As Introduced

133rd General Assembly
Regular Session
2019-2020

S. B. No. 166

Senators Kunze, Craig
Cosponsors: Senators Fedor, Maharath

A BILL

To amend sections 2907.01, 2907.05, 2907.17, 2907.18, 2907.24, 4715.30, 4729.16, 4730.25, 4731.22, 4732.17, 4732.171, 4755.11, 4755.47, and 4755.64, to enact sections 4725.241 and 4753.102 of the Revised Code, and to amend the version of section 2907.05 of the Revised Code that is scheduled to take effect March 22, 2020, to prohibit unlawful sexual contact between health care professionals and patients and to revoke professional licenses for criminal misconduct.

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

Section 1. That sections 2907.01, 2907.05, 2907.17, 2907.18, 2907.24, 4715.30, 4729.16, 4730.25, 4731.22, 4732.17, 4732.171, 4755.11, 4755.47, and 4755.64 be amended and sections 4725.241 and 4753.102 of the Revised Code be enacted to read as follows:

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and 2917.211 of the Revised Code:
(A) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

(B) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

(C) "Sexual activity" means sexual conduct or sexual contact, or both.

(D) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

(E) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

(1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.

(2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.

(3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.
(F) When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is "obscene" if any of the following apply:

(1) Its dominant appeal is to prurient interest;

(2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;

(3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;

(4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;

(5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

(G) "Sexual excitement" means the condition of human male
or female genitals when in a state of sexual stimulation or arousal.

(H) "Nudity" means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

(I) "Juvenile" means an unmarried person under the age of eighteen.

(J) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.

(K) "Performance" means any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.

(L) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:

1. When the parties have entered into a written separation agreement authorized by section 3103.06 of the Revised Code;

2. During the pendency of an action between the parties
for annulment, divorce, dissolution of marriage, or legal separation;

(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

(M) "Minor" means a person under the age of eighteen.

(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.

(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.

(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.

(Q) "Licensed health care professional" means any of the following health care professionals:

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

(2) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(3) An optometrist licensed under Chapter 4725. of the Revised Code;

(4) A physician assistant licensed under Chapter 4730. of the Revised Code;

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

(6) A psychologist licensed under Chapter 4732. of the Revised Code:
(7) A chiropractor licensed under Chapter 4734. of the Revised Code;

(8) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(9) An occupational therapist, physical therapist, or athletic trainer licensed under Chapter 4755. of the Revised Code;

(10) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code.

(R) "Person with a developmental disability" has the same meaning as in section 2905.32 of the Revised Code.

Sec. 2907.05. (A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:

(1) The offender purposely compels the other person, or one of the other persons, to submit by force or threat of force.

(2) For the purpose of preventing resistance, the offender substantially impairs the judgment or control of the other person or of one of the other persons by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(3) The offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination,
treatment, or surgery.

(4) The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person.

(5) The ability of the other person to resist or consent or the ability of one of the other persons to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age.

(6) The offender is a licensed health care professional and has sexual contact with another person who is a patient under the offender's care or supervision and one of the following applies:

(a) The offender knows that the sexual contact is offensive to the patient, or is reckless in that regard;

(b) The patient is less than sixteen years of age, whether or not the offender knows the age of the patient;

(c) The patient is a person with a developmental disability, whether or not the offender knows that the patient is a person with a developmental disability.

(B) No person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
(C) Whoever violates this section is guilty of gross sexual imposition.

(1) Except as otherwise provided in this section, gross sexual imposition committed in violation of division (A)(1), (2), (3), or (5) of this section is a felony of the fourth degree. If the offender under division (A)(2) of this section substantially impairs the judgment or control of the other person or one of the other persons by administering any controlled substance described in section 3719.41 of the Revised Code to the person surreptitiously or by force, threat of force, or deception, gross sexual imposition committed in violation of division (A)(2) of this section is a felony of the third degree.

(2) Gross sexual imposition committed in violation of division (A)(4) or (B) of this section is a felony of the third degree. Except as otherwise provided in this division, for gross sexual imposition committed in violation of division (A)(4) or (B) of this section there is a presumption that a prison term shall be imposed for the offense. The court shall impose on an offender convicted of gross sexual imposition in violation of division (A)(4) or (B) of this section a mandatory prison term, as described in division (C)(3) of this section, for a felony of the third degree if either of the following applies:

(a) Evidence other than the testimony of the victim was admitted in the case corroborating the violation;

(b) The offender previously was convicted of or pleaded guilty to a violation of this section, rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.
(3) A mandatory prison term required under division (C)(2) of this section shall be a definite term from the range of prison terms provided in division (A)(3)(a) of section 2929.14 of the Revised Code for a felony of the third degree.

(4) Except as otherwise provided in this division, gross sexual imposition committed in violation of division (A)(6) of this section is a felony of the fifth degree. If the patient was thirteen years of age or older but less than eighteen years of age or if the patient was a person with a developmental disability, a violation of division (A)(6) of this section is a felony of the third degree and there is a presumption that a prison term shall be imposed for the offense. If the patient was less than thirteen years of age, a violation of division (A)(6) of this section is a felony of the second degree and the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed in division (A)(2)(a) of section 2929.14 of the Revised Code for a felony of the second degree.

(D) A victim need not prove physical resistance to the offender in prosecutions under this section.

(E) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.
activity, opinion evidence of the defendant's sexual activity,
and reputation evidence of the defendant's sexual activity shall
not be admitted under this section unless it involves evidence
of the origin of semen, pregnancy, or disease, the defendant's
past sexual activity with the victim, or is admissible against
the defendant under section 2945.59 of the Revised Code, and
only to the extent that the court finds that the evidence is
material to a fact at issue in the case and that its
inflammatory or prejudicial nature does not outweigh its
probative value.

(F) Prior to taking testimony or receiving evidence of any
sexual activity of the victim or the defendant in a proceeding
under this section, the court shall resolve the admissibility of
the proposed evidence in a hearing in chambers, which shall be
held at or before preliminary hearing and not less than three
days before trial, or for good cause shown during the trial.

(G) Upon approval by the court, the victim may be
represented by counsel in any hearing in chambers or other
proceeding to resolve the admissibility of evidence. If the
victim is indigent or otherwise is unable to obtain the services
of counsel, the court, upon request, may appoint counsel to
represent the victim without cost to the victim.

