless the prescribed brand name 1798
drug would have reasonably caused the same loss, damage, injury, 1799
or death. 1800

Sec. 4729.42. (A) An individual desiring to be licensed to 1801
work as a pharmacy technician in this state shall file with the 1802
executive director of the state board of pharmacy a written 1803
application for licensure as a pharmacy technician, under oath, on 1804

a form prescribed by the board. The application shall be
accompanied by the fee required by division (C) of section 4729.15
of the Revised Code. An application filed under this section may
not be withdrawn without the approval of the board.

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(B) At the time of application, the applicant shall meet all
of the following requirements:

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(1) Be eighteen years of age or older.

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(2) Possess a high school diploma or the equivalent of a high
school diploma, as determined by the board.

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(3) Have results of a criminal records check completed and
sent to the board by the bureau of criminal identification and
investigation indicating that the individual has not been
convicted of, pleaded guilty to, or had a judicial finding of
guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11,
2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11
of the Revised Code or a substantially similar law of another
state, the United States, or another country. The records check
shall include a check of federal bureau of investigation records.

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(4) Have submitted written evidence satisfactory to the board
of either of the following:

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(a) That the applicant has passed the examination for
pharmacy technician certification administered by the pharmacy
technician certification board or a person with which the pharmacy
technician certification board contracts with to administer the
examination on the board's behalf;

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(b) That the applicant has successfully completed both of the
following:

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(i) A pharmacy technician educational program approved by the
board;

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(ii) The minimum number of hours of pharmacy technician training established by the board in rules adopted under section 4729.49 of the Revised Code. 1834
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Sec. 4729.43. An applicant who submits an application under section 4729.42 of the Revised Code shall be issued an identification card and license to work as a pharmacy technician in this state if the board determines that all of the following are true: 1837
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(A) The applicant meets all the requirements of section 4729.42 of the Revised Code; 1842
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(B) The applicant satisfies either of the following criteria: 1844

(1) The applicant has not been found by the board to have committed an act that is grounds for disciplinary action under section 4729.16 of the Revised Code; 1845
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(2) The applicant has been found by the board to have committed an act that is grounds for disciplinary action under section 4729.16 of the Revised Code, but the board has determined that the applicant has made restitution, been rehabilitated, or both. 1848
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Sec. 4729.44. (A) An identification card issued by the state board of pharmacy under section 4729.43 of the Revised Code entitles the individual to whom it is issued to work as a pharmacy technician in this state until the next biennial renewal date. 1853
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(B) Identification cards shall be renewed biennially, on a date determined by the board, according to the standard renewal procedure of Chapter 4745. of the Revised Code. 1857
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(C) Each pharmacy technician shall, while working as a pharmacy technician, carry the identification card or renewal identification card and wear a badge or nameplate that clearly 1860
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identifies the technician's name and status as a licensed pharmacy technician. 1863
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(D) A pharmacy technician who desires to continue working as a pharmacy technician shall file with the board an application in such form and containing such data as the board may require for renewal of an identification card. An application filed under this section may not be withdrawn without the approval of the board. If the board finds that the applicant's card has not been revoked or placed under suspension and that the applicant has paid the renewal fee, has completed the minimum number of continuing education hours, if any, required by the board in rules adopted under section 4729.49 of the Revised Code, and is entitled to continue being licensed as a pharmacy technician, the board shall issue a renewal identification card to the applicant. 1865
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(E) When an identification card has lapsed for more than sixty days but application for renewal is made not later than three years after the expiration of the card, the applicant shall be issued a renewal identification card if the applicant meets the requirements of this section and pays a late renewal fee designated under section 4729.15 of the Revised Code. 1877
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(F)(1) Except as provided in division (F)(2) of this section, when an identification card has lapsed for more than three years after the expiration of the card, the applicant shall be issued a renewal card if the applicant meets the requirements of this section, the additional requirements specified by the board in rules adopted under section 4729.69 of the Revised Code, and pays the fee designated under division (F) of section 4729.15 of the Revised Code. 1883
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(2) An applicant described in division (F)(1) of this section who has continually worked as a pharmacy technician in another state under a license, certificate, or registration issued by the 1891
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authority of that state is exempt from having to meet the 1894
additional requirements specified by the board in rules adopted 1895
under section 4729.69 of the Revised Code. 1896

