

**As Passed by the Senate**

**132nd General Assembly**

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**Sub. H. B. No. 145**

**Representatives Huffman, Sprague**

**Cosponsors: Representatives Seitz, Blessing, Butler, Clyde, Faber, Anielski, Antonio, Ashford, Barnes, Boyd, Carfagna, Craig, Cupp, Duffey, Fedor, Galonski, Ginter, Green, Greenspan, Hambley, Holmes, Johnson, Kent, Leland, Lepore-Hagan, Manning, O'Brien, Patterson, Patton, Pelanda, Reineke, Roegner, Rogers, Ryan, Sheehy, Stein, Strahorn, Sweeney, Sykes, West, Wiggam**

**Senators Gardner, Hottinger, Brown, Beagle, Oelslager, Tavares, Coley, Eklund, Hoagland, Huffman, Sykes, Terhar**

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**A BILL**

To amend sections 4730.26, 4730.32, 4731.224, 1  
4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 2  
4759.05, 4759.051, 4759.06, 4759.07, 4759.08, 3  
4759.10, 4760.01, 4760.14, 4760.16, 4761.01, 4  
4761.03, 4761.032, 4761.04, 4761.05, 4761.06, 5  
4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 6  
4762.14, 4762.16, 4774.01, 4774.14, 4774.16, 7  
5167.01, and 5167.03, to enact sections 8  
4731.251, 4731.252, 4731.253, 4759.012, 9  
4759.062, 4759.071, 4759.13, 4761.012, 4761.091, 10  
4761.19, and 4778.17, and to repeal sections 11  
4761.031 and 4761.08 of the Revised Code to 12  
provide for the establishment of a confidential 13  
program for the treatment of impaired 14  
practitioners regulated by the State Medical 15  
Board, to modify the laws governing the Board's 16  
regulation of dietitians and respiratory care 17  
professionals, to make other changes in the laws 18

administered by the Board, to provide that the 19  
General Assembly's authorization is needed 20  
before long-term care services are further 21  
included in the Medicaid managed care system, 22  
and to declare an emergency. 23

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

**Section 1.** That sections 4730.26, 4730.32, 4731.224, 24  
4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 4759.05, 25  
4759.051, 4759.06, 4759.07, 4759.08, 4759.10, 4760.01, 4760.14, 26  
4760.16, 4761.01, 4761.03, 4761.032, 4761.04, 4761.05, 4761.06, 27  
4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 4762.14, 4762.16, 28  
4774.01, 4774.14, 4774.16, 5167.01, and 5167.03 be amended and 29  
sections 4731.251, 4731.252, 4731.253, 4759.012, 4759.062, 30  
4759.071, 4759.13, 4761.012, 4761.091, 4761.19, and 4778.17 of 31  
the Revised Code be enacted to read as follows: 32

**Sec. 4730.26.** (A) The state medical board shall 33  
investigate evidence that appears to show that any person has 34  
violated this chapter or a rule adopted under it. In an 35  
investigation involving the practice or supervision of a 36  
physician assistant pursuant to the policies of a health care 37  
facility, the board may require that the health care facility 38  
provide any information the board considers necessary to 39  
identify either or both of the following: 40

(1) The facility's policies for the practice of physician 41  
assistants within the facility; 42

(2) The services that the facility has authorized a 43  
particular physician assistant to provide for the facility. 44

(B) Any person may report to the board in a signed writing 45  
any information the person has that appears to show a violation 46  
of any provision of this chapter or rule adopted under it. In 47  
the absence of bad faith, a person who reports such information 48  
or testifies before the board in an adjudication conducted under 49  
Chapter 119. of the Revised Code shall not be liable for civil 50  
damages as a result of reporting the information or providing 51  
testimony. Each complaint or allegation of a violation received 52  
by the board shall be assigned a case number and be recorded by 53  
the board. 54

(C) Investigations of alleged violations of this chapter 55  
or rules adopted under it shall be supervised by the supervising 56  
member elected by the board in accordance with section 4731.02 57  
of the Revised Code and by the secretary as provided in section 58  
4730.33 of the Revised Code. The president may designate another 59  
member of the board to supervise the investigation in place of 60  
the supervising member. A member of the board who supervises the 61  
investigation of a case shall not participate in further 62  
adjudication of the case. 63

(D) In investigating a possible violation of this chapter 64  
or a rule adopted under it, the board may administer oaths, 65  
order the taking of depositions, issue subpoenas, and compel the 66  
attendance of witnesses and production of books, accounts, 67  
papers, records, documents, and testimony, except that a 68  
subpoena for patient record information shall not be issued 69  
without consultation with the attorney general's office and 70  
approval of the secretary and supervising member of the board. 71  
Before issuance of a subpoena for patient record information, 72  
the secretary and supervising member shall determine whether 73  
there is probable cause to believe that the complaint filed 74  
alleges a violation of this chapter or a rule adopted under it 75

and that the records sought are relevant to the alleged 76  
violation and material to the investigation. The subpoena may 77  
apply only to records that cover a reasonable period of time 78  
surrounding the alleged violation. 79

On failure to comply with any subpoena issued by the board 80  
and after reasonable notice to the person being subpoenaed, the 81  
board may move for an order compelling the production of persons 82  
or records pursuant to the Rules of Civil Procedure. 83

A subpoena issued by the board may be served by a sheriff, 84  
the sheriff's deputy, or a board employee designated by the 85  
board. Service of a subpoena issued by the board may be made by 86  
delivering a copy of the subpoena to the person named therein, 87  
reading it to the person, or leaving it at the person's usual 88  
place of residence. When the person being served is a physician 89  
assistant, service of the subpoena may be made by certified 90  
mail, restricted delivery, return receipt requested, and the 91  
subpoena shall be deemed served on the date delivery is made or 92  
the date the person refuses to accept delivery. 93

A sheriff's deputy who serves a subpoena shall receive the 94  
same fees as a sheriff. Each witness who appears before the 95  
board in obedience to a subpoena shall receive the fees and 96  
mileage provided for under section 119.094 of the Revised Code. 97

(E) All hearings and investigations of the board shall be 98  
considered civil actions for the purposes of section 2305.252 of 99  
the Revised Code. 100

(F) Information received by the board pursuant to an 101  
investigation is confidential and not subject to discovery in 102  
any civil action. 103

The board shall conduct all investigations and proceedings 104

in a manner that protects the confidentiality of patients and 105  
persons who file complaints with the board. The board shall not 106  
make public the names or any other identifying information about 107  
patients or complainants unless proper consent is given or, in 108  
the case of a patient, a waiver of the patient privilege exists 109  
under division (B) of section 2317.02 of the Revised Code, 110  
except that consent or a waiver is not required if the board 111  
possesses reliable and substantial evidence that no bona fide 112  
physician-patient relationship exists. 113

The board may share any information it receives pursuant 114  
to an investigation, including patient records and patient 115  
record information, with law enforcement agencies, other 116  
licensing boards, and other governmental agencies that are 117  
prosecuting, adjudicating, or investigating alleged violations 118  
of statutes or administrative rules. An agency or board that 119  
receives the information shall comply with the same requirements 120  
regarding confidentiality as those with which the state medical 121  
board must comply, notwithstanding any conflicting provision of 122  
the Revised Code or procedure of the agency or board that 123  
applies when it is dealing with other information in its 124  
possession. In a judicial proceeding, the information may be 125  
admitted into evidence only in accordance with the Rules of 126  
Evidence, but the court shall require that appropriate measures 127  
are taken to ensure that confidentiality is maintained with 128  
respect to any part of the information that contains names or 129  
other identifying information about patients or complainants 130  
whose confidentiality was protected by the state medical board 131  
when the information was in the board's possession. Measures to 132  
ensure confidentiality that may be taken by the court include 133  
sealing its records or deleting specific information from its 134  
records. 135

(G) The state medical board shall develop requirements for 136  
and provide appropriate initial and continuing training for 137  
investigators employed by the board to carry out its duties 138  
under this chapter. The training and continuing education may 139  
include enrollment in courses operated or approved by the Ohio 140  
peace officer training ~~council~~ commission that the board 141  
considers appropriate under conditions set forth in section 142  
109.79 of the Revised Code. 143

(H) On a quarterly basis, the board shall prepare a report 144  
that documents the disposition of all cases during the preceding 145  
three months. The report shall contain the following information 146  
for each case with which the board has completed its activities: 147

(1) The case number assigned to the complaint or alleged 148  
violation; 149

(2) The type of ~~certificate~~ license, if any, held by the 150  
individual against whom the complaint is directed; 151

(3) A description of the allegations contained in the 152  
complaint; 153

(4) The disposition of the case. 154

The report shall state how many cases are still pending, 155  
and shall be prepared in a manner that protects the identity of 156  
each person involved in each case. The report shall be submitted 157  
to the physician assistant policy committee of the board and is 158  
a public record for purposes of section 149.43 of the Revised 159  
Code. 160

**Sec. 4730.32.** (A) Within sixty days after the imposition 161  
of any formal disciplinary action taken by a health care 162  
facility against any individual holding a valid license to 163  
practice as a physician assistant issued under this chapter, the 164

chief administrator or executive officer of the facility shall 165  
report to the state medical board the name of the individual, 166  
the action taken by the facility, and a summary of the 167  
underlying facts leading to the action taken. Upon request, the 168  
board shall be provided certified copies of the patient records 169  
that were the basis for the facility's action. Prior to release 170  
to the board, the summary shall be approved by the peer review 171  
committee that reviewed the case or by the governing board of 172  
the facility. 173

The filing of a report with the board or decision not to 174  
file a report, investigation by the board, or any disciplinary 175  
action taken by the board, does not preclude a health care 176  
facility from taking disciplinary action against a physician 177  
assistant. 178

In the absence of fraud or bad faith, no individual or 179  
entity that provides patient records to the board shall be 180  
liable in damages to any person as a result of providing the 181  
records. 182

~~(B) A(1) Except as provided in division (B) (2) of this 183  
section, a physician assistant, professional association or 184  
society of physician assistants, physician, or professional 185  
association or society of physicians that believes a violation 186  
of any provision of this chapter, Chapter 4731. of the Revised 187  
Code, or rule of the board has occurred shall report to the 188  
board the information upon which the belief is based. ~~This 189  
division does not require any treatment provider approved by the 190  
board under section 4731.25 of the Revised Code or any employee, 191  
agent, or representative of such a provider to make reports with 192  
respect to a physician assistant participating in treatment or 193  
aftercare for substance abuse as long as the physician assistant 194~~~~

~~maintains participation in accordance with the requirements of~~ 195  
~~section 4731.25 of the Revised Code and the treatment provider~~ 196  
~~or employee, agent, or representative of the provider has no~~ 197  
~~reason to believe that the physician assistant has violated any~~ 198  
~~provision of this chapter or rule adopted under it, other than~~ 199  
~~being impaired by alcohol, drugs, or other substances. This~~ 200  
~~division does not require reporting by any member of an impaired~~ 201  
~~practitioner committee established by a health care facility or~~ 202  
~~by any representative or agent of a committee or program~~ 203  
~~sponsored by a professional association or society of physician~~ 204  
~~assistants to provide peer assistance to physician assistants~~ 205  
~~with substance abuse problems with respect to a physician~~ 206  
~~assistant who has been referred for examination to a treatment~~ 207  
~~program approved by the board under section 4731.25 of the~~ 208  
~~Revised Code if the physician assistant cooperates with the~~ 209  
~~referral for examination and with any determination that the~~ 210  
~~physician assistant should enter treatment and as long as the~~ 211  
~~committee member, representative, or agent has no reason to~~ 212  
~~believe that the physician assistant has ceased to participate~~ 213  
~~in the treatment program in accordance with section 4731.25 of~~ 214  
~~the Revised Code or has violated any provision of this chapter~~ 215  
~~or rule adopted under it, other than being impaired by alcohol,~~ 216  
~~drugs, or other substances.~~ 217

(2) A physician assistant, professional association or 218  
society of physician assistants, physician, or professional 219  
association or society of physicians that believes that a 220  
violation of division (B) (5) of section 4730.25 of the Revised 221  
Code has occurred shall report the information upon which the 222  
belief is based to the monitoring organization conducting the 223  
program established by the board under section 4731.251 of the 224  
Revised Code. If any such report is made to the board, it shall 225



be referred to the monitoring organization unless the board is 226  
aware that the individual who is the subject of the report does 227  
not meet the program eligibility requirements of section 228  
4731.252 of the Revised Code. 229

(C) Any professional association or society composed 230  
primarily of physician assistants that suspends or revokes an 231  
individual's membership for violations of professional ethics, 232  
or for reasons of professional incompetence or professional 233  
malpractice, within sixty days after a final decision, shall 234  
report to the board, on forms prescribed and provided by the 235  
board, the name of the individual, the action taken by the 236  
professional organization, and a summary of the underlying facts 237  
leading to the action taken. 238

The filing or nonfiling of a report with the board, 239  
investigation by the board, or any disciplinary action taken by 240  
the board, shall not preclude a professional organization from 241  
taking disciplinary action against a physician assistant. 242

(D) Any insurer providing professional liability insurance 243  
to any person holding a valid license to practice as a physician 244  
assistant issued under this chapter or any other entity that 245  
seeks to indemnify the professional liability of a physician 246  
assistant shall notify the board within thirty days after the 247  
final disposition of any written claim for damages where such 248  
disposition results in a payment exceeding twenty-five thousand 249  
dollars. The notice shall contain the following information: 250

(1) The name and address of the person submitting the 251  
notification; 252

(2) The name and address of the insured who is the subject 253  
of the claim; 254

(3) The name of the person filing the written claim;	255
(4) The date of final disposition;	256
(5) If applicable, the identity of the court in which the final disposition of the claim took place.	257 258
(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the physician assistant.	259 260 261 262 263 264 265 266 267 268
(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a physician assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a physician assistant or supervising physician, or in any subsequent trial or appeal of a board action or order.	269 270 271 272 273 274 275 276 277 278 279
The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a physician assistant or	280 281 282 283

supervising physician or reviewing their privilege to practice 284  
within a particular facility. The board shall indicate whether 285  
or not the information has been verified. Information 286  
transmitted by the board shall be subject to the same 287  
confidentiality provisions as when maintained by the board. 288

(G) Except for reports filed by an individual pursuant to 289  
division (B) of this section, the board shall send a copy of any 290  
reports or summaries it receives pursuant to this section to the 291  
physician assistant. The physician assistant shall have the 292  
right to file a statement with the board concerning the 293  
correctness or relevance of the information. The statement shall 294  
at all times accompany that part of the record in contention. 295

(H) An individual or entity that reports to the board,  296  
reports to the monitoring organization described in section 297  
4731.251 of the Revised Code, or refers an impaired physician 298  
assistant to a treatment provider approved by the board under 299  
section 4731.25 of the Revised Code shall not be subject to suit 300  
for civil damages as a result of the report, referral, or 301  
provision of the information. 302