Sec. 2907.17. If a mental health professional or licensed
health care professional is indicted or charged and bound over
to the court of common pleas for trial for an alleged violation
of division (A)(10) of section 2907.03, division (A)(6) of
section 2907.05, or division (A)(5) of section 2907.06 of the
Revised Code, the prosecuting attorney handling the case shall
send written notice of the indictment or the charge and bind
over to the regulatory or licensing board or agency, if any,
that has the administrative authority to suspend or revoke the
mental health professional or licensed health care professional's professional license, certification,
registration, or authorization.

Sec. 2907.18. If a mental health professional or licensed health care professional is convicted of or pleads guilty to a violation of division (A)(10) of section 2907.03, division (A) (6) of section 2907.05, or division (A)(5) of section 2907.06 of the Revised Code, the court shall transmit a certified copy of the judgment entry of conviction to the regulatory or licensing board or agency, if any, that has the administrative authority to suspend or revoke the mental health professional or licensed health care professional's professional license, certification, registration, or authorization.

Sec. 2907.24. (A)(1) No person shall solicit another who is eighteen years of age or older to engage with such other person in sexual activity for hire.

(2) No person shall solicit another to engage with such other person in sexual activity for hire if the other person is sixteen or seventeen years of age and the offender knows that the other person is sixteen or seventeen years of age or is reckless in that regard.

(3) No person shall solicit another to engage with such other person in sexual activity for hire if either of the following applies:

(a) The other person is less than sixteen years of age, whether or not the offender knows the age of the other person.

(b) The other person is a person with a developmental disability and the offender knows or has reasonable cause to
believe the other person is a person with a developmental
disability.

(B) No person, with knowledge that the person has tested
positive as a carrier of a virus that causes acquired
immunodeficiency syndrome, shall engage in conduct in violation
of division (A) of this section.

(C)(1) Whoever violates division (A) of this section is
 guilty of soliciting. A violation of division (A)(1) of this
section is a misdemeanor of the third degree. A violation of
division (A)(2) of this section is a felony of the fifth degree.
A violation of division (A)(3) of this section is a felony of
the third degree.

(2) Whoever violates division (B) of this section is
 guilty of engaging in solicitation after a positive HIV test. If
the offender commits the violation prior to July 1, 1996,
engaging in solicitation after a positive HIV test is a felony
of the second degree. If the offender commits the violation on
or after July 1, 1996, engaging in solicitation after a positive
HIV test is a felony of the third degree.

(D) If a person is convicted of or pleads guilty to a
violation of any provision of this section, an attempt to commit
a violation of any provision of this section, or a violation of
or an attempt to commit a violation of a municipal ordinance
that is substantially equivalent to any provision of this
section and if the person, in committing or attempting to commit
the violation, was in, was on, or used a motor vehicle, the
court, in addition to or independent of all other penalties
imposed for the violation, may impose upon the offender a class
six suspension of the person's driver's license, commercial
driver's license, temporary instruction permit, probationary
license, or nonresident operating privilege from the range
specified in division (A)(6) of section 4510.02 of the Revised
Code. In lieu of imposing upon the offender the class six
suspension, the court instead may require the offender to
perform community service for a number of hours determined by
the court.

(E) As used in this section:

(1) "Person with a developmental disability" has the same
meaning as in section 2905.32 of the Revised Code.

(2) "Sexual, \textquotedblleft sexual activity for hire\textquotedblright means an implicit
or explicit agreement to provide sexual activity in exchange for
anything of value paid to the person engaging in such sexual
activity, to any person trafficking that person, or to any
person associated with either such person.

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

(1) Employing or cooperating in fraud or material
deception in applying for or obtaining a license or certificate;

(2) Obtaining or attempting to obtain money or anything of
value by intentional misrepresentation or material deception in
the course of practice;

(3) Advertising services in a false or misleading manner
or violating the board's rules governing time, place, and manner
of advertising;

(4) Commission of an act that constitutes a felony in this
state, regardless of the jurisdiction in which the act was
(5) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony or of a misdemeanor committed in the course of practice;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Censure the license or certificate holder;

(2) Place the license or certificate on probationary status for such period of time the board determines necessary and require the holder to:
   (a) Report regularly to the board upon the matters which are the basis of probation;
   (b) Limit practice to those areas specified by the board;
   (c) Continue or renew professional education until a satisfactory degree of knowledge or clinical competency has been attained in specified areas.

(3) Suspend the certificate or license;

(4) Revoke the certificate or license.

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

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

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

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

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

(F) Any holder of a certificate or license issued under this chapter who has pleaded guilty to, has or been convicted

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of, or has had a judicial finding of eligibility for intervention in lieu of conviction entered against the holder in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for treatment or intervention in lieu of conviction entered against the holder in another jurisdiction for any substantially equivalent criminal offense in another jurisdiction, is automatically suspended from practice under this chapter in this state and any certificate or license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea, or conviction, or judicial finding, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's certificate or license under this division shall be considered practicing without a certificate or license. The board shall notify the suspended individual of the suspension of the individual's certificate or license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate or license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the individual's certificate or license.

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

(1) That there is clear and convincing evidence that an individual has violated division (A) of this section;
(2) That the individual’s continued practice presents a danger of immediate and serious harm to the public.

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

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

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

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

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

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

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

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

**Sec. 4725.241.** Any licensee under this chapter who has pleaded guilty to or been convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or any substantially equivalent criminal offense in another jurisdiction, is automatically suspended from practice under this chapter in this state and any license issued to the licensee under this chapter is automatically suspended, as of the date of the guilty plea or conviction, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's license under this division shall be considered practicing without a license. The state vision professionals board shall notify the suspended individual of the suspension of the individual's license under this section by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this section fails to make a timely request for an adjudicatory hearing, the board shall enter a final order.
permanently revoking the individual's license.

Sec. 4729.16. (A)(1) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may impose any one or more of the following sanctions on a pharmacist or pharmacy intern if the board finds the individual engaged in any of the conduct set forth in division (A)(2) of this section:

(a) Revoke, suspend, restrict, limit, or refuse to grant or renew a license;

(b) Reprimand or place the license holder on probation;

(c) 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 violation of a section of the Revised Code that does not bear a penalty, a monetary penalty or forfeiture of not more than five hundred dollars.