Sec. 4729.45. A replacement license or identification card 1897
may be issued to a person registered with the state board of 1898
pharmacy to work as a pharmacy technician whose license or 1899
identification card has been lost or destroyed on the condition 1900
that the applicant, by affidavit, sets forth the facts concerning 1901
the loss or destruction of the previously issued license or 1902
identification card. 1903

Sec. 4729.46. (A) Subject to division (C) of this section, a 1904
pharmacy technician may assist a pharmacist or pharmacy intern in 1905
the following activities: 1906

(1) Receiving prescriptions and requests for prescription 1907
refills, either on paper or by the means described in section 1908
4729.37 of the Revised Code; 1909

(2) Verifying the accuracy of information on a prescription; 1910

(3) Dispensing drugs in accordance with section 4729.01 of 1911
the Revised Code and procedures established by the board in rules 1912
adopted under section 4729.49 of the Revised Code; 1913

(4) Compounding of drugs in accordance with section 4729.01 1914
of the Revised Code and procedures established by the board in 1915
rules adopted under section 4729.49 of the Revised Code; 1916

(5) Creation and maintenance of patient information; 1917

(6) Preparation of insurance forms and documentation; 1918

(7) Stocking and inventorying prescription drugs and 1919
over-the-counter medications; 1920

(8) Any other activity that is for the purpose of assisting a 1921

pharmacist or pharmacy intern and is relevant or necessary to the 1922
operation of a pharmacy. 1923

(B) In addition to the duties specified in division (A) of 1924
this section, a pharmacy technician working in a nursing home, 1925
residential care facility, or hospital may, subject to division 1926
(C) of this section, do all of the following: 1927

(1) Review patient charts; 1928

(2) In accordance with division (D) of this section, package 1929
in individual doses, label, and deliver to patients medications, 1930
but this authority does not include authority to administer 1931
medications to patients. 1932

(3) Any other duties specified by the board in rules adopted 1933
under section 4729.49 of the Revised Code. 1934

(C) A pharmacy technician may assist in the activities 1935
described in division (A) or (B) of this section only if the 1936
activity is done under the direct supervision of a pharmacist. For 1937
purposes of this division, "direct supervision" means that a 1938
pharmacist is on site, able to provide supervision, and properly 1939
reviews the activities of the pharmacy technician. 1940

(D) If, as described in division (B)(2) of this section, a 1941
pharmacy technician packages or labels medication, or intends to 1942
deliver medication to a patient, prior to delivery of the 1943
medication to the patient, a pharmacist must review the medication 1944
that has been packaged or labeled or is intended to be delivered. 1945

Sec. 4729.47. At no time shall a pharmacist supervise more 1946
than three pharmacy technicians during a work shift. 1947

Sec. 4729.48. (A) Except as provided in division (B) of this 1948
section, no individual who is not a pharmacist, pharmacy intern, 1949
or pharmacy technician licensed under this chapter shall engage in 1950