(I) In the absence of fraud or bad faith, a professional 303  
association or society of physician assistants that sponsors a 304  
committee or program to provide peer assistance to a physician 305  
assistant with substance abuse problems, a representative or 306  
agent of such a committee or program, a representative or agent 307  
of the monitoring organization described in section 4731.251 of 308  
the Revised Code, and a member of the state medical board shall 309  
not be held liable in damages to any person by reason of actions 310  
taken to refer a physician assistant to a treatment provider 311  
approved under section 4731.25 of the Revised Code for 312  
examination or treatment. 313

**Sec. 4731.224.** (A) Within sixty days after the imposition 314  
of any formal disciplinary action taken by any health care 315  
facility, including a hospital, health care facility operated by 316  
a health insuring corporation, ambulatory surgical center, or 317  
similar facility, against any individual holding a valid license 318  
or certificate to practice issued pursuant to this chapter, the 319  
chief administrator or executive officer of the facility shall 320  
report to the state medical board the name of the individual, 321  
the action taken by the facility, and a summary of the 322  
underlying facts leading to the action taken. Upon request, the 323  
board shall be provided certified copies of the patient records 324  
that were the basis for the facility's action. Prior to release 325  
to the board, the summary shall be approved by the peer review 326  
committee that reviewed the case or by the governing board of 327  
the facility. As used in this division, "formal disciplinary 328  
action" means any action resulting in the revocation, 329  
restriction, reduction, or termination of clinical privileges 330  
for violations of professional ethics, or for reasons of medical 331  
incompetence, or medical malpractice, ~~or drug or alcohol abuse.~~ 332  
"Formal disciplinary action" includes a summary action, an 333  
action that takes effect notwithstanding any appeal rights that 334  
may exist, and an action that results in an individual 335  
surrendering clinical privileges while under investigation and 336  
during proceedings regarding the action being taken or in return 337  
for not being investigated or having proceedings held. "Formal 338  
disciplinary action" does not include any action taken for the 339  
sole reason of failure to maintain records on a timely basis or 340  
failure to attend staff or section meetings. 341

The filing or nonfiling of a report with the board, 342  
investigation by the board, or any disciplinary action taken by 343  
the board, shall not preclude any action by a health care 344

facility to suspend, restrict, or revoke the individual's 345  
clinical privileges. 346

In the absence of fraud or bad faith, no individual or 347  
entity that provides patient records to the board shall be 348  
liable in damages to any person as a result of providing the 349  
records. 350

(B) ~~If (1) Except as provided in division (B) (2) of this 351  
section, if any individual authorized to practice under this 352  
chapter or any professional association or society of such 353  
individuals believes that a violation of any provision of this 354  
chapter, Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 355  
4778. of the Revised Code, or any rule of the board has 356  
occurred, the individual, association, or society shall report 357  
to the board the information upon which the belief is based. 358  
This division does not require any treatment provider approved 359  
by the board under section 4731.25 of the Revised Code or any 360  
employee, agent, or representative of such a provider to make 361  
reports with respect to an impaired practitioner participating 362  
in treatment or aftercare for substance abuse as long as the 363  
practitioner maintains participation in accordance with the 364  
requirements of section 4731.25 of the Revised Code, and as long 365  
as the treatment provider or employee, agent, or representative 366  
of the provider has no reason to believe that the practitioner 367  
has violated any provision of this chapter or any rule adopted 368  
under it, other than the provisions of division (B) (26) of 369  
section 4731.22 of the Revised Code. This division does not 370  
require reporting by any member of an impaired practitioner 371  
committee established by a health care facility or by any 372  
representative or agent of a committee or program sponsored by a 373  
professional association or society of individuals authorized to 374  
practice under this chapter to provide peer assistance to 375~~

~~practitioners with substance abuse problems with respect to a 376  
practitioner who has been referred for examination to a 377  
treatment program approved by the board under section 4731.25 of 378  
the Revised Code if the practitioner cooperates with the 379  
referral for examination and with any determination that the 380  
practitioner should enter treatment and as long as the committee 381  
member, representative, or agent has no reason to believe that 382  
the practitioner has ceased to participate in the treatment 383  
program in accordance with section 4731.25 of the Revised Code 384  
or has violated any provision of this chapter or any rule 385  
adopted under it, other than the provisions of division (B) (26) 386  
of section 4731.22 of the Revised Code. 387~~

(2) If any individual authorized to practice under this 388  
chapter or any professional association or society of such 389  
individuals believes that a violation of division (B) (26) of 390  
section 4731.22 of the Revised Code has occurred, the 391  
individual, association, or society shall report the information 392  
upon which the belief is based to the monitoring organization 393  
conducting the program established by the board under section 394  
4731.251 of the Revised Code. If any such report is made to the 395  
board, it shall be referred to the monitoring organization 396  
unless the board is aware that the individual who is the subject 397  
of the report does not meet the program eligibility requirements 398  
of section 4731.252 of the Revised Code. 399

(C) Any professional association or society composed 400  
primarily of doctors of medicine and surgery, doctors of 401  
osteopathic medicine and surgery, doctors of podiatric medicine 402  
and surgery, or practitioners of limited branches of medicine 403  
that suspends or revokes an individual's membership for 404  
violations of professional ethics, or for reasons of 405  
professional incompetence or professional malpractice, within 406

sixty days after a final decision shall report to the board, on 407  
forms prescribed and provided by the board, the name of the 408  
individual, the action taken by the professional organization, 409  
and a summary of the underlying facts leading to the action 410  
taken. 411

The filing of a report with the board or decision not to 412  
file a report, investigation by the board, or any disciplinary 413  
action taken by the board, does not preclude a professional 414  
organization from taking disciplinary action against an 415  
individual. 416

(D) Any insurer providing professional liability insurance 417  
to an individual authorized to practice under this chapter, or 418  
any other entity that seeks to indemnify the professional 419  
liability of such an individual, shall notify the board within 420  
thirty days after the final disposition of any written claim for 421  
damages where such disposition results in a payment exceeding 422  
twenty-five thousand dollars. The notice shall contain the 423  
following information: 424

(1) The name and address of the person submitting the 425  
notification; 426

(2) The name and address of the insured who is the subject 427  
of the claim; 428

(3) The name of the person filing the written claim; 429

(4) The date of final disposition; 430

(5) If applicable, the identity of the court in which the 431  
final disposition of the claim took place. 432

(E) The board may investigate possible violations of this 433  
chapter or the rules adopted under it that are brought to its 434

attention as a result of the reporting requirements of this 435  
section, except that the board shall conduct an investigation if 436  
a possible violation involves repeated malpractice. As used in 437  
this division, "repeated malpractice" means three or more claims 438  
for medical malpractice within the previous five-year period, 439  
each resulting in a judgment or settlement in excess of twenty- 440  
five thousand dollars in favor of the claimant, and each 441  
involving negligent conduct by the practicing individual. 442

(F) All summaries, reports, and records received and 443  
maintained by the board pursuant to this section shall be held 444  
in confidence and shall not be subject to discovery or 445  
introduction in evidence in any federal or state civil action 446  
involving a health care professional or facility arising out of 447  
matters that are the subject of the reporting required by this 448  
section. The board may use the information obtained only as the 449  
basis for an investigation, as evidence in a disciplinary 450  
hearing against an individual whose practice is regulated under 451  
this chapter, or in any subsequent trial or appeal of a board 452  
action or order. 453

The board may disclose the summaries and reports it 454  
receives under this section only to health care facility 455  
committees within or outside this state that are involved in 456  
credentialing or recredentialing the individual or in reviewing 457  
the individual's clinical privileges. The board shall indicate 458  
whether or not the information has been verified. Information 459  
transmitted by the board shall be subject to the same 460  
confidentiality provisions as when maintained by the board. 461

(G) Except for reports filed by an individual pursuant to 462  
division (B) of this section, the board shall send a copy of any 463  
reports or summaries it receives pursuant to this section to the 464



individual who is the subject of the reports or summaries. The 465  
individual shall have the right to file a statement with the 466  
board concerning the correctness or relevance of the 467  
information. The statement shall at all times accompany that 468  
part of the record in contention. 469

(H) An individual or entity that, pursuant to this 470  
section, reports to the board, reports to the monitoring 471  
organization described in section 4731.251 of the Revised Code, 472  
or refers an impaired practitioner to a treatment provider 473  
approved by the board under section 4731.25 of the Revised Code 474  
shall not be subject to suit for civil damages as a result of 475  
the report, referral, or provision of the information. 476

(I) In the absence of fraud or bad faith, no professional 477  
association or society of individuals authorized to practice 478  
under this chapter that sponsors a committee or program to 479  
provide peer assistance to practitioners with substance abuse 480  
problems, no representative or agent of such a committee or 481  
program, no representative or agent of the monitoring 482  
organization described in section 4731.251 of the Revised Code, 483  
and no member of the state medical board shall be held liable in 484  
damages to any person by reason of actions taken to refer a 485  
practitioner to a treatment provider approved under section 486  
4731.25 of the Revised Code for examination or treatment. 487

**Sec. 4731.24.** Except as provided in sections 4731.281 and 488  
4731.40 of the Revised Code, all receipts of the state medical 489  
board, from any source, shall be deposited in the state 490  
treasury. The funds shall be deposited to the credit of the 491  
state medical board operating fund, which is hereby created. 492  
Except as provided in sections 4730.252, 4731.225, 4731.24, 493  
4759.071, 4760.133, 4761.091, 4762.133, 4774.133, and 4778.141 494

of the Revised Code, all funds deposited into the state treasury 495  
under this section shall be used solely for the administration 496  
and enforcement of this chapter and Chapters 4730., 4759., 497  
4760., 4761., 4762., 4774., and 4778. of the Revised Code by the 498  
board. 499

**Sec. 4731.25.** The state medical board, in accordance with 500  
Chapter 119. of the Revised Code, shall adopt and may amend and 501  
rescind rules establishing standards for approval of physicians 502  
and facilities as treatment providers for ~~impaired~~ practitioners 503  
~~who are regulated under this chapter or Chapter 4730., 4759.,~~ 504  
~~4760., 4761., 4762., 4774., or 4778. suffering or showing~~ 505  
evidence of suffering impairment as described in division (B) (5) 506  
of section 4730.25, division (B) (26) of section 4731.22, 507  
division (A) (18) of section 4759.07, division (B) (6) of section 508  
4760.13, division (A) (18) of section 4761.09, division (B) (6) of 509  
section 4762.13, division (B) (6) of section 4774.13, or division 510  
(B) (6) of section 4778.14 of the Revised Code. The rules shall 511  
include standards for both inpatient and outpatient treatment 512  
and for care and monitoring that continues after treatment. The 513  
rules shall provide that in order to be approved, a treatment 514  
provider must have the capability of making an initial 515  
examination to determine what type of treatment an impaired 516  
practitioner requires. Subject to the rules, the board shall 517  
review and approve treatment providers on a regular basis. The 518  
board, at its discretion, may withdraw or deny approval subject 519  
to the rules. 520

An approved impaired practitioner treatment provider shall 521  
do all of the following: 522

(A) Report to the board the name of any practitioner 523  
suffering or showing evidence of suffering impairment ~~as~~ 524

~~described in division (B) (5) of section 4730.25 of the Revised Code, division (B) (26) of section 4731.22 of the Revised Code, division (A) (4) of section 4759.07 of the Revised Code, division (B) (6) of section 4760.13 of the Revised Code, division (B) (6) of section 4762.13 of the Revised Code, division (B) (6) of section 4774.13 of the Revised Code, or division (B) (6) of section 4778.14 of the Revised Code~~ who fails to comply within one week with a referral for examination; 525  
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(B) Report to the board the name of any impaired practitioner who fails to enter treatment within forty-eight hours following the provider's determination that the practitioner needs treatment; 533  
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(C) Require every practitioner who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare; 537  
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(D) Require a practitioner to suspend practice upon entry into any required inpatient treatment; 541  
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(E) Report to the board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare; 543  
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(F) Report to the board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care; 546  
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(G) Require a practitioner who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the board for 551  
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approval of treatment providers; 554

(H) Report the identity of any practitioner practicing 555  
under the terms of an aftercare contract to hospital 556  
administrators, medical chiefs of staff, and chairpersons of 557  
impaired practitioner committees of all health care institutions 558  
at which the practitioner holds clinical privileges or otherwise 559  
practices. If the practitioner does not hold clinical privileges 560  
at any health care institution, the treatment provider shall 561  
report the practitioner's identity to the impaired practitioner 562  
committee of the county medical society, osteopathic academy, or 563  
podiatric medical association in every county in which the 564  
practitioner practices. If there are no impaired practitioner 565  
committees in the county, the treatment provider shall report 566  
the practitioner's identity to the president or other designated 567  
member of the county medical society, osteopathic academy, or 568  
podiatric medical association. 569

(I) Report to the board the identity of any practitioner 570  
who suffers a relapse at any time during or following aftercare. 571

Any individual authorized to practice under this chapter 572  
who enters into treatment by an approved treatment provider 573  
shall be deemed to have waived any confidentiality requirements 574  
that would otherwise prevent the treatment provider from making 575  
reports required under this section. 576

In the absence of fraud or bad faith, no person or 577  
organization that conducts an approved impaired practitioner 578  
treatment program, no member of such an organization, and no 579  
employee, representative, or agent of the treatment provider 580  
shall be held liable in damages to any person by reason of 581  
actions taken or recommendations made by the treatment provider 582  
or its employees, representatives, or agents. 583

<u>Sec. 4731.251. (A) As used in this section and in sections</u>	584
<u>4731.252 and 4731.253 of the Revised Code;</u>	585
<u>(1) "Impaired" or "impairment" has the same meaning as in</u>	586
<u>division (B) (5) of section 4730.25, division (B) (26) of section</u>	587
<u>4731.22, division (A) (18) of section 4759.07, division (B) (6) of</u>	588
<u>section 4760.13, division (A) (18) of section 4761.09, division</u>	589
<u>(B) (6) of section 4762.13, division (B) (6) of section 4774.13,</u>	590
<u>or division (B) (6) of section 4778.14 of the Revised Code.</u>	591
<u>(2) "Practitioner" means any of the following:</u>	592
<u>(a) An individual authorized under this chapter to</u>	593
<u>practice medicine and surgery, osteopathic medicine and surgery,</u>	594
<u>podiatric medicine and surgery, or a limited branch of medicine;</u>	595
<u>(b) An individual licensed under Chapter 4730. of the</u>	596
<u>Revised Code to practice as a physician assistant;</u>	597
<u>(c) An individual authorized under Chapter 4759. of the</u>	598
<u>Revised Code to practice as a dietitian;</u>	599
<u>(d) An individual authorized under Chapter 4760. of the</u>	600
<u>Revised Code to practice as an anesthesiologist assistant;</u>	601
<u>(e) An individual authorized under Chapter 4761. of the</u>	602
<u>Revised Code to practice respiratory care;</u>	603
<u>(f) An individual authorized under Chapter 4762. of the</u>	604
<u>Revised Code to practice as an acupuncturist or oriental</u>	605
<u>medicine practitioner;</u>	606
<u>(g) An individual authorized under Chapter 4774. of the</u>	607
<u>Revised Code to practice as a radiologist assistant;</u>	608
<u>(h) An individual licensed under Chapter 4778. of the</u>	609
<u>Revised Code to practice as a genetic counselor.</u>	610