(2) The board may impose the sanctions listed in division (A)(1) of this section if the board finds a pharmacist or pharmacy intern:

(a) Has been convicted of a felony, or a crime of moral turpitude, as defined in section 4776.10 of the Revised Code;

(b) Engaged in dishonesty or unprofessional conduct in the practice of pharmacy;

(c) Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;

(d) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
(e) Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions;

(f) Permitted someone other than a pharmacist or pharmacy intern to practice pharmacy;

(g) Knowingly lent the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or had a professional connection with an illegal practitioner of pharmacy;

(h) Divided or agreed to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;

(i) Violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;

(j) Committed fraud, misrepresentation, or deception in applying for or securing a license issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code;

(k) Failed to comply with an order of the board or a settlement agreement;

(l) Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code.

(B) Any individual whose license is revoked, suspended, or
refused, shall return the license to the offices of the state board of pharmacy within ten days after receipt of notice of such action.

(C) As used in this section:

"Unprofessional conduct in the practice of pharmacy" includes any of the following:

(1) Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading;

(2) Except as provided in section 4729.281, 4729.44, or 4729.47 of the Revised Code, the dispensing or sale of any drug for which a prescription is required, without having received a prescription for the drug;

(3) Knowingly dispensing medication pursuant to false or forged prescriptions;

(4) Knowingly failing to maintain complete and accurate records of all dangerous drugs received or dispensed in compliance with federal laws and regulations and state laws and rules;

(5) Obtaining any remuneration by fraud, misrepresentation, or deception;

(6) Failing to conform to prevailing standards of care of similar pharmacists or pharmacy interns under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Engaging in any other conduct that the board specifies as unprofessional conduct in the practice of pharmacy in rules adopted under section 4729.26 of the Revised Code.
(D) The board may suspend a license under division (B) of section 3719.121 of the Revised Code by utilizing a telephone conference call to review the allegations and take a vote.

(E) For purposes of this division, an individual authorized to practice as a pharmacist or pharmacy intern accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license to practice as a pharmacist or pharmacy intern, an individual gives consent to submit to a mental or physical examination when ordered to do so by the board in writing and waives all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If the board has reasonable cause to believe that an individual who is a pharmacist or pharmacy intern is physically or mentally impaired, the board may require the individual to submit to a physical or mental examination, or both. The expense of the examination is the responsibility of the individual required to be examined.

Failure of an individual who is a pharmacist or pharmacy intern to submit to a physical or mental examination ordered by the board, unless the failure is due to circumstances beyond the individual's control, constitutes an admission of the allegations and a suspension order shall be entered without the taking of testimony or presentation of evidence. Any subsequent adjudication hearing under Chapter 119. of the Revised Code concerning failure to submit to an examination is limited to consideration of whether the failure was beyond the individual's control.

If, based on the results of an examination ordered under
this division, the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license to practice, to submit to a physical or mental examination and treatment.

An order of suspension issued under this division shall not be subject to suspension by a court during pendency of any appeal filed under section 119.12 of the Revised Code.

(F) If the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant or licensee does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division (A) of this section.

(G) Notwithstanding the provision of division (C)(2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case must be deemed not to have occurred, sealing of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.
(H) No pharmacist or pharmacy intern shall knowingly engage in any conduct described in divisions (A)(2)(b) or (A)(2) (e) to (l) of this section.

(I) Any pharmacist who holds a license issued under this chapter who has pleaded guilty to or been convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or any substantially equivalent criminal offense in another jurisdiction, is automatically suspended from practice under this chapter in this state and any license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea or conviction, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's license under this division shall be considered practicing without a license. The board shall notify the suspended individual of the suspension of the individual's license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order permanently revoking the individual's license.

Sec. 4730.25. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a license to practice as a physician assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.
(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a physician assistant or prescriber number, refuse to issue a license to an applicant, refuse to renew a certificate license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

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

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

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

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

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

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

(7) Willfully betraying a professional confidence;

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

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

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

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

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

(12) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

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

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

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

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

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

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

(20) Violation of the conditions placed by the board on a license to practice as a physician assistant;

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

(22) Failure to cooperate in an investigation conducted by the board under section 4730.26 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(23) Assisting suicide, as defined in section 3795.01 of the Revised Code;

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

(25) Failure to comply with section 4730.53 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(26) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;
(27) Having certification by the national commission on
certification of physician assistants or a successor
organization expire, lapse, or be suspended or revoked;

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

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

(D) For purposes of divisions (B)(12), (15), and (16) of
this section, the commission of the act may be established by a
finding by the board, pursuant to an adjudication under Chapter
119. of the Revised Code, that the applicant or license holder
committed the act in question. The board shall have no
jurisdiction under these divisions in cases where the trial
court renders a final judgment in the license holder's favor and
that judgment is based upon an adjudication on the merits. The
board shall have jurisdiction under these divisions in cases
where the trial court issues an order of dismissal upon
technical or procedural grounds.

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

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

(1) In enforcing division (B)(4) of this section, the
board, upon a showing of a possible violation, may compel any
individual who holds a license issued under this chapter or who
has applied for a license pursuant to this chapter to submit to
a mental examination, physical examination, including an HIV
test, or both a mental and physical examination. The expense of
the examination is the responsibility of the individual
compelled to be examined. Failure to submit to a mental or
physical examination or consent to an HIV test ordered by the
board constitutes an admission of the allegations against the
individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a physician assistant unable to practice because of the reasons set forth in division (B)(4) of this section, the board shall require the physician assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

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

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

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

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

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

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

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

When the impaired physician assistant resumes practice or prescribing, the board shall require continued monitoring of the physician assistant. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement,
submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the physician assistant has maintained sobriety.

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

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

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

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

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

(I) The license to practice issued to a physician assistant and the physician assistant's practice in this state are automatically suspended as of the date the physician assistant pleads guilty to, or is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another state for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another
jurisdiction: aggravated murder, murder, voluntarymanslaughter, felonious assault, kidnapping, rape, sexualbattery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practiceafter the suspension shall be considered practicing without a license.

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

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

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the physician assistant's license may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a license suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.
(L) When the board refuses to grant or issue to an applicant a license to practice as a physician assistant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold the license and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

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

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

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

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

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

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

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

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

(3) Except as provided in section 4731.97 of the Revised Code, selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;
(4) Willfully betraying a professional confidence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to
care, counseling, or treatment by physicians approved or 
designated by the board, as a condition for initial, continued, 
reinstated, or renewed authority to practice. An individual 
affected under this division shall be afforded an opportunity to 
demonstrate to the board the ability to resume practice in 
compliance with acceptable and prevailing standards under the 
provisions of the individual's license or certificate. For the 
purpose of this division, any individual who applies for or 
receives a license or certificate to practice under this chapter 
accepts the privilege of practicing in this state and, by so 
doing, shall be deemed to have given consent to submit to a 
mental or physical examination when directed to do so in writing 
by the board, and to have waived all objections to the 
admissibility of testimony or examination reports that 
constitute a privileged communication.