the activities in division (A) of section 4729.46 of the Revised Code. 1951
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(B) Division (A) of this section does not prohibit an individual from performing any services a pharmacist, pharmacy intern, or pharmacy technician may be authorized to perform if the person's professional scope of practice established under any other chapter of the Revised Code authorizes the individual to perform the services. 1953
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Sec. 4729.49. The state board of pharmacy shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following: 1959
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(A) For purposes of division (B)(4)(b)(ii) of section 4729.42 of the Revised Code, determine the minimum number of hours of pharmacy technician training an applicant for licensure to work as a pharmacy technician must successfully complete. 1962
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1964
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(B) For purposes of division (D) of section 4729.44 of the Revised Code, determine the minimum number of hours of continuing education, if any, an individual must successfully complete on a biennial basis to renew a license to work as a pharmacy technician. 1966
1967
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1969
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(C) For purposes of division (F) of section 4729.44 of the Revised Code, specify the additional requirements an individual must meet to renew an identification card and license to work as a pharmacy technician that has lapsed for more than three years after expiration. 1971
1972
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(D) For purposes of divisions (A) and (B) of section 4729.46 of the Revised Code, establish both of the following: 1976
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(1) Procedures pharmacy technicians must follow when dispensing prescriptions and compounding drugs under a 1978
1979

<u>pharmacist's supervision.</u>	1980
<u>(2) Any duties in addition to those specified in section</u>	1981
<u>4729.46 of the Revised Code, a pharmacy technician may perform</u>	1982
<u>while working in a nursing home, residential care facility, or</u>	1983
<u>hospital.</u>	1984
Sec. 4729.55. No license shall be issued to an applicant for	1985
licensure as a terminal distributor of dangerous drugs unless the	1986
applicant has furnished satisfactory proof to the state board of	1987
pharmacy that:	1988
(A) The applicant is equipped as to land, buildings, and	1989
equipment to properly carry on the business of a terminal	1990
distributor of dangerous drugs within the category of licensure	1991
approved by the board.	1992
(B) A pharmacist, licensed health professional authorized to	1993
prescribe drugs, animal shelter licensed with the state board of	1994
pharmacy under section 4729.531 of the Revised Code, or a	1995
laboratory as defined in section 3719.01 of the Revised Code will	1996
maintain supervision and control over the possession and custody	1997
of dangerous drugs that may be acquired by or on behalf of the	1998
applicant.	1999
(C) Adequate safeguards are assured to prevent the sale or	2000
other distribution of dangerous drugs by any person other than a	2001
pharmacist or licensed health professional authorized to prescribe	2002
drugs.	2003
(D) Adequate safeguards are assured that the applicant will	2004
carry on the business of a terminal distributor of dangerous drugs	2005
in a manner that allows pharmacists and , <u>pharmacy interns, and</u>	2006
<u>pharmacy technicians</u> employed by the terminal distributor to	2007
practice pharmacy <u>or work as pharmacy technicians</u> in a safe and	2008
effective manner.	2009

(E) If the applicant, or any agent or employee of the applicant, has been found guilty of violating section 4729.51 of the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal drug abuse control laws, Chapter 2925., 3715., 3719., or 4729. of the Revised Code, or any rule of the board, adequate safeguards are assured to prevent the recurrence of the violation.

(F) In the case of an applicant who is a food processor or retail seller of food, the applicant will maintain supervision and control over the possession and custody of nitrous oxide.

(G) In the case of an applicant who is a retail seller of oxygen in original packages labeled as required by the "Federal Food, Drug, and Cosmetic Act," the applicant will maintain supervision and control over the possession, custody, and retail sale of the oxygen.

(H) If the application is made on behalf of an animal shelter, at least one of the agents or employees of the animal shelter is certified in compliance with section 4729.532 of the Revised Code.

(I) In the case of an applicant who is a retail seller of peritoneal dialysis solutions in original packages labeled as required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the applicant will maintain supervision and control over the possession, custody, and retail sale of the peritoneal dialysis solutions.

Sec. 4729.99. (A) Whoever violates section 4729.16, division (A) or (B) of section 4729.38, or section 4729.57 of the Revised Code is guilty of a minor misdemeanor. Each day's violation constitutes a separate offense.