(B) The state medical board shall establish a confidential program for treatment of impaired practitioners, which shall be known as the one-bite program. The board shall contract with one organization to conduct the program and perform monitoring services. 611  
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To be qualified to contract with the board under this section, an organization must meet all of the following requirements: 616  
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(1) Be sponsored by one or more professional associations or societies of practitioners; 619  
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(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code; 621  
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623

(3) Contract with or employ to serve as the organization's medical director an individual who is authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and specializes or has training and expertise in addiction medicine; 624  
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(4) Contract with or employ one or more of the following as necessary for the organization's operation: 629  
630

(a) An individual licensed under Chapter 4758. of the Revised Code as an independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, chemical dependency counselor III, or chemical dependency counselor II; 631  
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(b) An individual licensed under Chapter 4757. of the Revised Code as an independent social worker, social worker, licensed professional clinical counselor, or licensed professional counselor; 636  
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(c) An individual licensed under Chapter 4732. of the 640  
Revised Code as a psychologist. 641

(C) The monitoring organization shall do all of the 642  
following pursuant to the contract: 643

(1) Receive any report of suspected impairment, including 644  
a report made under division (B) (2) of section 4730.32, division 645  
(B) (2) of section 4731.224, section 4759.13, division (B) (2) of 646  
section 4760.16, section 4761.19, division (B) (2) of section 647  
4762.16, division (B) (2) of section 4774.16, or section 4778.17 648  
of the Revised Code; 649

(2) Notify a practitioner who is the subject of a report 650  
received under division (C) (1) of this section that the report 651  
has been made and that the practitioner may be eligible to 652  
participate in the program conducted under this section; 653

(3) Determine whether a practitioner reported to the 654  
monitoring organization is eligible to participate in the 655  
program and notify the practitioner of the determination; 656

(4) In the case of a practitioner reported by a treatment 657  
provider, notify the treatment provider of the eligibility 658  
determination; 659

(5) Report to the board any practitioner who is determined 660  
ineligible to participate in the program; 661

(6) Refer an eligible practitioner who chooses to 662  
participate in the program for evaluation by a treatment 663  
provider approved by the board under section 4731.25 of the 664  
Revised Code, unless the report received by the monitoring 665  
organization was made by an approved treatment provider and the 666  
practitioner has already been evaluated by the treatment 667  
provider; 668

- (7) Monitor the evaluation of an eligible practitioner; 669
- (8) Refer an eligible practitioner who chooses to 670  
participate in the program to a treatment provider approved by 671  
the board under section 4731.25 of the Revised Code; 672
- (9) Establish, in consultation with the treatment provider 673  
to which a practitioner is referred, the terms and conditions 674  
with which the practitioner must comply for continued 675  
participation in and successful completion of the program; 676
- (10) Report to the board any practitioner who does not 677  
complete evaluation or treatment or does not comply with any of 678  
the terms and conditions established by the monitoring 679  
organization and the treatment provider; 680
- (11) Perform any other activities specified in the 681  
contract with the board or that the monitoring organization 682  
considers necessary to comply with this section and sections 683  
4731.252 and 4731.253 of the Revised Code. 684
- (D) The monitoring organization shall not disclose to the 685  
board the name of a practitioner or any records relating to a 686  
practitioner, unless any of the following occurs: 687
- (1) The practitioner is determined to be ineligible to 688  
participate in the program. 689
- (2) The practitioner requests the disclosure. 690
- (3) The practitioner is unwilling or unable to complete or 691  
comply with any part of the program, including evaluation, 692  
treatment, or monitoring. 693
- (4) The practitioner presents an imminent danger to the 694  
public or to the practitioner, as a result of the practitioner's 695  
impairment. 696



(5) The practitioner has relapsed or the practitioner's impairment has not been substantially alleviated by participation in the program. 697  
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(E) (1) The monitoring organization shall develop procedures governing each of the following: 700  
701

(a) Receiving reports of practitioner impairment; 702

(b) Notifying practitioners of reports and eligibility determinations; 703  
704

(c) Referring eligible practitioners for evaluation or treatment; 705  
706

(d) Establishing individualized treatment plans for eligible practitioners, as recommended by treatment providers; 707  
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(e) Establishing individualized terms and conditions with which eligible practitioners must comply for continued participation in and successful completion of the program. 709  
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(2) The monitoring organization, in consultation with the board, shall develop procedures governing each of the following: 712  
713

(a) Providing reports to the board on a periodic basis on the total number of practitioners participating in the program, without disclosing the names or records of any program participants other than those about whom reports are required by this section; 714  
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(b) Reporting to the board any practitioner who due to impairment presents an imminent danger to the public or to the practitioner; 719  
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(c) Reporting to the board any practitioner who is unwilling or unable to complete or comply with any part of the 722  
723

program, including evaluation, treatment, or monitoring; 724

(d) Reporting to the board any practitioner whose 725  
impairment was not substantially alleviated by participation in 726  
the program or who has relapsed. 727

(F) The board may adopt any rules it considers necessary 728  
to implement this section and sections 4731.252 and 4731.253 of 729  
the Revised Code, including rules regarding the monitoring 730  
organization and treatment providers that provide treatment to 731  
practitioners referred by the monitoring organization. Any such 732  
rules shall be adopted in accordance with Chapter 119. of the 733  
Revised Code. 734

Sec. 4731.252. (A) A practitioner is eligible to 735  
participate in the program established under section 4731.251 of 736  
the Revised Code if all of the following are the case: 737

(1) The practitioner is impaired. 738

(2) The practitioner has not participated previously in 739  
the program. 740

(3) Unless the state medical board has referred the 741  
practitioner to the program, the practitioner has not been 742  
sanctioned previously by the board under division (B) (5) of 743  
section 4730.25, division (B) (26) of section 4731.22, division 744  
(A) (18) of section 4759.07, division (B) (6) of section 4760.13, 745  
division (A) (18) of section 4761.09, division (B) (6) of section 746  
4762.13, division (B) (6) of section 4774.13, or division (B) (6) 747  
of section 4778.14 of the Revised Code. 748

(B) All of the following apply to a practitioner who 749  
participates in the program: 750

(1) The practitioner must comply with all terms and 751

conditions for continued participation in and successful 752  
completion of the program. 753

(2) On acceptance into the program, the practitioner must 754  
suspend practice until after the later of the following: 755

(a) The date the treatment provider determines that the 756  
practitioner is no longer impaired and is able to practice 757  
according to acceptable and prevailing standards of care; 758

(b) The end of a period specified by the treatment 759  
provider, which shall be not less than thirty days. 760

(3) The practitioner is responsible for all costs 761  
associated with participation. 762

(4) The practitioner is deemed to have waived any right to 763  
confidentiality that would prevent the monitoring organization 764  
conducting the program or a treatment provider from making 765  
reports required by section 4731.251 of the Revised Code. 766

**Sec. 4731.253.** In the absence of fraud or bad faith, no 767  
monitoring organization that conducts a program established 768  
under section 4731.251 of the Revised Code and no agent, 769  
employee, member, or representative of such organization shall 770  
be liable in damages in a civil action or subject to criminal 771  
prosecution for performing any of the duties required by that 772  
section, the contract with the state medical board, or section 773  
4731.252 of the Revised Code. 774

**Sec. 4731.291.** (A) An individual seeking to pursue an 775  
internship, residency, or clinical fellowship program in this 776  
state, who does not hold a license to practice medicine and 777  
surgery or osteopathic medicine or surgery issued under this 778  
chapter, shall apply to the state medical board for a training 779  
certificate. The application shall be made on forms that the 780

board shall furnish and shall be accompanied by an application 781  
fee of ~~seventy five~~ one hundred thirty dollars. 782

An applicant for a training certificate shall furnish to 783  
the board all of the following: 784

(1) Evidence satisfactory to the board that the applicant 785  
is at least eighteen years of age and is of good moral 786  
character. 787

(2) Evidence satisfactory to the board that the applicant 788  
has been accepted or appointed to participate in this state in 789  
one of the following: 790

(a) An internship or residency program accredited by 791  
either the accreditation council for graduate medical education 792  
of the American medical association or the American osteopathic 793  
association; 794

(b) A clinical fellowship program at an institution with a 795  
residency program accredited by either the accreditation council 796  
for graduate medical education of the American medical 797  
association or the American osteopathic association that is in a 798  
clinical field the same as or related to the clinical field of 799  
the fellowship program; 800

(3) Information identifying the beginning and ending dates 801  
of the period for which the applicant has been accepted or 802  
appointed to participate in the internship, residency, or 803  
clinical fellowship program; 804

(4) Any other information that the board requires. 805

(B) If no grounds for denying a license or certificate 806  
under section 4731.22 of the Revised Code apply, and the 807  
applicant meets the requirements of division (A) of this 808

section, the board shall issue a training certificate to the 809  
applicant. The board shall not require an examination as a 810  
condition of receiving a training certificate. 811

A training certificate issued pursuant to this section 812  
shall be valid only for ~~the period of three~~ years, but may in 813  
the discretion of the board and upon application duly made, be 814  
~~renewed annually thereafter for up to two additional years for~~ 815  
one additional three-year period. The fee for renewal of a 816  
training certificate shall be ~~thirty five~~ one hundred dollars. 817

The board shall maintain a register of all individuals who 818  
hold training certificates. 819

(C) The holder of a valid training certificate shall be 820  
entitled to perform such acts as may be prescribed by or 821  
incidental to the holder's internship, residency, or clinical 822  
fellowship program, but the holder shall not be entitled 823  
otherwise to engage in the practice of medicine and surgery or 824  
osteopathic medicine and surgery in this state. The holder shall 825  
limit activities under the certificate to the programs of the 826  
hospitals or facilities for which the training certificate is 827  
issued. The holder shall train only under the supervision of the 828  
physicians responsible for supervision as part of the 829  
internship, residency, or clinical fellowship program. 830

A training certificate may be revoked by the board upon 831  
proof, satisfactory to the board, that the holder thereof has 832  
engaged in practice in this state outside the scope of the 833  
internship, residency, or clinical fellowship program for which 834  
the training certificate has been issued, or upon proof, 835  
satisfactory to the board, that the holder thereof has engaged 836  
in unethical conduct or that there are grounds for action 837  
against the holder under section 4731.22 of the Revised Code. 838

(D) The board may adopt rules as the board finds necessary 839  
to effect the purpose of this section. 840

**Sec. 4731.573.** (A) An individual seeking to pursue an 841  
internship, residency, or clinical fellowship program in 842  
podiatric medicine and surgery in this state, who does not hold 843  
a license to practice podiatric medicine and surgery issued 844  
under this chapter, shall apply to the state medical board for a 845  
training certificate. The application shall be made on forms 846  
that the board shall furnish and shall be accompanied by an 847  
application fee of ~~seventy-five~~ one hundred thirty dollars. 848

An applicant for a training certificate shall furnish to 849  
the board all of the following: 850

(1) Evidence satisfactory to the board that the applicant 851  
is at least eighteen years of age and is of good moral 852  
character; 853

(2) Evidence satisfactory to the board that the applicant 854  
has been accepted or appointed to participate in this state in 855  
one of the following: 856

(a) An internship or residency program accredited by 857  
either the council on podiatric medical education or the 858  
American podiatric medical association; 859

(b) A clinical fellowship program at an institution with a 860  
residency program accredited by either the council on podiatric 861  
medical education or the American podiatric medical association 862  
that is in a clinical field the same as or related to the 863  
clinical field of the fellowship program. 864

(3) Information identifying the beginning and ending dates 865  
of the period for which the applicant has been accepted or 866  
appointed to participate in the internship, residency, or 867

clinical fellowship program; 868

(4) Any other information that the board requires. 869

(B) If no grounds for denying a license or certificate 870  
under section 4731.22 of the Revised Code apply and the 871  
applicant meets the requirements of division (A) of this 872  
section, the board shall issue a training certificate to the 873  
applicant. The board shall not require an examination as a 874  
condition of receiving a training certificate. 875

A training certificate issued pursuant to this section 876  
shall be valid only for ~~the period of one year~~ three years, but 877  
may in the discretion of the board and upon application duly 878  
made, be renewed ~~annually for a maximum of five years~~ one 879  
additional three-year period. The fee for renewal of a training 880  
certificate shall be ~~thirty five~~ one hundred dollars. 881

The board shall maintain a register of all individuals who 882  
hold training certificates. 883

(C) The holder of a valid training certificate shall be 884  
entitled to perform such acts as may be prescribed by or 885  
incidental to the holder's internship, residency, or clinical 886  
fellowship program, but the holder shall not be entitled 887  
otherwise to engage in the practice of podiatric medicine and 888  
surgery in this state. The holder shall limit activities under 889  
the certificate to the programs of the hospitals or facilities 890  
for which the training certificate is issued. The holder shall 891  
train only under the supervision of the podiatrists responsible 892  
for supervision as part of the internship, residency, or 893  
clinical fellowship program. A training certificate may be 894  
revoked by the board upon proof, satisfactory to the board, that 895  
the holder thereof has engaged in practice in this state outside 896

the scope of the internship, residency, or clinical fellowship 897  
program for which the training certificate has been issued, or 898  
upon proof, satisfactory to the board, that the holder thereof 899  
has engaged in unethical conduct or that there are grounds for 900  
action against the holder under section 4731.22 of the Revised 901  
Code. 902

(D) The board may adopt rules as the board finds necessary 903  
to effect the purpose of this section. 904

Sec. 4759.012. The secretary of the state medical board 905  
shall enforce the laws relating to the practice of dietetics. If 906  
the secretary has knowledge or notice of a violation of this 907  
chapter or the rules adopted under it, the secretary shall 908  
investigate the matter and, upon probable cause appearing, file 909  
a complaint and prosecute the offender. When requested by the 910  
secretary, the prosecuting attorney of the proper county shall 911  
take charge of and conduct the prosecution. 912

**Sec. 4759.02.** (A) Except as otherwise provided in this 913  
section or in section 4759.10 of the Revised Code, no person 914  
shall practice, offer to practice, or hold self forth to 915  
practice dietetics unless the person has been licensed under 916  
section 4759.06 of the Revised Code. 917