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

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

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

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

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

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

(25) Termination or suspension from participation in the
medicare or medicaid programs by the department of health and
human services or other responsible agency;

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

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

If it has reason to believe that any individual authorized
to practice by this chapter or any applicant for licensure or
certification to practice suffers such impairment, the board may
compel the individual to submit to a mental or physical
examination, or both. The expense of the examination is the
responsibility of the individual compelled to be examined. Any
mental or physical examination required under this division
shall be undertaken by a treatment provider or physician who is
qualified to conduct the examination and who is chosen by the
board.
Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed licensure or certification to practice, to submit to treatment.

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

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

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

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.
The board may reinstate a license or certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

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

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

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

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

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

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;
(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's medical record;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

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

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

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;
(35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;

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

(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;

(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;

(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;

(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;

(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board
of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;

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

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

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

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

(49) Failure to comply with the requirements of section 4731.30 of the Revised Code or rules adopted under section 4731.301 of the Revised Code when recommending treatment with medical marijuana;
(50) Practicing at a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification unless the person operating that place has obtained and maintains the license with the classification;

(51) Owning a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification unless that place is licensed with the classification;

(52) A pattern of continuous or repeated violations of division (E)(2) or (3) of section 3963.02 of the Revised Code.

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

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or certificate to practice or certificate to recommend. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.
If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice.

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

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

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

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

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

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

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

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

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

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

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

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.
The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

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

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

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

(d) The disposition of the case.

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

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

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

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

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

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

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

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's license or certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.
(I) The license or certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code. In addition, the license or certificate to practice or certificate to recommend issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, or is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntarymanslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary.

Continued practice after suspension shall be considered practicing without a license or certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4732.17. (A) Subject to division (F) of this section, the state board of psychology may take any of the actions specified in division (C) of this section against an applicant for or a person who holds a license issued under this chapter on any of the following grounds as applicable:

(1) Conviction, including a plea of guilty or no contest, of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;

(2) A judicial finding of eligibility for intervention in lieu of conviction for a felony or any offense involving moral turpitude in a court of this or any other state or in a federal court;

(3) Using fraud or deceit in the procurement of the license to practice psychology or school psychology or knowingly assisting another in the procurement of such a license through
fraud or deceit;

(4) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;

(5) Willful, unauthorized communication of information received in professional confidence;

(6) Being negligent in the practice of psychology or school psychology;

(7) Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse;

(8) Subject to section 4732.28 of the Revised Code, violating any rule of professional conduct promulgated by the board;

(9) Practicing in an area of psychology for which the person is clearly untrained or incompetent;

(10) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the license. Such person may have the person's license issued or restored only upon determination by a court that the person is competent for the purpose of holding the license and upon the decision by the board that such license be issued or restored. The board may require an examination prior to such issuance or restoration.

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

(12) Advertising that the person will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay;

(13) Any of the following actions taken by the agency responsible for authorizing or certifying the person to practice or regulating the person's practice of a health care occupation or provision of health care services in this state or another jurisdiction, as evidenced by a certified copy of that agency's records and findings for any reason other than the nonpayment of fees:

(a) Limitation, revocation, or suspension of the person's license to practice;

(b) Acceptance of the person's license surrender;

(c) Denial of a license to the person;

(d) Refuse to renew or reinstate the person's license;

(e) Imposition of probation on the person;

(f) Issuance of an order of censure or other reprimand against the person;

(g) Other negative action or finding against the person about which information is available to the public.

(14) Offering or rendering psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;
(15) Offering or rendering psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code;

(16) Unless the person is a school psychologist licensed by the state board of education:

(a) Offering or rendering school psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;

(b) Offering or rendering school psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code.

(17) Violating any adjudication order or consent agreement adopted by the board;

(18) Failure to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, ordered by the board under division (E) of this section.

(B) Notwithstanding divisions (A)(11) and (12) of this section, sanctions shall not be imposed against any license holder who waives deductibles and copayments:

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

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

(C) For any of the reasons specified in division (A) of this section, the board may do one or more of the following:

(1) Refuse to issue a license to an applicant;

(2) Issue a reprimand to a license holder;

(3) Suspend the license of a license holder;

(4) Revoke the license of a license holder;

(5) Limit or restrict the areas of practice of an applicant or a license holder;

(6) Require mental, substance abuse, or physical evaluations, or any combination of these evaluations, of an applicant or a license holder;

(7) Require remedial education and training of an applicant or a license holder.

(D) When it revokes the license of a license holder under division (C)(4) of this section, the board may specify that the revocation is permanent. An individual subject to permanent revocation is forever thereafter ineligible to hold a license, and the board shall not accept an application for reinstatement of the license or issuance of a new license.

(E) When the board issues a notice of opportunity for a hearing on the basis of division (A)(7) of this section, the supervising member of the board, with cause and upon consultation with the board's executive director and the board's legal counsel, may compel the applicant or license holder to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, by a person
or persons selected by the board. Notice shall be given to the
applicant or license holder in writing signed by the supervising
member, the executive director, and the board's legal counsel.
The applicant or license holder is deemed to have given consent
to submit to these evaluations and to have waived all objections
to the admissibility of testimony or evaluation reports that
constitute a privileged communication. The expense of the
evaluation or evaluations shall be the responsibility of the
applicant or license holder who is evaluated.

(F) Before the board may take action under this section,
written charges shall be filed with the board by the secretary
and a hearing shall be had thereon in accordance with Chapter
119. of the Revised Code, except as follows:

(1) On receipt of a complaint that any of the grounds
listed in division (A) of this section exist, the state board of
psychology may suspend a license issued under this chapter prior
to holding a hearing in accordance with Chapter 119. of the
Revised Code if it determines, based on the complaint, that
there is an immediate threat to the public. A telephone
conference call may be used to conduct an emergency meeting for
review of the matter by a quorum of the board, taking the vote,
and memorializing the action in the minutes of the meeting.

After suspending a license pursuant to division (F)(1) of
this section, the board shall notify the license holder of the
suspension in accordance with section 119.07 of the Revised
Code. If the individual whose license is suspended fails to make
a timely request for an adjudication under Chapter 119. of the
Revised Code, the board shall enter a final order permanently
revoking the license.