(B) Whoever violates section 4729.27, 4729.28, ~~or~~ 4729.36, or

4729.48 of the Revised Code is guilty of a misdemeanor of the 2040
third degree. Each day's violation constitutes a separate offense. 2041
If the offender previously has been convicted of or pleaded guilty 2042
to a violation of this chapter, that person is guilty of a 2043
misdemeanor of the second degree. 2044

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of 2045
the Revised Code is guilty of a misdemeanor. 2046

(D) Whoever violates division (A), (B), (D), or (E) of 2047
section 4729.51 of the Revised Code is guilty of a misdemeanor of 2048
the first degree. 2049

(E)(1) Whoever violates section 4729.37, division (C)(2) of 2050
section 4729.51, division (J) of section 4729.54, or section 2051
4729.61 of the Revised Code is guilty of a felony of the fifth 2052
degree. If the offender previously has been convicted of or 2053
pleaded guilty to a violation of this chapter or a violation of 2054
Chapter 2925. or 3719. of the Revised Code, that person is guilty 2055
of a felony of the fourth degree. 2056

(2) If an offender is convicted of or pleads guilty to a 2057
violation of section 4729.37, division (C) of section 4729.51, 2058
division (J) of section 4729.54, or section 4729.61 of the Revised 2059
Code, if the violation involves the sale, offer to sell, or 2060
possession of a schedule I or II controlled substance, with the 2061
exception of marihuana, and if the court imposing sentence upon 2062
the offender finds that the offender as a result of the violation 2063
is a major drug offender, as defined in section 2929.01 of the 2064
Revised Code, and is guilty of a specification of the type 2065
described in section 2941.1410 of the Revised Code, the court, in 2066
lieu of the prison term authorized or required by division (E)(1) 2067
of this section and sections 2929.13 and 2929.14 of the Revised 2068
Code and in addition to any other sanction imposed for the offense 2069
under sections 2929.11 to 2929.18 of the Revised Code, shall 2070
impose upon the offender, in accordance with division (D)(3)(a) of 2071

section 2929.14 of the Revised Code, the mandatory prison term 2072
specified in that division and may impose an additional prison 2073
term under division (D)(3)(b) of that section. 2074

(3) Notwithstanding any contrary provision of section 3719.21 2075
of the Revised Code, the clerk of court shall pay any fine imposed 2076
for a violation of section 4729.37, division (C) of section 2077
4729.51, division (J) of section 4729.54, or section 4729.61 of 2078
the Revised Code pursuant to division (A) of section 2929.18 of 2079
the Revised Code in accordance with and subject to the 2080
requirements of division (F) of section 2925.03 of the Revised 2081
Code. The agency that receives the fine shall use the fine as 2082
specified in division (F) of section 2925.03 of the Revised Code. 2083

(F) Whoever violates section 4729.531 of the Revised Code or 2084
any rule adopted thereunder or section 4729.532 of the Revised 2085
Code is guilty of a misdemeanor of the first degree. 2086

(G) Whoever violates division (C)(1) of section 4729.51 of 2087
the Revised Code is guilty of a felony of the fourth degree. If 2088
the offender has previously been convicted of or pleaded guilty to 2089
a violation of this chapter, or of a violation of Chapter 2925. or 2090
3719. of the Revised Code, that person is guilty of a felony of 2091
the third degree. 2092

(H) Whoever violates division (C)(3) of section 4729.51 of 2093
the Revised Code is guilty of a misdemeanor of the first degree. 2094
If the offender has previously been convicted of or pleaded guilty 2095
to a violation of this chapter, or of a violation of Chapter 2925. 2096
or 3719. of the Revised Code, that person is guilty of a felony of 2097
the fifth degree. 2098

Section 2. That existing sections 2305.234, 2925.01, 2925.09, 2099
3715.01, 3715.64, 3719.01, 3719.12, 3719.121, 4303.34, 4729.01, 2100
4729.06, 4729.15, 4729.16, 4729.18, 4729.26, 4729.28, 4729.38, 2101
4729.55, and 4729.99 of the Revised Code are hereby repealed. 2102