(B) Except for a ~~licensed dietitian holding an inactive~~ 918  
~~license who does not practice or offer to practice dietetics, or~~ 919  
~~a~~ person licensed under section 4759.06 of the Revised Code, or 920  
as otherwise provided in this section or in section 4759.10 of 921  
the Revised Code: 922

(1) No person shall use the title "dietitian"; ~~and~~ 923

(2) No person except for a person licensed under ~~Chapters~~ 924  
~~4701. to 4755. Title XLVII~~ of the Revised Code, when acting 925



within the scope of their practice, shall use any other title, 926  
designation, words, letters, abbreviation, or insignia or 927  
combination of any title, designation, words, letters, 928  
abbreviation, or insignia tending to indicate that the person is 929  
practicing dietetics. 930

(C) Notwithstanding division (B) of this section, a person 931  
who is a dietitian registered by the commission on dietetic 932  
registration and who does not violate division (A) of this 933  
section may use the designation "registered dietitian" and the 934  
abbreviation "R.D." 935

(D) Division (A) of this section does not apply to: 936

(1) A student enrolled in an academic program that is in 937  
compliance with division (A) ~~(5)~~ (4) of section 4759.06 of the 938  
Revised Code who is engaging in the practice of dietetics under 939  
the supervision of a dietitian licensed under section 4759.06 of 940  
the Revised Code or a dietitian registered by the commission on 941  
dietetic registration, as part of the academic program; 942

(2) A person participating in the pre-professional 943  
experience required by division (A) ~~(6)~~ (5) of section 4759.06 of 944  
the Revised Code; 945

(3) A person holding a limited permit under division ~~(F)~~ 946  
(E) of section 4759.06 of the Revised Code. 947

~~(E) Divisions (A) and (B) of this section do not apply to 948  
a person who performs no more than fifteen days of dietetic 949  
practice in the state and who meets at least one of the 950  
following requirements:— 951~~

~~(1) The state medical board determines that the person is 952  
licensed in another state with licensure requirements equivalent 953  
to or more stringent than those set forth in this chapter;— 954~~

~~(2) The person is a dietitian registered by the commission on dietetic registration and resides in another state that either has no dietitian licensure requirements or has licensure requirements less stringent than those set forth in this chapter. The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person who either directly or by complicity is in violation of this section, may, in accordance with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in the unlawful activity by applying for an injunction in the Franklin county court of common pleas or any other court of competent jurisdiction.~~

Prior to application for such injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful activity by registered mail that the secretary has received information indicating that the person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position

of the proceeding on the calendar of the court. Injunction 986  
proceedings shall be in addition to, and not in lieu of, all 987  
penalties and other remedies provided under this chapter. 988

**Sec. 4759.05.** (A) ~~The state medical board shall:~~ 989

~~(A)~~ Adopt, adopt, amend, or rescind rules pursuant to 990  
Chapter 119. of the Revised Code to carry out the provisions of 991  
this chapter, including rules governing the following: 992

(1) Selection and approval of a dietitian licensure 993  
examination offered by the commission on dietetic registration 994  
or any other examination; 995

(2) The examination of applicants for licensure as a 996  
dietitian, ~~to be held at least twice annually,~~ as required under 997  
division (A) of section 4759.06 of the Revised Code; 998

(3) Requirements for pre-professional dietetic experience 999  
of applicants for licensure as a dietitian that are at least 1000  
equivalent to the requirements adopted by the commission on 1001  
dietetic registration; 1002

(4) Requirements for a person holding a limited permit 1003  
under division ~~(F)~~ (E) of section 4759.06 of the Revised Code, 1004  
including the duration of validity of a limited permit and 1005  
procedures for renewal; 1006

~~(5) Requirements for a licensed dietitian who places a~~ 1007  
~~license in inactive status under division (G) of section 4759.06~~ 1008  
~~of the Revised Code, including a procedure for changing inactive~~ 1009  
~~status to active status;~~ 1010

~~(6)~~ Continuing education requirements for renewal of a 1011  
license, ~~except that the board may adopt rules to waive the~~ 1012  
~~requirements for a person who is unable to meet the requirements~~ 1013

~~due to illness or other reasons including rules providing for~~ 1014  
~~pro rata reductions by month of the number of hours of~~ 1015  
~~continuing education that must be completed for license holders~~ 1016  
~~who are in their first renewal period, have been disabled by~~ 1017  
~~illness or accident, or have been absent from the country.~~ 1018  
Rules adopted under this division shall be consistent with the 1019  
continuing education requirements adopted by the commission on 1020  
dietetic registration. 1021

~~(7)~~ (6) Any additional education requirements the board 1022  
considers necessary, for applicants who have not practiced 1023  
dietetics within five years of the initial date of application 1024  
for licensure; 1025

~~(8)~~ (7) Standards of professional responsibility and 1026  
practice for persons licensed under this chapter that are 1027  
consistent with those standards of professional responsibility 1028  
and practice adopted by the academy of nutrition and dietetics; 1029

~~(9)~~ (8) Formulation of an application form for licensure 1030  
or license renewal ~~that includes the statement that any~~ 1031  
~~applicant who knowingly makes a false statement on the~~ 1032  
~~application is guilty of a misdemeanor of the first degree under~~ 1033  
~~section 2921.13 of the Revised Code;~~ 1034

~~(10)~~ (9) Procedures for license renewal; 1035

~~(11)~~ ~~Establishing a time period after the notification of~~ 1036  
~~a violation of section 4759.02 of the Revised Code, by which the~~ 1037  
~~person notified must request a hearing by the board under~~ 1038  
~~section 4759.09 of the Revised Code;~~ 1039

~~(12)~~ (10) Requirements for criminal records checks of 1040  
applicants under section 4776.03 of the Revised Code. 1041

~~(B) Investigate alleged violations of sections 4759.02 to~~ 1042

~~4759.10 of the Revised Code. In making its investigations~~(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. 1043  
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(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 4759.012 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. 1056  
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(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may issue subpoenas, ~~examine~~ question witnesses, ~~and~~ conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, and compel the attendance of witnesses and the 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 1065  
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approval of the secretary and supervising member of the board. 1074

Before issuance of a subpoena for patient record 1075  
information, the secretary and supervising member shall 1076  
determine whether there is probable cause to believe that the 1077  
complaint filed alleges a violation of this chapter or any rule 1078  
adopted under it and that the records sought are relevant to the 1079  
alleged violation and material to the investigation. The 1080  
subpoena may apply only to records that cover a reasonable 1081  
period of time surrounding the alleged violation. 1082

On failure to comply with any subpoena issued by the board 1083  
and after reasonable notice to the person being subpoenaed, the 1084  
board may move for an order compelling the production of persons 1085  
or records pursuant to the Rules of Civil Procedure. 1086

A subpoena issued by the board may be served by a sheriff, 1087  
the sheriff's deputy, or a board employee designated by the 1088  
board. Service of a subpoena issued by the board may be made by 1089  
delivering a copy of the subpoena to the person named therein, 1090  
reading it to the person, or leaving it at the person's usual 1091  
place of residence, usual place of business, or address on file 1092  
with the board. When serving a subpoena to an applicant for or 1093  
the holder of a license or limited permit issued under this 1094  
chapter, service of the subpoena may be made by certified mail, 1095  
return receipt requested, and the subpoena shall be deemed 1096  
served on the date delivery is made or the date the person 1097  
refuses to accept delivery. If the person being served refuses 1098  
to accept the subpoena or is not located, service may be made to 1099  
an attorney who notifies the board that the attorney is 1100  
representing the person. 1101

A sheriff's deputy who serves a subpoena shall receive the 1102  
same fees as a sheriff. Each witness who appears before the 1103

board in obedience to a subpoena shall receive the fees and 1104  
mileage provided for under section 119.094 of the Revised Code. 1105

(4) All hearings, investigations, and inspections of the 1106  
board shall be considered civil actions for the purposes of 1107  
section 2305.252 of the Revised Code. 1108

(5) A report required to be submitted to the board under 1109  
this chapter, a complaint, or information received by the board 1110  
pursuant to an investigation is confidential and not subject to 1111  
discovery in any civil action. 1112

The board shall conduct all investigations or inspections 1113  
and proceedings in a manner that protects the confidentiality of 1114  
patients and persons who file complaints with the board. The 1115  
board shall not make public the names or any other identifying 1116  
information about patients or complainants unless proper consent 1117  
is given. 1118

The board may share any information it receives pursuant 1119  
to an investigation or inspection, including patient records and 1120  
patient record information, with law enforcement agencies, other 1121  
licensing boards, and other governmental agencies that are 1122  
prosecuting, adjudicating, or investigating alleged violations 1123  
of statutes or administrative rules. An agency or board that 1124  
receives the information shall comply with the same requirements 1125  
regarding confidentiality as those with which the state medical 1126  
board must comply, notwithstanding any conflicting provision of 1127  
the Revised Code or procedure of the agency or board that 1128  
applies when it is dealing with other information in its 1129  
possession. In a judicial proceeding, the information may be 1130  
admitted into evidence only in accordance with the Rules of 1131  
Evidence, but the court shall require that appropriate measures 1132  
are taken to ensure that confidentiality is maintained with 1133

respect to any part of the information that contains names or 1134  
other identifying information about patients or complainants 1135  
whose confidentiality was protected by the state medical board 1136  
when the information was in the board's possession. Measures to 1137  
ensure confidentiality that may be taken by the court include 1138  
sealing its records or deleting specific information from its 1139  
records. 1140

(6) On a quarterly basis, the board shall prepare a report 1141  
that documents the disposition of all cases during the preceding 1142  
three months. The report shall contain the following information 1143  
for each case with which the board has completed its activities: 1144

(a) The case number assigned to the complaint or alleged 1145  
violation; 1146

(b) The type of license, if any, held by the individual 1147  
against whom the complaint is directed; 1148

(c) A description of the allegations contained in the 1149  
complaint; 1150

(d) The disposition of the case. 1151

The report shall state how many cases are still pending 1152  
and shall be prepared in a manner that protects the identity of 1153  
each person involved in each case. The report shall be a public 1154  
record under section 149.43 of the Revised Code. 1155

~~(C) Conduct meetings and~~ The board shall keep records as 1156  
are necessary to carry out the provisions of this chapter. 1157

~~(D) Publish, and make available to the public, upon~~ 1158  
~~request and for a fee not to exceed the actual cost of printing~~ 1159  
~~and mailing,~~ The board shall maintain and publish on its 1160  
internet web site the board's rules and requirements for 1161



licensure adopted under division (A) of this section. 1162

**Sec. 4759.051.** (A) The state medical board shall appoint a 1163  
dietetics advisory council for the purpose of advising the board 1164  
on issues relating to the practice of dietetics ~~and the~~ 1165  
~~investigation of complaints regarding the practice of dietetics.~~ 1166  
The advisory council shall consist of not more than seven 1167  
individuals knowledgeable in the area of dietetics. ~~A~~ 1168

A majority of the council members shall be individuals 1169  
licensed under this chapter who are actively engaged in the 1170  
practice of dietetics ~~who meet the requirements for licensure~~ 1171  
~~under section 4759.06 of the Revised Code.~~ The board shall 1172  
include both of the following on the council ~~one~~ : 1173

(1) One educator with a doctoral degree who holds a 1174  
regular faculty appointment in a program that prepares students 1175  
to meet the requirements of division (A) ~~(5)~~ (4) of section 1176  
4759.06 of the Revised Code ~~and one member~~ ; 1177

(2) One individual who is not affiliated with any health 1178  
care profession, who shall be appointed to represent the 1179  
interest of consumers. 1180

The Ohio academy of nutrition and dietetics, or its 1181  
successor organization, may nominate ~~the names of up to not more~~ 1182  
than three qualified individuals for consideration by the board 1183  
in ~~making appointments for each vacancy on~~ appointing any member 1184  
of the council. 1185

(B) Not later than ninety days after ~~the effective date of~~ 1186  
~~this section~~ January 21, 2018, the board shall make initial 1187  
appointments to the council. ~~Members~~ Initial members shall serve 1188  
~~three-year staggered~~ terms of office ~~in accordance with rules~~ 1189  
~~adopted of one, two, or three years, as selected~~ by the board. 1190

Thereafter, terms of office shall be for three years, with each 1191  
term ending on the same day of the same month as did the term 1192  
that it succeeds. A council member shall continue in office 1193  
subsequent to the expiration date of the member's term until a 1194  
successor is appointed and takes office, or until a period of 1195  
sixty days has elapsed, whichever occurs first. Each council 1196  
member shall hold office from the date of appointment until the 1197  
end of the term for which the member was appointed. 1198

(C) ~~With approval from the director of administrative~~ 1199  
~~services, members may receive an amount fixed under division (J)~~ 1200  
~~of section 124.15 of the Revised Code for each day the member is~~ 1201  
~~performing the member's official duties and~~ Members shall serve 1202  
without compensation, but shall be reimbursed for actual and 1203  
necessary expenses incurred in performing ~~those~~ their official 1204  
duties. 1205

(D) The council shall meet at least four times ~~per each~~ 1206  
year and at such other times as may be necessary to carry out 1207  
its responsibilities. 1208

(E) The council ~~shall~~ may submit to the board 1209  
recommendations concerning all of the following: 1210

(1) Requirements for issuing a license to practice as a 1211  
~~dietician-dietitian~~ or as a limited permit holder, including the 1212  
educational and experience requirements that must be met to 1213  
receive the license or ~~limited~~ permit; 1214

(2) Existing and proposed rules pertaining to the practice 1215  
of dietetics and the administration and enforcement of this 1216  
chapter; 1217

(3) Standards for the approval of educational programs 1218  
required to qualify for licensure and continuing education 1219

programs for licensure renewal;	1220
(4) <del>Procedures for Policies</del> related to the issuance and renewal of licenses and limited permits;	1221 1222
(5) Fees for the issuance and renewal of a license to practice dietetics as a licensee or as a limited permit holder;	1223 1224
(6) Standards of practice and ethical conduct in the practice of dietetics;	1225 1226
(7) <del>Complaints concerning alleged violation of sections 4759.02 to 4759.10 of the Revised Code or grounds for the suspension, revocation, refusal to issue, or issuance of probationary licenses or limited permits;</del>	1227 1228 1229 1230
<del>(8)</del> The safe and effective practice of dietetics, <u>including scope of practice and minimal standards of care.</u>	1231 1232
<b>Sec. 4759.06.</b> (A) The state medical board shall issue <del>or renew</del> a license to practice dietetics to an applicant who <u>meets all of the following requirements:</u>	1233 1234 1235
(1) Has satisfactorily completed an application for licensure in accordance with <u>rules adopted under</u> division (A) of section 4759.05 of the Revised Code;	1236 1237 1238
(2) Has paid the fee required under division (A) of section 4759.08 of the Revised Code;	1239 1240
(3) <del>Is a resident of the state or performs or plans to perform dietetic services within the state;</del>	1241 1242
<del>(4)</del> Is of good moral character;	1243
<del>(5)</del> <u>(4)</u> Has received a baccalaureate or higher degree from an institution of higher education that is approved by the board or a regional accreditation agency that is recognized by the	1244 1245 1246

council on postsecondary accreditation, and has completed a 1247  
program consistent with the academic standards for dietitians 1248  
established by the academy of nutrition and dietetics; 1249