(2) Any holder of a license issued under this chapter who
has pleaded guilty to or been convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or any substantially equivalent criminal offense in another jurisdiction, is automatically suspended from practice under this chapter in this state and any license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea or conviction, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's license under this division shall be considered practicing without a license. The board shall notify the suspended individual of the suspension of the individual's license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order permanently revoking the individual's license.

(3) The board shall adopt rules establishing a case management schedule for pre-hearing procedures by the hearing examiner or presiding board member. The schedule shall include applicable deadlines related to the hearing process, including all of the following:

(a) The date of the hearing;

(b) The date for the disclosure of witnesses and exhibits;

(c) The date for the disclosure of the identity of expert witnesses and the exchange of written reports;

(d) The deadline for submitting a request for the issuance
of a subpoena for the hearing as provided under Chapter 119. of
the Revised Code and division (F)(4)-(5) of this section.

(3)-(4) Either party to the hearing may submit a written
request to the other party for a list of witnesses and copies of
documents intended to be introduced at the hearing. The request
shall be in writing and shall be served not less than thirty-
seven days prior to the hearing, unless the hearing officer or
presiding board member grants an extension of time to make the
request. Not later than thirty days before the hearing, the
responding party shall provide the requested list of witnesses,
summary of their testimony, and copies of documents to the
requesting party, unless the hearing officer or presiding board
member grants an extension. Failure to timely provide a list or
copies requested in accordance with this section may, at the
discretion of the hearing officer or presiding board member,
result in exclusion from the hearing of the witnesses,
testimony, or documents.

(4)-(5) In addition to subpoenas for the production of
books, records, and papers requested under Chapter 119. of the
Revised Code, either party may ask the board to issue a subpoena
for the production of other tangible items.

The person subject to a subpoena for the production of
books, records, papers, or other tangible items shall respond to
the subpoena at least twenty days prior to the date of the
hearing. If a person fails to respond to a subpoena issued by
the board, after providing reasonable notice to the person, the
board, the hearing officer, or both may proceed with enforcement
of the subpoena pursuant to section 119.09 of the Revised Code.

Sec. 4732.171. (A) Except as provided in division (B) of
this section and division (F)(2) of section 4732.17 of the
Revised Code, if, at the conclusion of a hearing required by section 4732.17 of the Revised Code, the state board of psychology determines that a licensed psychologist or school psychologist licensed by the state board of psychology has engaged in sexual conduct or had sexual contact with the license holder's patient or client in violation of any prohibition contained in Chapter 2907. of the Revised Code, the board shall do one of the following:

(1) Suspend the license holder's license;

(2) Permanently revoke the license holder's license.

(B) If it determines at the conclusion of the hearing that neither of the sanctions described in division (A) of this section is appropriate, the board shall impose another sanction it considers appropriate and issue a written finding setting forth the reasons for the sanction imposed and the reason that neither of the sanctions described in division (A) of this section is appropriate.

Sec. 4753.102. Any holder of a license issued under this chapter who has pleaded guilty to or been convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or any substantially equivalent criminal offense in another jurisdiction, is automatically suspended from practice under this chapter in this state and any license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea or conviction, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's license under this section shall be considered
practicing without a license. The state speech and hearing professionals board shall notify the suspended individual of the suspension of the individual's license under this section by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this section fails to make a timely request for an adjudicatory hearing, the board shall enter a final order permanently revoking the individual's license.

Sec. 4755.11. (A) In accordance with Chapter 119. of the Revised Code, the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or refuse to issue or renew an occupational therapist license, occupational therapy assistant license, occupational therapist limited permit, occupational therapy assistant limited permit, or reprimand, fine, place a license or limited permit holder on probation, or require the license or limited permit holder to take corrective action courses, for any of the following:

(1) Conviction of an offense involving moral turpitude or a felony, regardless of the state or country in which the conviction occurred;

(2) Violation of any provision of sections 4755.04 to 4755.13 of the Revised Code;

(3) Violation of any lawful order or rule of the occupational therapy section;

(4) Obtaining or attempting to obtain a license or limited permit issued by the occupational therapy section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statement in relation to
these activities;

(5) Negligence, unprofessional conduct, or gross misconduct in the practice of the profession of occupational therapy;

(6) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;

(7) Communicating, without authorization, information received in professional confidence;

(8) Using controlled substances, habit forming drugs, or alcohol to an extent that it impairs the ability to perform the work of an occupational therapist, occupational therapy assistant, occupational therapist limited permit holder, or occupational therapy assistant limited permit holder;

(9) Practicing in an area of occupational therapy for which the individual is untrained or incompetent;

(10) Failing the licensing or Ohio jurisprudence examination;

(11) Aiding, abetting, directing, or supervising the unlicensed practice of occupational therapy;

(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including occupational therapy, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;

(13) Except as provided in division (B) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational
(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay.

(14) Working or representing oneself as an occupational therapist, occupational therapy assistant, occupational therapist limited permit holder, or occupational therapy assistant limited permit holder without a current and valid license or limited permit issued by the occupational therapy section;

(15) Engaging in a deceptive trade practice, as defined in section 4165.02 of the Revised Code;

(16) Violation of the standards of ethical conduct in the practice of occupational therapy as identified by the occupational therapy section;

(17) A departure from, or the failure to conform to, minimal standards of care required of licensees or limited permit holders, whether or not actual injury to a patient is established;

(18) An adjudication by a court that the applicant, licensee, or limited permit holder is incompetent for the purpose of holding a license or limited permit and has not thereafter been restored to legal capacity for that purpose;

(19) (a) Except as provided in division (A)(19)(b) of this section, failure to cooperate with an investigation conducted by
the occupational therapy section, including failure to comply
with a subpoena or orders issued by the section or failure to
answer truthfully a question presented by the section at a
deposition or in written interrogatories.

(b) Failure to cooperate with an investigation does not
constitute grounds for discipline under this section if a court
of competent jurisdiction issues an order that either quashes a
subpoena or permits the individual to withhold the testimony or
evidence at issue.

(20) Conviction of a misdemeanor reasonably related to the
practice of occupational therapy, regardless of the state or
country in which the conviction occurred;

(21) Inability to practice according to acceptable and
prevailing standards of care because of mental or physical
illness, including physical deterioration that adversely affects
cognitive, motor, or perception skills;

(22) Violation of conditions, limitations, or agreements
placed by the occupational therapy section on a license or
limited permit to practice;

(23) Making a false, fraudulent, deceptive, or misleading
statement in the solicitation of or advertising for patients in
relation to the practice of occupational therapy;

(24) Failure to complete continuing education requirements
as prescribed in rules adopted by the occupational therapy
section under section 4755.06 of the Revised Code.