~~(6)~~ (5) Has successfully completed a pre-professional 1250  
dietetic experience approved by the academy of nutrition and 1251  
dietetics, or experience approved by the board under division 1252  
(A) (3) of section 4759.05 of the Revised Code; 1253

~~(7)~~ (6) Has passed the examination approved by the board 1254  
under division (A) (1) of section 4759.05 of the Revised Code; 1255

~~(8) Is an applicant for renewal of a license, and has~~ 1256  
~~fulfilled the continuing education requirements adopted under~~ 1257  
~~division (A) (6) of section 4759.05 of the Revised Code.~~ 1258

(B) The board shall waive the requirements of divisions 1259  
(A) (4), (5), and (6), ~~and (7)~~ of this section and any rules 1260  
adopted under division (A) ~~(7)~~ (6) of section 4759.05 of the 1261  
Revised Code if the applicant presents satisfactory evidence to 1262  
the board of current registration as a registered dietitian with 1263  
the commission on dietetic registration. 1264

~~(C) The board shall waive the requirements of division (A)~~ 1265  
~~(7) of this section if the application for renewal is made~~ 1266  
~~within two years after the date of license expiration.~~ 1267

~~(D) The board may waive the requirements of division (A)~~ 1268  
~~(5), (6), or (7) of this section or any rules adopted under~~ 1269  
~~division (A) (7) of section 4759.05 of the Revised Code, if the~~ 1270  
~~applicant presents satisfactory evidence of education,~~ 1271  
~~experience, or passing an examination in another state or a~~ 1272  
~~foreign country, that the board considers the equivalent of the~~ 1273  
~~requirements stated in those divisions or rules.~~ 1274

~~(E)~~ (1) The board shall issue an initial a license to 1275

practice dietetics to an applicant who meets the requirements of 1276  
division (A) of this section. ~~An initial A license issued before~~ 1277  
~~July 1, 2018, shall be valid from the date of issuance through~~ 1278  
~~the thirtieth day of expire on June following issuance of the~~ 1279  
~~license. Each subsequent license shall be valid from the first~~ 1280  
~~day of July through the thirtieth day of June 30, 2018. The A~~ 1281  
~~license issued on or after July 1, 2018, shall expire on the~~ 1282  
~~thirtieth day of June of the next even-numbered year after~~ 1283  
~~issuance. A license may be renewed.~~ 1284

(2) ~~The board shall renew the an applicant's license of an~~ 1285  
~~applicant who is licensed to practice dietetics and who if the~~ 1286  
~~applicant meets the continuing education requirements of adopted~~ 1287  
~~under division (A) (6) (5) of section 4759.05 of the Revised Code~~ 1288  
~~and has paid the license renewal fee specified in section~~ 1289  
~~4759.08 of the Revised Code. The renewal shall be pursuant to~~ 1290  
~~the standard renewal procedure of sections 4745.01 to 4745.03 of~~ 1291  
~~the Revised Code.~~ 1292

~~(F) At least one month before a license expires, the board~~ 1293  
~~shall provide a renewal notice. Failure of any person to receive~~ 1294  
~~a notice of renewal from the board shall not excuse the person~~ 1295  
~~from the requirements contained in this section. Each person~~ 1296  
~~holding a license shall give notice to the board of a change in~~ 1297  
~~the license holder's residence address, business address, or~~ 1298  
~~electronic mail address not later than thirty days after the~~ 1299  
~~change occurs.~~ 1300

(D) ~~Any person licensed to practice dietetics by the~~ 1301  
~~former Ohio board of dietetics before January 21, 2018, may~~ 1302  
~~continue to practice dietetics in this state under that license~~ 1303  
~~if the person continues to meet the requirements to renew a~~ 1304  
~~license under this chapter and renews the license through the~~ 1305

state medical board. 1306

The state medical board may take any of the following 1307  
actions, as provided in section 4759.07 of the Revised Code, 1308  
against the holder of a license to practice dietetics issued 1309  
before January 21, 2018, by the former Ohio board of dietetics: 1310

(1) Limit, revoke, or suspend the holder's license; 1311

(2) Refuse to renew or reinstate the holder's license; 1312

(3) Reprimand the holder or place the holder on probation. 1313

(E) (1) The board may grant a limited permit to a person 1314  
who has completed the education and pre-professional 1315  
requirements of divisions (A) ~~(5)~~ (4) and ~~(6)~~ (5) of this section 1316  
and who presents evidence to the board of having applied to take 1317  
the examination approved by the board under division (A) (1) of 1318  
section 4759.05 of the Revised Code. ~~A~~ An application for a 1319  
limited permit shall be made on forms that the board shall 1320  
furnish and shall be accompanied by the limited permit fee 1321  
specified in section 4759.08 of the Revised Code. 1322

(2) If no grounds apply under section 4759.07 of the 1323  
Revised Code for denying a license to the applicant and the 1324  
applicant meets the requirements of division (E) (1) of this 1325  
section, the board shall issue a limited permit to the 1326  
applicant. 1327

A limited permit expires in accordance with rules adopted 1328  
under section 4759.05 of the Revised Code. A limited permit may 1329  
be renewed in accordance with those rules. 1330

(3) The board shall maintain a register of all persons 1331  
holding limited permits under this chapter. 1332

(4) A person holding a limited permit who has failed the 1333

examination shall practice only under the direct supervision of 1334  
a licensed dietitian. 1335

~~(G) A licensed dietitian may place the license in inactive-~~ 1336  
~~status.~~ 1337

(5) The board may revoke a limited permit on proof 1338  
satisfactory to the board that the permit holder has engaged in 1339  
practice in this state outside the scope of the permit, that the 1340  
holder has engaged in unethical conduct, or that grounds for 1341  
action against the holder exist under section 4759.07 of the 1342  
Revised Code. 1343

Sec. 4759.062. (A) A license to practice dietetics that is 1344  
not renewed on or before its expiration date is automatically 1345  
suspended on its expiration date. Continued practice after 1346  
suspension shall be considered as practicing in violation of 1347  
section 4759.02 of the Revised Code. 1348

(B) If a license has been suspended pursuant to division 1349  
(A) of this section for two years or less, it may be reinstated. 1350  
The state medical board shall reinstate the license upon the 1351  
applicant's submission of a complete renewal application and 1352  
payment of a reinstatement fee of two hundred five dollars. 1353

(C) (1) If a license has been suspended pursuant to 1354  
division (A) of this section for more than two years, it may be 1355  
restored. The board may restore the license upon an applicant's 1356  
submission of a complete restoration application and a 1357  
restoration fee of two hundred thirty dollars and compliance 1358  
with sections 4776.01 to 4776.04 of the Revised Code. The board 1359  
shall not restore a license unless the board, in its discretion, 1360  
decides that the results of the criminal records check do not 1361  
make the applicant ineligible for a license issued pursuant to 1362

section 4759.06 of the Revised Code. 1363

(2) The board may impose terms and conditions for the 1364  
restoration, including any one or more of the following: 1365

(a) Requiring the applicant to pass an oral or written 1366  
examination, or both, to determine the applicant's present 1367  
fitness to resume practice; 1368

(b) Requiring the applicant to obtain additional training 1369  
and to pass an examination upon completion of such training; 1370

(c) Restricting or limiting the extent, scope, or type of 1371  
practice of the applicant. 1372

**Sec. 4759.07.** (A) ~~The state medical board may, in~~ 1373  
~~accordance with Chapter 119. of the Revised Code, refuse to~~ 1374  
~~issue, review, or renew, or may suspend, revoke, or impose~~ 1375  
~~probationary conditions upon any license or permit to practice~~ 1376  
~~dietetics, if the applicant has, by an affirmative vote of not~~ 1377  
fewer than six members, shall, to the extent permitted by law, 1378  
limit, revoke, or suspend an individual's license or limited 1379  
permit, refuse to issue a license or limited permit to an 1380  
individual, refuse to renew a license or limited permit, refuse 1381  
to reinstate a license or limited permit, or reprimand or place 1382  
on probation the holder of a license or limited permit for one 1383  
or more of the following reasons: 1384

~~(1) Violated sections 4759.02 to 4759.10 of the Revised~~ 1385  
~~Code~~ Except when civil penalties are imposed under section 1386  
4759.071 of the Revised Code, violating or attempting to 1387  
violate, directly or indirectly, or assisting in or abetting the 1388  
violation of, or conspiring to violate, any provision of this 1389  
chapter or the rules adopted under those sections by the board; 1390

~~(2) Knowingly made~~ Making a false, fraudulent, deceptive, 1391



or misleading statement in an application for licensure or 1392  
license renewal, the solicitation of or advertising for patients; 1393  
in relation to the practice of dietetics; or in securing or 1394  
attempting to secure any license or permit issued by the board 1395  
under this chapter. 1396

As used in division (A) (2) of this section, "false, 1397  
fraudulent, deceptive, or misleading statement" means a 1398  
statement that includes a misrepresentation of fact, is likely 1399  
to mislead or deceive because of a failure to disclose material 1400  
facts, is intended or is likely to create false or unjustified 1401  
expectations of favorable results, or includes representations 1402  
or implications that in reasonable probability will cause an 1403  
ordinarily prudent person to misunderstand or be deceived. 1404

(3) Committing fraud during the administration of the 1405  
examination for a license to practice or committing fraud, 1406  
misrepresentation, or deception in applying for, renewing, or 1407  
securing any license or permit issued by the board; 1408

~~(3) Been convicted of any crime constituting a felony in~~ 1409  
~~this or any other state;~~ 1410

~~(4) Been impaired in ability to perform as a licensed~~ 1411  
~~dietitian due to the use of a controlled substance or alcoholic~~ 1412  
~~beverage;~~ 1413

~~(5) Been convicted of a misdemeanor committed in the~~ 1414  
~~course of work as a dietitian in this or any other state;~~ 1415

~~(6) A plea of guilty to, a judicial finding of guilt of,~~ 1416  
~~or a judicial finding of eligibility for intervention in lieu of~~ 1417  
~~conviction for, a felony;~~ 1418

(5) Commission of an act that constitutes a felony in this 1419  
state, regardless of the jurisdiction in which the act was 1420

committed; 1421

(6) A plea of guilty to, a judicial finding of guilt of, 1422  
or a judicial finding of eligibility for intervention in lieu of 1423  
conviction for, a misdemeanor committed in the course of 1424  
practice; 1425

(7) Commission of an act in the course of practice that 1426  
constitutes a misdemeanor in this state, regardless of the 1427  
jurisdiction in which the act was committed; 1428

(8) A plea of guilty to, a judicial finding of guilt of, 1429  
or a judicial finding of eligibility for intervention in lieu of 1430  
conviction for, a misdemeanor involving moral turpitude; 1431

(9) Commission of an act involving moral turpitude that 1432  
constitutes a misdemeanor in this state, regardless of the 1433  
jurisdiction in which the act was committed; 1434

(10) A record of engaging in incompetent or negligent 1435  
conduct in the practice of dietetics.— 1436

~~(B) For purposes of this division, any individual who~~ 1437  
~~holds a license or permit issued under this chapter, or applies~~ 1438  
~~for a license or permit to practice dietetics, is deemed to have~~ 1439  
~~given consent to submit to a mental or physical examination when~~ 1440  
~~directed to do so in writing by the board and to have waived all~~ 1441  
~~objections to the admissibility of testimony or examination~~ 1442  
~~reports that constitute a privileged communication.—~~ 1443

~~For purposes of division (A)(4) of this section, if the~~ 1444  
~~board has reason to believe that any individual who holds a~~ 1445  
~~license or permit issued under this chapter or any applicant for~~ 1446  
~~a license or permit suffers such impairment, the board may~~ 1447  
~~compel the individual to submit to a mental or physical~~ 1448  
~~examination, or both. The expense of the examination is the~~ 1449

~~responsibility of the individual compelled to be examined. Any 1450  
mental or physical examination required under this division 1451  
shall be undertaken by a treatment provider or physician 1452  
qualified to conduct such examination and chosen by the board. 1453~~

~~Failure to submit to a mental or physical examination 1454  
ordered by the board constitutes an admission of the allegations 1455  
against the individual unless the failure is due to 1456  
circumstances beyond the individual's control, and a default and 1457  
final order may be entered without the taking of testimony or 1458  
presentation of evidence. If the board determines that the 1459  
individual's ability to practice is impaired, the board shall 1460  
suspend the individual's license or permit or deny the 1461  
individual's application and shall require the individual, as a 1462  
condition for initial, continued, reinstated, or renewed 1463  
licensure, to submit to treatment. 1464~~

~~Before being eligible to apply for reinstatement of a 1465  
license or permit suspended under this division, the dietitian 1466  
shall demonstrate to the board the ability to resume practice in 1467  
compliance with acceptable and prevailing standards of care. The 1468  
demonstration shall include the following: 1469~~

~~(1) Certification from a treatment provider approved under 1470  
section 4731.25 of the Revised Code that the individual has 1471  
successfully completed any required inpatient treatment; 1472~~

~~(2) Evidence of continuing full compliance with an 1473  
aftercare contract or consent agreement; 1474~~

~~(3) Two written reports indicating that the individual's 1475  
ability to practice has been assessed and that the individual 1476  
has been found capable of practicing according to acceptable and 1477  
prevailing standards of care. The reports shall be made by 1478~~

~~individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.~~ 1479  
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~~The board may reinstate a license or permit suspended under this division after such demonstration and after the individual has entered into a written consent agreement.~~ 1482  
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~~When the impaired dietitian resumes practice, the board shall require continued monitoring of the dietitian. 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 dietitian has maintained sobriety.~~ 1485  
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~~(C) One year or more after the date of suspension or revocation of a license or permit under division (A) (1), (2), (3), (5), or (6) of this section, an application for reinstatement of the license or permit may be made to the board. The board shall grant or deny reinstatement with a hearing, at the request of the applicant, in accordance with Chapter 119. of the Revised Code and may impose conditions upon the reinstatement, including the requirement of passing an examination approved by the board;~~ 1494  
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(11) A departure from, or 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; 1503  
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(12) The obtaining of, or attempting to obtain, money or 1507

<u>anything of value by fraudulent misrepresentations in the course</u>	1508
<u>of practice;</u>	1509
<u>(13) Violation of the conditions of limitation placed by</u>	1510
<u>the board on a license or permit;</u>	1511
<u>(14) Inability to practice according to acceptable and</u>	1512
<u>prevailing standards of care by reason of mental illness or</u>	1513
<u>physical illness, including, physical deterioration that</u>	1514
<u>adversely affects cognitive, motor, or perceptive skills;</u>	1515
<u>(15) Any of the following actions taken by an agency</u>	1516
<u>responsible for authorizing, certifying, or regulating an</u>	1517
<u>individual to practice a health care occupation or provide</u>	1518
<u>health care services in this state or another jurisdiction, for</u>	1519
<u>any reason other than the nonpayment of fees: the limitation,</u>	1520
<u>revocation, or suspension of an individual's license; acceptance</u>	1521
<u>of an individual's license surrender; denial of a license;</u>	1522
<u>refusal to renew or reinstate a license; imposition of</u>	1523
<u>probation; or issuance of an order of censure or other</u>	1524
<u>reprimand;</u>	1525
<u>(16) The revocation, suspension, restriction, reduction,</u>	1526
<u>or termination of practice privileges by the United States</u>	1527
<u>department of defense or department of veterans affairs;</u>	1528
<u>(17) Termination or suspension from participation in the</u>	1529
<u>medicare or medicaid programs by the department of health and</u>	1530
<u>human services or other responsible agency for any act or acts</u>	1531
<u>that also would constitute a violation of division (A) (11),</u>	1532
<u>(12), or (14) of this section;</u>	1533
<u>(18) Impairment of ability to practice according to</u>	1534
<u>acceptable and prevailing standards of care because of habitual</u>	1535
<u>or excessive use or abuse of drugs, alcohol, or other substances</u>	1536

that impair ability to practice; 1537

(19) Failure to cooperate in an investigation conducted by 1538  
the board under division (B) of section 4759.05 of the Revised 1539  
Code, including failure to comply with a subpoena or order 1540  
issued by the board or failure to answer truthfully a question 1541  
presented by the board in an investigative interview, an 1542  
investigative office conference, at a deposition, or in written 1543  
interrogatories, except that failure to cooperate with an 1544  
investigation shall not constitute grounds for discipline under 1545  
this section if a court of competent jurisdiction has issued an 1546  
order that either quashes a subpoena or permits the individual 1547  
to withhold the testimony or evidence in issue; 1548

(20) Representing with the purpose of obtaining 1549  
compensation or other advantage as personal gain or for any 1550  
other person, that an incurable disease or injury, or other 1551  
incurable condition, can be permanently cured. 1552

(B) Any action taken by the board under division (A) of 1553  
this section resulting in a suspension from practice shall be 1554  
accompanied by a written statement of the conditions under which 1555  
the individual's license or permit may be reinstated. The board 1556  
shall adopt rules governing conditions to be imposed for 1557  
reinstatement. Reinstatement of a license or permit suspended 1558  
pursuant to division (A) of this section requires an affirmative 1559  
vote of not fewer than six members of the board. 1560

(C) When the board refuses to grant or issue a license or 1561  
permit to an applicant, revokes an individual's license or 1562  
permit, refuses to renew an individual's license or permit, or 1563  
refuses to reinstate an individual's license or permit, the 1564  
board may specify that its action is permanent. An individual 1565  
subject to a permanent action taken by the board is forever 1566

thereafter ineligible to hold a license or permit and the board 1567  
shall not accept an application for reinstatement of the license 1568  
or permit or for issuance of a new license or permit. 1569

(D) Disciplinary actions taken by the board under division 1570  
(A) of this section shall be taken pursuant to an adjudication 1571  
under Chapter 119. of the Revised Code, except that in lieu of 1572  
an adjudication, the board may enter into a consent agreement 1573  
with an individual to resolve an allegation of a violation of 1574  
this chapter or any rule adopted under it. A consent agreement, 1575  
when ratified by an affirmative vote of not fewer than six 1576  
members of the board, shall constitute the findings and order of 1577  
the board with respect to the matter addressed in the agreement. 1578  
If the board refuses to ratify a consent agreement, the 1579  
admissions and findings contained in the consent agreement shall 1580  
be of no force or effect. 1581

A telephone conference call may be utilized for 1582  
ratification of a consent agreement that revokes or suspends an 1583  
individual's license or permit. The telephone conference call 1584  
shall be considered a special meeting under division (F) of 1585  
section 121.22 of the Revised Code. 1586

(E) In enforcing division (A) (14) of this section, the 1587  
board, upon a showing of a possible violation, may compel any 1588  
individual authorized to practice by this chapter or who has 1589  
submitted an application pursuant to this chapter to submit to a 1590  
mental examination, physical examination, including an HIV test, 1591  
or both a mental and a physical examination. The expense of the 1592  
examination is the responsibility of the individual compelled to 1593  
be examined. Failure to submit to a mental or physical 1594  
examination or consent to an HIV test ordered by the board 1595  
constitutes an admission of the allegations against the 1596

individual unless the failure is due to circumstances beyond the 1597  
individual's control, and a default and final order may be 1598  
entered without the taking of testimony or presentation of 1599  
evidence. If the board finds an individual unable to practice 1600  
because of the reasons set forth in division (A)(14) of this 1601  
section, the board shall require the individual to submit to 1602  
care, counseling, or treatment by physicians approved or 1603  
designated by the board, as a condition for initial, continued, 1604  
reinstated, or renewed authority to practice. An individual 1605  
affected under this division shall be afforded an opportunity to 1606  
demonstrate to the board the ability to resume practice in 1607  
compliance with acceptable and prevailing standards under the 1608  
provisions of the individual's license or permit. For the 1609  
purpose of division (A)(14) of this section, any individual who 1610  
applies for or receives a license or permit under this chapter 1611  
accepts the privilege of practicing in this state and, by so 1612  
doing, shall be deemed to have given consent to submit to a 1613  
mental or physical examination when directed to do so in writing 1614  
by the board, and to have waived all objections to the 1615  
admissibility of testimony or examination reports that 1616  
constitute a privileged communication. 1617

(F) For the purposes of division (A)(18) of this section, 1618  
any individual authorized to practice by this chapter accepts 1619  
the privilege of practicing in this state subject to supervision 1620  
by the board. By filing an application for or holding a license 1621  
or permit under this chapter, an individual shall be deemed to 1622  
have given consent to submit to a mental or physical examination 1623  
when ordered to do so by the board in writing, and to have 1624  
waived all objections to the admissibility of testimony or 1625  
examination reports that constitute privileged communications. 1626

If it has reason to believe that any individual authorized 1627



to practice by this chapter or any applicant for a license or 1628  
permit suffers such impairment, the board may compel the 1629  
individual to submit to a mental or physical examination, or 1630  
both. The expense of the examination is the responsibility of 1631  
the individual compelled to be examined. Any mental or physical 1632  
examination required under this division shall be undertaken by 1633  
a treatment provider or physician who is qualified to conduct 1634  
the examination and who is chosen by the board. 1635

Failure to submit to a mental or physical examination 1636  
ordered by the board constitutes an admission of the allegations 1637  
against the individual unless the failure is due to 1638  
circumstances beyond the individual's control, and a default and 1639  
final order may be entered without the taking of testimony or 1640  
presentation of evidence. If the board determines that the 1641  
individual's ability to practice is impaired, the board shall 1642  
suspend the individual's license or permit or deny the 1643  
individual's application and shall require the individual, as a 1644  
condition for an initial, continued, reinstated, or renewed 1645  
license or permit, to submit to treatment. 1646

Before being eligible to apply for reinstatement of a 1647  
license or permit suspended under this division, the impaired 1648  
practitioner shall demonstrate to the board the ability to 1649  
resume practice in compliance with acceptable and prevailing 1650  
standards of care under the provisions of the practitioner's 1651  
license or permit. The demonstration shall include, but shall 1652  
not be limited to, the following: 1653

(1) Certification from a treatment provider approved under 1654  
section 4731.25 of the Revised Code that the individual has 1655  
successfully completed any required inpatient treatment; 1656

(2) Evidence of continuing full compliance with an 1657

aftercare contract or consent agreement; 1658

(3) Two written reports indicating that the individual's 1659  
ability to practice has been assessed and that the individual 1660  
has been found capable of practicing according to acceptable and 1661  
prevailing standards of care. The reports shall be made by 1662  
individuals or providers approved by the board for making the 1663  
assessments and shall describe the basis for their 1664  
determination. 1665

The board may reinstate a license or permit suspended 1666  
under this division after that demonstration and after the 1667  
individual has entered into a written consent agreement. 1668

When the impaired practitioner resumes practice, the board 1669  
shall require continued monitoring of the individual. The 1670  
monitoring shall include, but not be limited to, compliance with 1671  
the written consent agreement entered into before reinstatement 1672  
or with conditions imposed by board order after a hearing, and, 1673  
upon termination of the consent agreement, submission to the 1674  
board for at least two years of annual written progress reports 1675  
made under penalty of perjury stating whether the individual has 1676  
maintained sobriety. 1677

(G) If the secretary and supervising member determine both 1678  
of the following, they may recommend that the board suspend an 1679  
individual's license or permit without a prior hearing: 1680

(1) That there is clear and convincing evidence that an 1681  
individual has violated division (A) of this section; 1682

(2) That the individual's continued practice presents a 1683  
danger of immediate and serious harm to the public. 1684

Written allegations shall be prepared for consideration by 1685  
the board. The board, upon review of those allegations and by an 1686

affirmative vote of not fewer than six of its members, excluding 1687  
the secretary and supervising member, may suspend a license or 1688  
permit without a prior hearing. A telephone conference call may 1689  
be utilized for reviewing the allegations and taking the vote on 1690  
the summary suspension. 1691

The board shall issue a written order of suspension by 1692  
certified mail or in person in accordance with section 119.07 of 1693  
the Revised Code. The order shall not be subject to suspension 1694  
by the court during pendency of any appeal filed under section 1695  
119.12 of the Revised Code. If the individual subject to the 1696  
summary suspension requests an adjudicatory hearing by the 1697  
board, the date set for the hearing shall be within fifteen 1698  
days, but not earlier than seven days, after the individual 1699  
requests the hearing, unless otherwise agreed to by both the 1700  
board and the individual. 1701

Any summary suspension imposed under this division shall 1702  
remain in effect, unless reversed on appeal, until a final 1703  
adjudicative order issued by the board pursuant to this section 1704  
and Chapter 119. of the Revised Code becomes effective. The 1705  
board shall issue its final adjudicative order within seventy- 1706  
five days after completion of its hearing. A failure to issue 1707  
the order within seventy-five days shall result in dissolution 1708  
of the summary suspension order but shall not invalidate any 1709  
subsequent, final adjudicative order. 1710

(H) If the board is required by Chapter 119. of the 1711  
Revised Code to give notice of an opportunity for a hearing and 1712  
if the individual subject to the notice does not timely request 1713  
a hearing in accordance with section 119.07 of the Revised Code, 1714  
the board is not required to hold a hearing, but may adopt, by 1715  
an affirmative vote of not fewer than six of its members, a 1716

final order that contains the board's findings. In the final 1717  
order, the board may order any of the sanctions identified under 1718  
division (A) of this section. 1719

(I) For purposes of divisions (A)(5), (7), and (9) of this 1720  
section, the commission of the act may be established by a 1721  
finding by the board, pursuant to an adjudication under Chapter 1722  
119. of the Revised Code, that the individual committed the act. 1723  
The board does not have jurisdiction under those divisions if 1724  
the trial court renders a final judgment in the individual's 1725  
favor and that judgment is based upon an adjudication on the 1726  
merits. The board has jurisdiction under those divisions if the 1727  
trial court issues an order of dismissal upon technical or 1728  
procedural grounds. 1729

(J) The sealing of conviction records by any court shall 1730  
have no effect upon a prior board order entered under this 1731  
section or upon the board's jurisdiction to take action under 1732  
this section if, based upon a plea of guilty, a judicial finding 1733  
of guilt, or a judicial finding of eligibility for intervention 1734  
in lieu of conviction, the board issued a notice of opportunity 1735  
for a hearing prior to the court's order to seal the records. 1736  
The board shall not be required to seal, destroy, redact, or 1737  
otherwise modify its records to reflect the court's sealing of 1738  
conviction records. 1739

(K) If the board takes action under division (A)(4), (6), 1740  
or (8) of this section, and the judicial finding of guilt, 1741  
guilty plea, or judicial finding of eligibility for intervention 1742  
in lieu of conviction is overturned on appeal, upon exhaustion 1743  
of the criminal appeal, a petition for reconsideration of the 1744  
order may be filed with the board along with appropriate court 1745  
documents. Upon receipt of a petition for reconsideration and 1746

supporting court documents, the board shall reinstate the 1747  
individual's license or permit. The board may then hold an 1748  
adjudication under Chapter 119. of the Revised Code to determine 1749  
whether the individual committed the act in question. Notice of 1750  
an opportunity for a hearing shall be given in accordance with 1751  
Chapter 119. of the Revised Code. If the board finds, pursuant 1752  
to an adjudication held under this division, that the individual 1753  
committed the act or if no hearing is requested, the board may 1754  
order any of the sanctions identified under division (A) of this 1755  
section. 1756

(L) The license or permit issued to an individual under 1757  
this chapter and the individual's practice in this state are 1758  
automatically suspended as of the date the individual pleads 1759  
guilty to, is found by a judge or jury to be guilty of, or is 1760  
subject to a judicial finding of eligibility for intervention in 1761  
lieu of conviction in this state or treatment or intervention in 1762  
lieu of conviction in another jurisdiction for any of the 1763  
following criminal offenses in this state or a substantially 1764  
equivalent criminal offense in another jurisdiction: aggravated 1765  
murder, murder, voluntary manslaughter, felonious assault, 1766  
kidnapping, rape, sexual battery, gross sexual imposition, 1767  
aggravated arson, aggravated robbery, or aggravated burglary. 1768  
Continued practice after suspension shall be considered 1769  
practicing without a license or permit. 1770

The board shall notify the individual subject to the 1771  
suspension by certified mail or in person in accordance with 1772  
section 119.07 of the Revised Code. If an individual whose 1773  
license or permit is automatically suspended under this division 1774  
fails to make a timely request for an adjudication under Chapter 1775  
119. of the Revised Code, the board shall enter a final order 1776  
permanently revoking the individual's license or permit. 1777

(M) Notwithstanding any other provision of the Revised Code, all of the following apply: 1778  
1779

(1) The surrender of a license or permit 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 permit. 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 permit surrendered to the board requires an affirmative vote of not fewer than six members of the board. 1780  
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(2) An application for a license or permit made under the provisions of this chapter may not be withdrawn without approval of the board. 1789  
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(3) Failure by an individual to renew a license or permit in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual. 1792  
1793  
1794  
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(4) At the request of the board, a license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked. 1796  
1797  
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Sec. 4759.071. (A) (1) If the holder of a license or limited permit issued under this chapter violates any section of this chapter, other than the continuing education requirements adopted under division (A) (5) of section 4759.05 of the Revised Code, or violates any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer 1800  
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than six of its members, impose a civil penalty. The amount of 1807  
the civil penalty shall be determined by the board in accordance 1808  
with the guidelines adopted under division (A)(2) of this 1809  
section. The civil penalty may be in addition to any other 1810  
action the board may take under section 4759.07 of the Revised 1811  
Code. 1812