(B) Sanctions shall not be imposed under division (A)(13)
of this section against any individual who waives deductibles
and copayments as follows:
(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the section upon request.

(2) For professional services rendered to any other person licensed pursuant to sections 4755.04 to 4755.13 of the Revised Code to the extent allowed by those sections and the rules of the occupational therapy section.

(C) Except as provided in division (D) or (F) of this section, the suspension or revocation of a license or limited permit under this section is not effective until either the order for suspension or revocation has been affirmed following an adjudication hearing, or the time for requesting a hearing has elapsed.

When a license or limited permit is revoked under this section, application for reinstatement may not be made sooner than one year after the date of revocation. The occupational therapy section may accept or refuse an application for reinstatement and may require that the applicant pass an examination as a condition of reinstatement.

When a license or limited permit holder is placed on probation under this section, the occupational therapy section's probation order shall be accompanied by a statement of the conditions under which the individual may be removed from probation and restored to unrestricted practice.

(D) On receipt of a complaint that a person who holds a license or limited permit issued by the occupational therapy
section has committed any of the prohibited actions listed in division (A) of this section, the section may immediately suspend the license or limited permit prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the licensee or limited permit holder poses an immediate threat to the public. The section may review the allegations and vote on the suspension by telephone conference call. If the section votes to suspend a license or limited permit under this division, the section shall issue a written order of summary suspension to the licensee or limited permit holder in accordance with section 119.07 of the Revised Code. If the individual whose license or limited permit is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the section shall enter a final order permanently revoking the individual's license or limited permit. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the section's order of summary suspension pending the determination of an appeal filed under that section. Any order of summary suspension issued under this division shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the section pursuant to division (A) of this section becomes effective. The section shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than ninety days after completion of its hearing. Failure to issue the order within ninety days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

(E) If any person other than a person who holds a license or limited permit issued under section 4755.08 of the Revised
Code has engaged in any practice that is prohibited under sections 4755.04 to 4755.13 of the Revised Code or the rules of the occupational therapy section, the section may apply to the court of common pleas of the county in which the violation occurred, for an injunction or other appropriate order restraining this conduct, and the court shall issue this order.

(F) Any holder of a license or limited permit issued under this chapter who has pleaded guilty to or been convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or any substantially equivalent criminal offense in another jurisdiction, is automatically suspended from practice under this chapter in this state, and any license or limited permit issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea or conviction, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's license or limited permit under this division shall be considered practicing without a license or limited permit. The occupational therapy section shall notify the suspended individual of the suspension of the individual's license or limited permit under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license or limited permit is suspended under this division fails to make a timely request for an adjudicatory hearing, the occupational therapy section shall enter a final order permanently revoking the individual's license or limited permit.

Sec. 4755.47. (A) In accordance with Chapter 119. of the Revised Code, the physical therapy section of the Ohio
occupational therapy, physical therapy, and athletic trainers board may refuse to grant a license to an applicant for an initial or renewed license as a physical therapist or physical therapist assistant or, by an affirmative vote of not less than five members, may limit, suspend, or revoke the license of a physical therapist or physical therapist assistant or reprimand, fine, place a license holder on probation, or require the license holder to take corrective action courses, on any of the following grounds:

(1) Habitual indulgence in the use of controlled substances, other habit-forming drugs, or alcohol to an extent that affects the individual's professional competency;

(2) Conviction of a felony or a crime involving moral turpitude, regardless of the state or country in which the conviction occurred;

(3) Obtaining or attempting to obtain a license issued by the physical therapy section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statement;

(4) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the applicant or licensee is incompetent for the purpose of holding the license and has not thereafter been restored to legal capacity for that purpose;

(5) Subject to section 4755.471 of the Revised Code, violation of the code of ethics adopted by the physical therapy section;

(6) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate sections 4755.40 to 4755.56 of the Revised
Code or any order issued or rule adopted under those sections;

(7) Failure of one or both of the examinations required under section 4755.43 or 4755.431 of the Revised Code;

(8) Permitting the use of one's name or license by a person, group, or corporation when the one permitting the use is not directing the treatment given;

(9) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including physical therapy, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;

(10) Failure to maintain minimal standards of practice in the administration or handling of drugs, as defined in section 4729.01 of the Revised Code, or failure to employ acceptable scientific methods in the selection of drugs, as defined in section 4729.01 of the Revised Code, or other modalities for treatment;

(11) Willful betrayal of a professional confidence;

(12) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of physical therapy;

(13) A departure from, or the failure to conform to, minimal standards of care required of licensees when under the same or similar circumstances, whether or not actual injury to a patient is established;

(14) Obtaining, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(15) Violation of the conditions of limitation or
agreements placed by the physical therapy section on a license to practice;

(16) Failure to renew a license in accordance with section 4755.46 of the Revised Code;

(17) Except as provided in section 4755.471 of the Revised Code, engaging in the division of fees for referral of patients or receiving anything of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Inability to practice according to acceptable and prevailing standards of care because of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;

(19) The revocation, suspension, restriction, or termination of clinical privileges by the United States department of defense or department of veterans affairs;

(20) Termination or suspension from participation in the medicare or medicaid program established under Title XVIII and Title XIX, respectively, of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, for an act or acts that constitute a violation of sections 4755.40 to 4755.56 of the Revised Code;

(21) Failure of a physical therapist to maintain supervision of a student, physical therapist assistant, unlicensed support personnel, other assistant personnel, or a license applicant in accordance with the requirements of sections 4755.40 to 4755.56 of the Revised Code and rules adopted under those sections;

(22) Failure to complete continuing education requirements as prescribed in section 4755.51 or 4755.511 of the Revised Code
or to satisfy any rules applicable to continuing education
requirements that are adopted by the physical therapy section;

(23) Conviction of a misdemeanor when the act that
constitutes the misdemeanor occurs during the practice of
physical therapy;

(24) (a) Except as provided in division (A)(24)(b) of this
section, failure to cooperate with an investigation conducted by
the physical therapy section, including failure to comply with a
subpoena or orders issued by the section or failure to answer
truthfully a question presented by the section at a deposition
or in written interrogatories.

(b) Failure to cooperate with an investigation does not
constitute grounds for discipline under this section if a court
of competent jurisdiction issues an order that either quashes a
subpoena or permits the individual to withhold the testimony or
evidence at issue.