(2) The board shall adopt and may amend guidelines 1813  
regarding the amounts of civil penalties to be imposed under 1814  
this section. Adoption or amendment of the guidelines requires 1815  
the approval of not fewer than six board members. Under the 1816  
guidelines, no civil penalty amount shall exceed twenty thousand 1817  
dollars. 1818

(B) Amounts received from payment of civil penalties 1819  
imposed under this section shall be deposited by the board in 1820  
accordance with section 4731.24 of the Revised Code. Amounts 1821  
received from payment of civil penalties imposed for violations 1822  
of division (A)(18) of section 4759.07 of the Revised Code shall 1823  
be used by the board solely for investigations, enforcement, and 1824  
compliance monitoring. 1825

**Sec. 4759.08.** (A) The state medical board shall charge and 1826  
collect fees as described in this section for issuing the 1827  
following: 1828

(1) An application for an initial dietitian license, ~~or an~~ 1829  
~~application for reactivation of an inactive license, one hundred~~ 1830  
~~twenty five dollars, and for reinstatement of a lapsed, revoked,~~ 1831  
~~or suspended license, one two hundred eighty twenty-five~~ 1832  
dollars; 1833

(2) License renewal, ~~ninety five~~ one hundred eighty 1834  
dollars; 1835

(3) A limited permit, ~~and or~~ renewal of the permit, sixty-five dollars; 1836  
1837

(4) A duplicate license or permit, ~~twenty thirty-five~~ dollars; 1838  
1839

~~(5) For processing a late application for renewal of any license or permit, an additional fee equal to fifty per cent of the fee for the renewal. In the case of a person holding a license issued under this chapter, a license verification fee of fifty dollars.~~ 1840  
1841  
1842  
1843  
1844

~~(B) The board shall not require a licensed dietitian holding an inactive license to pay the renewal fee.~~ 1845  
1846

~~(C) Subject to the approval of the controlling board, the state medical board may establish fees in excess of the amounts provided in division (A) of this section, provided that the fees do not exceed the amounts by greater than fifty per cent.~~ 1847  
1848  
1849  
1850

~~(D) The board may adopt rules pursuant to Chapter 119. of the Revised Code to waive all or part of the fee for an initial license if the license is issued within one hundred days of the date of expiration of the license.~~ 1851  
1852  
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1854

~~(E) All receipts of the board shall be deposited in the state treasury to the credit of the state medical board operating fund in accordance with section 4731.24 of the Revised Code.~~ 1855  
1856  
1857  
1858

**Sec. 4759.10.** Sections 4759.01 to ~~4759.09~~ 4759.08 of the Revised Code do not apply to any of the following: 1859  
1860

(A) A person licensed under ~~Chapters 4701. to 4755.~~ Title XLVII of the Revised Code who is acting within the scope of the person's profession, provided that the person complies with 1861  
1862  
1863



division (B) of section 4759.02 of the Revised Code; 1864

(B) A person who is a graduate of an associate degree 1865  
program approved by the academy of nutrition and dietetics or 1866  
the state medical board who is working as a dietetic technician 1867  
under the supervision of a dietitian licensed under section 1868  
4759.06 of the Revised Code or registered by the commission on 1869  
dietetic registration, except that the person is subject to 1870  
division (B) of section 4759.02 of the Revised Code if the 1871  
person uses a title other than "dietetic technician"; 1872

(C) A person who practices dietetics related to employment 1873  
in the armed forces, veteran's administration, or the public 1874  
health service of the United States; 1875

(D) Persons employed by a nonprofit agency approved by the 1876  
board or by a federal, state, municipal or county government, or 1877  
by any other political subdivision, elementary or secondary 1878  
school, or an institution of higher education approved by the 1879  
state medical board or by a regional agency recognized by the 1880  
council on postsecondary accreditation, who performs only 1881  
nutritional education activities and such other nutritional 1882  
activities as the ~~state medical~~ board, by rule, permits, 1883  
provided the person does not violate division (B) of section 1884  
4759.02 of the Revised Code; 1885

(E) A person who has completed a program meeting the 1886  
academic standards set for dietitians by the academy of 1887  
nutrition and dietetics, received a baccalaureate or higher 1888  
degree from a school, college, or university approved by a 1889  
regional accreditation agency recognized by the council on 1890  
postsecondary accreditation, works under the supervision of a 1891  
licensed dietitian or registered dietitian, and does not violate 1892  
division (B) of section 4759.02 of the Revised Code; 1893

(F) A person when acting, under the direction and 1894  
supervision of a person licensed under ~~Chapters 4701. to 4755.~~ 1895  
Title XLVII of the Revised Code, in the execution of a plan of 1896  
treatment authorized by the licensed person, provided the person 1897  
complies with division (B) of section 4759.02 of the Revised 1898  
Code; 1899

(G) The free dissemination of literature in the state; 1900

(H) Provided that the persons involved in the sale, 1901  
promotion, or explanation of the sale of food, food materials, 1902  
or dietary supplements do not violate division (B) of section 1903  
4759.02 of the Revised Code, the sale of food, food materials, 1904  
or dietary supplements and the marketing and distribution of 1905  
food, food materials, or dietary supplements and the promotion 1906  
or explanation of the use of food, food materials, or dietary 1907  
supplements provided that the promotion or explanation does not 1908  
violate Chapter 1345. of the Revised Code; 1909

(I) A person who offers dietary supplements for sale and 1910  
who makes the following statements about the product if the 1911  
statements are consistent with the dietary supplement's label or 1912  
labeling: 1913

(1) Claim a benefit related to a classical nutrient 1914  
deficiency disease and disclose the prevalence of the disease in 1915  
the United States; 1916

(2) Describe the role of a nutrient or dietary ingredient 1917  
intended to affect the structure or function of the human body; 1918

(3) Characterize the documented mechanism by which a 1919  
nutrient or dietary ingredient acts to maintain the structure or 1920  
function of the human body; 1921

(4) Describe general well-being from the consumption of a 1922

nutrient or dietary ingredient. 1923

(J) Provided that the persons involved in presenting a 1924  
general program of instruction for weight control do not violate 1925  
division (B) of section 4759.02 of the Revised Code, a general 1926  
program of instruction for weight control approved in writing by 1927  
a licensed dietitian, a physician licensed under Chapter 4731. 1928  
of the Revised Code to practice medicine or surgery or 1929  
osteopathic medicine or surgery, a person licensed in another 1930  
state that the board considers to have substantially equivalent 1931  
licensure requirements as this state, or a registered dietitian; 1932

(K) The continued practice of dietetics at a hospital by a 1933  
person employed at that same hospital to practice dietetics for 1934  
the twenty years immediately prior to July 1, 1987, so long as 1935  
the person works under the supervision of a dietitian licensed 1936  
under section 4759.06 of the Revised Code and does not violate 1937  
division (B) of section 4759.02 of the Revised Code. This 1938  
division does not apply to any person who has held a license 1939  
issued under this chapter to practice dietetics. As used in this 1940  
division, "hospital" has the same meaning as in section 3727.01 1941  
of the Revised Code. 1942

Sec. 4759.13. A dietitian, professional association or 1943  
society of dietitians, physician, or professional association or 1944  
society of physicians that believes a violation of division (A) 1945  
(18) of section 4759.07 of the Revised Code has occurred shall 1946  
report the information upon which the belief is based to the 1947  
monitoring organization conducting the program established by 1948  
the state medical board under section 4731.251 of the Revised 1949  
Code. If any such report is made to the board, it shall be 1950  
referred to the monitoring organization unless the board is 1951  
aware that the individual who is the subject of the report does 1952

not meet the program eligibility requirements of section 1953  
4731.252 of the Revised Code. 1954

An individual or entity that reports to the board, reports 1955  
to the monitoring organization described in section 4731.251 of 1956  
the Revised Code, or refers an impaired dietitian to a treatment 1957  
provider approved by the board under section 4731.25 of the 1958  
Revised Code shall not be subject to suit for civil damages as a 1959  
result of the report, referral, or provision of the information. 1960

In the absence of fraud or bad faith, a professional 1961  
association or society of dietitians that sponsors a committee 1962  
or program to provide peer assistance to a dietitian with 1963  
substance abuse problems, a representative or agent of such a 1964  
committee or program, a representative or agent of the 1965  
monitoring organization described in section 4731.251 of the 1966  
Revised Code, and a member of the state medical board shall not 1967  
be held liable in damages to any person by reason of actions 1968  
taken to refer a dietitian to a treatment provider approved 1969  
under section 4731.25 of the Revised Code for examination or 1970  
treatment. 1971

**Sec. 4760.01.** As used in this chapter: 1972

(A) "Ambulatory surgical facility" has the same meaning as 1973  
in section 3702.30 of the Revised Code. 1974

(B) "Anesthesiologist assistant" means an individual who 1975  
assists an anesthesiologist in developing and implementing 1976  
anesthesia care plans for patients. 1977

(C) "Anesthesiologist" means a physician who has 1978  
successfully completed an approved anesthesiology training 1979  
program, as specified in the accreditation requirements that 1980  
must be met to qualify as graduate medical education ~~under~~, as 1981

defined in section ~~4731.091~~ 4731.04 of the Revised Code. 1982

(D) "Hospital" has the same meaning as in section 3727.01 1983  
of the Revised Code. 1984

(E) "Physician" means an individual authorized under 1985  
Chapter 4731. of the Revised Code to practice medicine and 1986  
surgery or osteopathic medicine and surgery. 1987

**Sec. 4760.14.** (A) The state medical board shall 1988  
investigate evidence that appears to show that any person has 1989  
violated this chapter or the rules adopted under it. Any person 1990  
may report to the board in a signed writing any information the 1991  
person has that appears to show a violation of any provision of 1992  
this chapter or the rules adopted under it. In the absence of 1993  
bad faith, a person who reports such information or testifies 1994  
before the board in an adjudication conducted under Chapter 119. 1995  
of the Revised Code shall not be liable for civil damages as a 1996  
result of reporting the information or providing testimony. Each 1997  
complaint or allegation of a violation received by the board 1998  
shall be assigned a case number and be recorded by the board. 1999

(B) Investigations of alleged violations of this chapter 2000  
or rules adopted under it shall be supervised by the supervising 2001  
member elected by the board in accordance with section 4731.02 2002  
of the Revised Code and by the secretary as provided in section 2003  
4760.15 of the Revised Code. The board's president may designate 2004  
another member of the board to supervise the investigation in 2005  
place of the supervising member. A member of the board who 2006  
supervises the investigation of a case shall not participate in 2007  
further adjudication of the case. 2008

(C) In investigating a possible violation of this chapter 2009  
or the rules adopted under it, the board may administer oaths, 2010

order the taking of depositions, 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. 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 the rules 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.

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.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee 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. When the person being served is an anesthesiologist assistant, service of the subpoena may be made by certified mail, restricted delivery, 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.

A sheriff's deputy who serves a subpoena shall receive the

same fees as a sheriff. Each witness who appears before the 2041  
board in obedience to a subpoena shall receive the fees and 2042  
mileage provided for under section 119.094 of the Revised Code. 2043

(D) All hearings and investigations of the board shall be 2044  
considered civil actions for the purposes of section 2305.252 of 2045  
the Revised Code. 2046

(E) Information received by the board pursuant to an 2047  
investigation is confidential and not subject to discovery in 2048  
any civil action. 2049

The board shall conduct all investigations and proceedings 2050  
in a manner that protects the confidentiality of patients and 2051  
persons who file complaints with the board. The board shall not 2052  
make public the names or any other identifying information about 2053  
patients or complainants unless proper consent is given. 2054

The board may share any information it receives pursuant 2055  
to an investigation, including patient records and patient 2056  
record information, with law enforcement agencies, other 2057  
licensing boards, and other governmental agencies that are 2058  
prosecuting, adjudicating, or investigating alleged violations 2059  
of statutes or administrative rules. An agency or board that 2060  
receives the information shall comply with the same requirements 2061  
regarding confidentiality as those with which the state medical 2062  
board must comply, notwithstanding any conflicting provision of 2063  
the Revised Code or procedure of the agency or board that 2064  
applies when it is dealing with other information in its 2065  
possession. In a judicial proceeding, the information may be 2066  
admitted into evidence only in accordance with the Rules of 2067  
Evidence, but the court shall require that appropriate measures 2068  
are taken to ensure that confidentiality is maintained with 2069  
respect to any part of the information that contains names or 2070

other identifying information about patients or complainants 2071  
whose confidentiality was protected by the state medical board 2072  
when the information was in the board's possession. Measures to 2073  
ensure confidentiality that may be taken by the court include 2074  
sealing its records or deleting specific information from its 2075  
records. 2076

(F) The state medical board shall develop requirements for 2077  
and provide appropriate initial training and continuing 2078  
education for investigators employed by the board to carry out 2079  
its duties under this chapter. The training and continuing 2080  
education may include enrollment in courses operated or approved 2081  
by the Ohio peace officer training ~~council~~ commission that the 2082  
board considers appropriate under conditions set forth in 2083  
section 109.79 of the Revised Code. 2084

(G) On a quarterly basis, the board shall prepare a report 2085  
that documents the disposition of all cases during the preceding 2086  
three months. The report shall contain the following information 2087  
for each case with which the board has completed its activities: 2088

(1) The case number assigned to the complaint or alleged 2089  
violation; 2090

(2) The type of certificate to practice, if any, held by 2091  
the individual against whom the complaint is directed; 2092

(3) A description of the allegations contained in the 2093  
complaint; 2094

(4) The disposition of the case. 2095

The report shall state how many cases are still pending, 2096  
and shall be prepared in a manner that protects the identity of 2097  
each person involved in each case. The report is a public record 2098  
for purposes of section 149.43 of the Revised Code. 2099



**Sec. 4760.16.** (A) Within sixty days after the imposition 2100  
of any formal disciplinary action taken by any health care 2101  
facility, including a hospital, health care facility operated by 2102  
an insuring corporation, ambulatory surgical facility, or 2103  
similar facility, against any individual holding a valid 2104  
certificate to practice as an anesthesiologist assistant, the 2105  
chief administrator or executive officer of the facility shall 2106  
report to the state medical board the name of the individual, 2107  
the action taken by the facility, and a summary of the 2108  
underlying facts leading to the action taken. On request, the 2109  
board shall be provided certified copies of the patient records 2110  
that were the basis for the facility's action. Prior to release 2111  
to the board, the summary shall be approved by the peer review 2112  
committee that reviewed the case or by the governing board of 2113  
the facility. 2114

The filing of a report with the board or decision not to 2115  
file a report, investigation by the board, or any disciplinary 2116  
action taken by the board, does not preclude a health care 2117  
facility from taking disciplinary action against an 2118  
anesthesiologist assistant. 2119