(25) Regardless of whether the contact or verbal behavior
is consensual, engaging with a patient other than the spouse of
the physical therapist or physical therapist assistant, in any
of the following:

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

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

(26) Failure to notify the physical therapy section of a
change in name, business address, or home address within thirty
days after the date of change;
(27) Except as provided in division (B) of this section:

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

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers physical therapy, would otherwise be required to pay.

(28) Violation of any section of this chapter or rule adopted under it.

(B) Sanctions shall not be imposed under division (A)(27) of this section against any individual who waives deductibles and copayments as follows:

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

(2) For professional services rendered to any other person licensed pursuant to sections 4755.40 to 4755.56 of the Revised Code to the extent allowed by those sections and the rules of the physical therapy section.

(C) Except as provided in division (E) or (F) of this section, when a license is revoked under this section,
application for reinstatement may not be made sooner than one
year after the date of revocation. The physical therapy section
may accept or refuse an application for reinstatement and may
require that the applicant pass an examination as a condition
for reinstatement.

When a license holder is placed on probation under this
section, the physical therapy section's order for placement on
probation shall be accompanied by a statement of the conditions
under which the individual may be removed from probation and
restored to unrestricted practice.

(D) When an application for an initial or renewed license
is refused under this section, the physical therapy section
shall notify the applicant in writing of the section's decision
to refuse issuance of a license and the reason for its decision.

(E) On receipt of a complaint that a person licensed by
the physical therapy section has committed any of the actions
listed in division (A) of this section, the physical therapy
section may immediately suspend the license of the physical
therapist or physical therapist assistant prior to holding a
hearing in accordance with Chapter 119. of the Revised Code if
it determines, based on the complaint, that the person poses an
immediate threat to the public. The physical therapy section may
review the allegations and vote on the suspension by telephone
conference call. If the physical therapy section votes to
suspend a license under this division, the physical therapy
section shall issue a written order of summary suspension to the
person in accordance with section 119.07 of the Revised Code. If
the person fails to make a timely request for an adjudication
under Chapter 119. of the Revised Code, the physical therapy
section shall enter a final order permanently revoking the
person's license. Notwithstanding section 119.12 of the Revised
Code, a court of common pleas shall not grant a suspension of
the physical therapy section's order of summary suspension
pending the determination of an appeal filed under that section.
Any order of summary suspension issued under this division shall
remain in effect, unless reversed on appeal, until a final
adjudication order issued by the physical therapy section
pursuant to division (A) of this section becomes effective. The
physical therapy section shall issue its final adjudication
order regarding an order of summary suspension issued under this
division not later than ninety days after completion of its
hearing. Failure to issue the order within ninety days shall
result in immediate dissolution of the suspension order, but
shall not invalidate any subsequent, final adjudication order.

(F) Any holder of a license issued under this chapter who
has pleaded guilty to or been convicted of aggravated murder,
murder, voluntary manslaughter, felonious assault, kidnapping,
rape, sexual battery, gross sexual imposition, aggravated arson,
aggravated robbery, or aggravated burglary, or any substantially
equivalent criminal offense in another jurisdiction, is
automatically suspended from practice under this chapter in this
state and any license issued to the holder under this chapter is
automatically suspended, as of the date of the guilty plea or
conviction, whether the proceedings are brought in this state or
another jurisdiction. Continued practice by an individual after
the suspension of the individual's license under this division
shall be considered practicing without a license. The physical
therapy section shall notify the suspended individual of the
suspension of the individual's license under this division by
certified mail or in person in accordance with section 119.07 of
the Revised Code. If an individual whose license is suspended
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under this division fails to make a timely request for an adjudicatory hearing, the physical therapy section shall enter a final order permanently revoking the individual's license.

Sec. 4755.64. (A) In accordance with Chapter 119. of the Revised Code, the athletic trainers section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or refuse to issue or renew an athletic trainers license, or reprimand, fine, or place a licensee on probation, for any of the following:

(1) Conviction of a felony or offense involving moral turpitude, regardless of the state or country in which the conviction occurred;

(2) Violation of sections 4755.61 to 4755.65 of the Revised Code or any order issued or rule adopted thereunder;

(3) Obtaining a license through fraud, false or misleading representation, or concealment of material facts;

(4) Negligence or gross misconduct in the practice of athletic training;

(5) Violating the standards of ethical conduct in the practice of athletic training as adopted by the athletic trainers section under section 4755.61 of the Revised Code;

(6) Using any controlled substance or alcohol to the extent that the ability to practice athletic training at a level of competency is impaired;

(7) Practicing in an area of athletic training for which the individual is untrained, incompetent, or practicing without the referral of a practitioner licensed under Chapter 4731. of the Revised Code, a dentist licensed under Chapter 4715. of the
Revised Code, a chiropractor licensed under Chapter 4734. of the Revised Code, or a physical therapist licensed under this chapter;

(8) Employing, directing, or supervising a person in the performance of athletic training procedures who is not authorized to practice as a licensed athletic trainer under this chapter;

(9) Misrepresenting educational attainments or the functions the individual is authorized to perform for the purpose of obtaining some benefit related to the individual's athletic training practice;

(10) Failing the licensing examination;

(11) Aiding or abetting the unlicensed practice of athletic training;

(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason other than a failure to renew, in Ohio or another state or jurisdiction.

(B) If the athletic trainers section places a licensee on probation under division (A) of this section, the section's order for placement on probation shall be accompanied by a written statement of the conditions under which the person may be removed from probation and restored to unrestricted practice.

(C) Except as provided in division (D) or (E) of this section, a licensee whose license has been revoked under division (A) of this section may apply to the athletic trainers section for reinstatement of the license one year following the date of revocation. The athletic trainers section may accept or deny the application for reinstatement and may require that the
applicant pass an examination as a condition for reinstatement.

(D) On receipt of a complaint that a person licensed by the athletic trainers section has committed any of the prohibited actions listed in division (A) of this section, the section may immediately suspend the license of a licensed athletic trainer prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the licensee poses an immediate threat to the public. The section may review the allegations and vote on the suspension by telephone conference call. If the section votes to suspend a license under this division, the section shall issue a written order of summary suspension to the licensed athletic trainer in accordance with section 119.07 of the Revised Code. If the individual whose license is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the section shall enter a final order permanently revoking the individual's license. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the section's order of summary suspension pending the determination of an appeal filed under that section. Any order of summary suspension issued under this division shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the section pursuant to division (A) of this section becomes effective. The section shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than ninety days after completion of its hearing. Failure to issue the order within ninety days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

(E) Any holder of a license issued under this chapter who...
has pleaded guilty to or been convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or any substantially equivalent criminal offense in another jurisdiction, is automatically suspended from practice under this chapter in this state and any license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea or conviction, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's license under this division shall be considered practicing without a license or limited permit. The athletic trainers section shall notify the suspended individual of the suspension of the individual's license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this division fails to make a timely request for an adjudicatory hearing, the athletic trainers section shall enter a final order permanently revoking the individual's license.

Section 2. That existing sections 2907.01, 2907.05, 2907.17, 2907.18, 2907.24, 4715.30, 4729.16, 4730.25, 4731.22, 4732.17, 4732.171, 4755.11, 4755.47, and 4755.64 of the Revised Code are hereby repealed.

Section 3. That the version of section 2907.05 of the Revised Code that is scheduled to take effect March 22, 2020, be amended to read as follows:

Sec. 2907.05. (A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the
offender; or cause two or more other persons to have sexual
contact when any of the following applies:

(1) The offender purposely compels the other person, or
one of the other persons, to submit by force or threat of force.

(2) For the purpose of preventing resistance, the offender
substantially impairs the judgment or control of the other
person or of one of the other persons by administering any drug,
intoxicant, or controlled substance to the other person
surreptitiously or by force, threat of force, or deception.

(3) The offender knows that the judgment or control of the
other person or of one of the other persons is substantially
impaired as a result of the influence of any drug or intoxicant
administered to the other person with the other person’s consent
for the purpose of any kind of medical or dental examination,
treatment, or surgery.

(4) The other person, or one of the other persons, is less
than thirteen years of age, whether or not the offender knows
the age of that person.

(5) The ability of the other person to resist or consent
or the ability of one of the other persons to resist or consent
is substantially impaired because of a mental or physical
condition or because of advanced age, and the offender knows or
has reasonable cause to believe that the ability to resist or
consent of the other person or of one of the other persons is
substantially impaired because of a mental or physical condition
or because of advanced age.

(6) The offender is a licensed health care professional
and has sexual contact with another person who is a patient
under the offender's care or supervision and one of the
following applies:

   (a) The offender knows that the sexual contact is offensive to the patient, or is reckless in that regard;

   (b) The patient is less than sixteen years of age, whether or not the offender knows the age of the patient;

   (c) The patient is a person with a developmental disability, whether or not the offender knows that the patient is a person with a developmental disability.

   (B) No person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

   (C) Whoever violates this section is guilty of gross sexual imposition.

   (1) Except as otherwise provided in this section, gross sexual imposition committed in violation of division (A)(1), (2), (3), or (5) of this section is a felony of the fourth degree. If the offender under division (A)(2) of this section substantially impairs the judgment or control of the other person or one of the other persons by administering any controlled substance, as defined in section 3719.01 of the Revised Code, to the person surreptitiously or by force, threat of force, or deception, gross sexual imposition committed in violation of division (A)(2) of this section is a felony of the third degree.

   (2) Gross sexual imposition committed in violation of division (A)(4) or (B) of this section is a felony of the third degree.
degree. Except as otherwise provided in this division, for gross
sexual imposition committed in violation of division (A)(4) or
(B) of this section there is a presumption that a prison term
shall be imposed for the offense. The court shall impose on an
offender convicted of gross sexual imposition in violation of
division (A)(4) or (B) of this section a mandatory prison term,
as described in division (C)(3) of this section, for a felony of
the third degree if either of the following applies:

(a) Evidence other than the testimony of the victim was
admitted in the case corroborating the violation;

(b) The offender previously was convicted of or pleaded
guilty to a violation of this section, rape, the former offense
of felonious sexual penetration, or sexual battery, and the
victim of the previous offense was less than thirteen years of
age.

(3) A mandatory prison term required under division (C)(2)
of this section shall be a definite term from the range of
prison terms provided in division (A)(3)(a) of section 2929.14
of the Revised Code for a felony of the third degree.

(4) Except as otherwise provided in this division, gross
sexual imposition committed in violation of division (A)(6) of
this section is a felony of the fifth degree. If the patient was
thirteen years of age or older but less than eighteen years of
age or if the patient was a person with a developmental
disability, a violation of division (A)(6) of this section is a
felony of the third degree and there is a presumption that a
prison term shall be imposed for the offense. If the patient was
less than thirteen years of age, a violation of division (A)(6)
of this section is a felony of the second degree, and the court
shall impose as the minimum prison term for the offense a
mandatory prison term that is one of the minimum terms
prescribed in division (A)(2)(a) of section 2929.14 of the
Revised Code for a felony of the second degree.

(D) A victim need not prove physical resistance to the
offender in prosecutions under this section.

(E) Evidence of specific instances of the victim's sexual
activity, opinion evidence of the victim's sexual activity, and
reputation evidence of the victim's sexual activity shall not be
admitted under this section unless it involves evidence of the
origin of semen, pregnancy, or disease, or the victim's past
sexual activity with the offender, and only to the extent that
the court finds that the evidence is material to a fact at issue
in the case and that its inflammatory or prejudicial nature does
not outweigh its probative value.

Evidence of specific instances of the defendant's sexual
activity, opinion evidence of the defendant's sexual activity,
and reputation evidence of the defendant's sexual activity shall
not be admitted under this section unless it involves evidence
of the origin of semen, pregnancy, or disease, the defendant's
past sexual activity with the victim, or is admissible against
the defendant under section 2945.59 of the Revised Code, and
only to the extent that the court finds that the evidence is
material to a fact at issue in the case and that its
inflammatory or prejudicial nature does not outweigh its
probative value.

(F) Prior to taking testimony or receiving evidence of any
sexual activity of the victim or the defendant in a proceeding
under this section, the court shall resolve the admissibility of
the proposed evidence in a hearing in chambers, which shall be
held at or before preliminary hearing and not less than three
days before trial, or for good cause shown during the trial.

(G) Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.

Section 4. That the existing version of section 2907.05 of the Revised Code that is scheduled to take effect March 22, 2020, is hereby repealed.

Section 5. The version of section 2907.05 of the Revised Code that is scheduled to take effect March 22, 2020, is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 201 and Sub. S.B. 229 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 4730.25 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 64 and Sub. S.B. 110 of the 131st General Assembly and Am. Sub. H.B. 394 and Am. Sub. S.B. 276 of the 130th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.
Section 4731.22 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 111 and Sub. H.B. 156 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.