In the absence of fraud or bad faith, no individual or 2120  
entity that provides patient records to the board shall be 2121  
liable in damages to any person as a result of providing the 2122  
records. 2123

~~(B) An~~ (1) Except as provided in division (B) (2) of this 2124  
section, an anesthesiologist assistant, professional association 2125  
or society of anesthesiologist assistants, physician, or 2126  
professional association or society of physicians that believes 2127  
a violation of any provision of this chapter, Chapter 4731. of 2128  
the Revised Code, or rule of the board has occurred shall report 2129

to the board the information on which the belief is based. ~~This~~ 2130  
~~division does not require any treatment provider approved by the~~ 2131  
~~board under section 4731.25 of the Revised Code or any employee,~~ 2132  
~~agent, or representative of such a provider to make reports with~~ 2133  
~~respect to an anesthesiologist assistant participating in~~ 2134  
~~treatment or aftercare for substance abuse as long as the~~ 2135  
~~anesthesiologist assistant maintains participation in accordance~~ 2136  
~~with the requirements of section 4731.25 of the Revised Code and~~ 2137  
~~the treatment provider or employee, agent, or representative of~~ 2138  
~~the provider has no reason to believe that the anesthesiologist~~ 2139  
~~assistant has violated any provision of this chapter or rule~~ 2140  
~~adopted under it, other than being impaired by alcohol, drugs,~~ 2141  
~~or other substances. This division does not require reporting by~~ 2142  
~~any member of an impaired practitioner committee established by~~ 2143  
~~a health care facility or by any representative or agent of a~~ 2144  
~~committee or program sponsored by a professional association or~~ 2145  
~~society of anesthesiologist assistants to provide peer~~ 2146  
~~assistance to anesthesiologist assistants with substance abuse~~ 2147  
~~problems with respect to an anesthesiologist assistant who has~~ 2148  
~~been referred for examination to a treatment program approved by~~ 2149  
~~the board under section 4731.25 of the Revised Code if the~~ 2150  
~~anesthesiologist assistant cooperates with the referral for~~ 2151  
~~examination and with any determination that the anesthesiologist~~ 2152  
~~assistant should enter treatment and as long as the committee~~ 2153  
~~member, representative, or agent has no reason to believe that~~ 2154  
~~the anesthesiologist assistant has ceased to participate in the~~ 2155  
~~treatment program in accordance with section 4731.25 of the~~ 2156  
~~Revised Code or has violated any provision of this chapter or~~ 2157  
~~rule adopted under it, other than being impaired by alcohol,~~ 2158  
~~drugs, or other substances.~~ 2159

(2) An anesthesiologist assistant, professional 2160

association or society of anesthesiologist assistants, 2161  
physician, or professional association or society of physicians 2162  
that believes that a violation of division (B) (6) of section 2163  
4760.13 of the Revised Code has occurred shall report the 2164  
information upon which the belief is based to the monitoring 2165  
organization conducting the program established by the board 2166  
under section 4731.251 of the Revised Code. If any such report 2167  
is made to the board, it shall be referred to the monitoring 2168  
organization unless the board is aware that the individual who 2169  
is the subject of the report does not meet the program 2170  
eligibility requirements of section 4731.252 of the Revised 2171  
Code. 2172

(C) Any professional association or society composed 2173  
primarily of anesthesiologist assistants that suspends or 2174  
revokes an individual's membership for violations of 2175  
professional ethics, or for reasons of professional incompetence 2176  
or professional malpractice, within sixty days after a final 2177  
decision, shall report to the board, on forms prescribed and 2178  
provided by the board, the name of the individual, the action 2179  
taken by the professional organization, and a summary of the 2180  
underlying facts leading to the action taken. 2181

The filing of a report with the board or decision not to 2182  
file a report, investigation by the board, or any disciplinary 2183  
action taken by the board, does not preclude a professional 2184  
organization from taking disciplinary action against an 2185  
anesthesiologist assistant. 2186

(D) Any insurer providing professional liability insurance 2187  
to any person holding a valid certificate to practice as an 2188  
anesthesiologist assistant or any other entity that seeks to 2189  
indemnify the professional liability of an anesthesiologist 2190

assistant shall notify the board within thirty days after the 2191  
final disposition of any written claim for damages where such 2192  
disposition results in a payment exceeding twenty-five thousand 2193  
dollars. The notice shall contain the following information: 2194

(1) The name and address of the person submitting the 2195  
notification; 2196

(2) The name and address of the insured who is the subject 2197  
of the claim; 2198

(3) The name of the person filing the written claim; 2199

(4) The date of final disposition; 2200

(5) If applicable, the identity of the court in which the 2201  
final disposition of the claim took place. 2202

(E) The board may investigate possible violations of this 2203  
chapter or the rules adopted under it that are brought to its 2204  
attention as a result of the reporting requirements of this 2205  
section, except that the board shall conduct an investigation if 2206  
a possible violation involves repeated malpractice. As used in 2207  
this division, "repeated malpractice" means three or more claims 2208  
for malpractice within the previous five-year period, each 2209  
resulting in a judgment or settlement in excess of twenty-five 2210  
thousand dollars in favor of the claimant, and each involving 2211  
negligent conduct by the anesthesiologist assistant. 2212

(F) All summaries, reports, and records received and 2213  
maintained by the board pursuant to this section shall be held 2214  
in confidence and shall not be subject to discovery or 2215  
introduction in evidence in any federal or state civil action 2216  
involving an anesthesiologist assistant, supervising physician, 2217  
or health care facility arising out of matters that are the 2218  
subject of the reporting required by this section. The board may 2219

use the information obtained only as the basis for an 2220  
investigation, as evidence in a disciplinary hearing against an 2221  
anesthesiologist assistant or supervising physician, or in any 2222  
subsequent trial or appeal of a board action or order. 2223

The board may disclose the summaries and reports it 2224  
receives under this section only to health care facility 2225  
committees within or outside this state that are involved in 2226  
credentialing or recredentialing an anesthesiologist assistant 2227  
or supervising physician or reviewing their privilege to 2228  
practice within a particular facility. The board shall indicate 2229  
whether or not the information has been verified. Information 2230  
transmitted by the board shall be subject to the same 2231  
confidentiality provisions as when maintained by the board. 2232

(G) Except for reports filed by an individual pursuant to 2233  
division (B) of this section, the board shall send a copy of any 2234  
reports or summaries it receives pursuant to this section to the 2235  
anesthesiologist assistant. The anesthesiologist assistant shall 2236  
have the right to file a statement with the board concerning the 2237  
correctness or relevance of the information. The statement shall 2238  
at all times accompany that part of the record in contention. 2239

(H) An individual or entity that reports to the board, 2240  
reports to the monitoring organization described in section 2241  
4731.251 of the Revised Code, or refers an impaired 2242  
anesthesiologist assistant to a treatment provider approved by 2243  
the board under section 4731.25 of the Revised Code shall not be 2244  
subject to suit for civil damages as a result of the report, 2245  
referral, or provision of the information. 2246

(I) In the absence of fraud or bad faith, a professional 2247  
association or society of anesthesiologist assistants that 2248  
sponsors a committee or program to provide peer assistance to an 2249

anesthesiologist assistant with substance abuse problems, a 2250  
representative or agent of such a committee or program, a 2251  
representative or agent of the monitoring organization described 2252  
in section 4731.251 of the Revised Code, and a member of the 2253  
state medical board shall not be held liable in damages to any 2254  
person by reason of actions taken to refer an anesthesiologist 2255  
assistant to a treatment provider approved under section 4731.25 2256  
of the Revised Code for examination or treatment. 2257

**Sec. 4761.01.** As used in this chapter: 2258

(A) "Respiratory care" means rendering or offering to 2259  
render to individuals, groups, organizations, or the public any 2260  
service involving the evaluation of cardiopulmonary function, 2261  
the treatment of cardiopulmonary impairment, the assessment of 2262  
treatment effectiveness, and the care of patients with 2263  
deficiencies and abnormalities associated with the 2264  
cardiopulmonary system. The practice of respiratory care 2265  
includes: 2266

(1) Obtaining, analyzing, testing, measuring, and 2267  
monitoring blood and gas samples in the determination of 2268  
cardiopulmonary parameters and related physiologic data, 2269  
including flows, pressures, and volumes, and the use of 2270  
equipment employed for this purpose; 2271

(2) Administering, monitoring, recording the results of, 2272  
and instructing in the use of medical gases, aerosols, and 2273  
bronchopulmonary hygiene techniques, including drainage, 2274  
aspiration, and sampling, and applying, maintaining, and 2275  
instructing in the use of artificial airways, ventilators, and 2276  
other life support equipment employed in the treatment of 2277  
cardiopulmonary impairment and provided in collaboration with 2278  
other licensed health care professionals responsible for 2279

providing care;	2280
(3) Performing cardiopulmonary resuscitation and	2281
respiratory rehabilitation techniques;	2282
(4) Administering medications for the testing or treatment	2283
of cardiopulmonary impairment.	2284
(B) "Respiratory care professional" means a person who is	2285
licensed under this chapter to practice the full range of	2286
<del>respiratory care services as defined</del> <u>described</u> in division (A)	2287
of this section.	2288
(C) "Physician" means an individual authorized under	2289
Chapter 4731. of the Revised Code to practice medicine and	2290
surgery or osteopathic medicine and surgery.	2291
(D) "Registered nurse" means an individual licensed under	2292
Chapter 4723. of the Revised Code to engage in the practice of	2293
nursing as a registered nurse.	2294
(E) "Hospital" means a facility that meets the operating	2295
standards of section 3727.02 of the Revised Code.	2296
(F) "Nursing facility" has the same meaning as in section	2297
5165.01 of the Revised Code.	2298
(G) <del>"Certified hyperbaric technologist" means a person who</del>	2299
<del>administers hyperbaric oxygen therapy and is certified as a</del>	2300
<del>hyperbaric technologist by the national board of diving and</del>	2301
<del>hyperbaric medical technology or its successor organization.</del>	2302
(H) <del>"Hyperbaric oxygen therapy" means the administration</del>	2303
<del>of pure oxygen in a pressurized room or chamber, except that it</del>	2304
<del>does not include ventilator management.</del>	2305
(I) <del>"Advanced practice registered nurse" has the same</del>	2306

meaning as in section 4723.01 of the Revised Code. 2307

~~(J)~~ (H) "Physician assistant" means an individual who 2308  
holds a valid license to practice as a physician assistant 2309  
issued under Chapter 4730. of the Revised Code ~~authorizing the~~ 2310  
~~individual to provide services as a physician assistant to~~ 2311  
~~patients under the supervision, control, and direction of one or~~ 2312  
~~more physicians.~~ 2313

Sec. 4761.012. The secretary of the state medical board 2314  
shall enforce the laws relating to the practice of respiratory 2315  
care. If the secretary has knowledge or notice of a violation of 2316  
this chapter or the rules adopted under it, the secretary shall 2317  
investigate the matter, and, upon probable cause appearing, file 2318  
a complaint and prosecute the offender. When requested by the 2319  
secretary, the prosecuting attorney of the proper county shall 2320  
take charge of and conduct the prosecution. 2321

Sec. 4761.03. (A) The state medical board shall regulate 2322  
the practice of respiratory care in this state and the persons 2323  
to whom the board issues licenses and limited permits under this 2324  
chapter. Rules adopted under this chapter that deal with the 2325  
provision of respiratory care in a hospital, other than rules 2326  
regulating the issuance of licenses or limited permits, shall be 2327  
consistent with the conditions for participation under medicare, 2328  
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 2329  
42 U.S.C.A. 1395, as amended, and with the respiratory care 2330  
accreditation standards of the joint commission ~~on accreditation~~ 2331  
~~of healthcare organizations~~ or the American osteopathic 2332  
association. 2333

(B) The board shall ~~:-~~ 2334

~~(A)~~ Adopt adopt, and may rescind or amend, rules in 2335



accordance with Chapter 119. of the Revised Code to carry out 2336  
the purposes of this chapter, including rules prescribing the 2337  
following: 2338

(1) The form and manner for filing applications ~~for~~ 2339  
~~licensure and renewal, limited permits, and limited permit~~ 2340  
~~extensions~~ under sections 4761.05 and 4761.06 of the Revised 2341  
Code; 2342

(2) ~~The form, scoring, and scheduling~~ Standards for the 2343  
approval of examinations and reexaminations administered by 2344  
national organizations for licensure and, license renewal, and 2345  
license reinstatement; 2346

(3) Standards for the approval of educational programs 2347  
required to qualify for licensure and approval of continuing 2348  
education programs required for license renewal; 2349

(4) Continuing education courses and the number of hour 2350  
requirements necessary for license renewal, ~~in accordance with~~ 2351  
under section 4761.06 of the Revised Code, including rules 2352  
providing for pro rata reductions by month of the number of 2353  
hours of continuing education that must be completed for license 2354  
holders who are in their first renewal period, have been 2355  
disabled by illness or accident, or have been absent from the 2356  
country; 2357

(5) Procedures for the issuance and renewal of licenses 2358  
and limited permits, including the duties that may be fulfilled 2359  
by the board's executive director and other board employees; 2360

(6) Procedures for the ~~denial~~ limitation, suspension, 2361  
~~permanent and revocation of licenses and limited permits, the~~ 2362  
refusal to issue, renew, and reinstatement of or reinstate 2363  
licenses and limited permits, ~~the conduct of hearings, and the~~ 2364

imposition of ~~fin~~es for engaging in conduct that is grounds for  
~~such action and hearings~~ a reprimand or probation under section  
4761.09 of the Revised Code; 2365  
2366  
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(7) Standards of ethical conduct for the practice of 2368  
respiratory care; 2369

~~(8) Conditions under which the license renewal fee and~~ 2370  
~~continuing education requirements may be waived at the request~~ 2371  
~~of a licensee who is not in active practice;~~ 2372

~~(9)~~The respiratory care tasks that may be performed by an 2373  
individual practicing as a polysomnographic technologist 2374  
pursuant to division (B) (3) of section 4761.10 of the Revised 2375  
Code; 2376

~~(10) Procedures for registering out-of-state respiratory~~ 2377  
~~care providers authorized to practice in this state under~~ 2378  
~~division (A) (4) of section 4761.11 of the Revised Code;~~ 2379

~~(11)~~ (9) Requirements for criminal records checks of 2380  
applicants under section 4776.03 of the Revised Code; 2381

~~(12) Procedures for accepting and storing copies of~~ 2382  
~~hyperbaric technologist certifications filed with the board~~ 2383  
~~pursuant to division (A) (11) of section 4761.11 of the Revised~~ 2384  
~~Code.~~ 2385

~~(B) Determine~~ (C) The board shall determine the 2386  
sufficiency of an applicant's qualifications for admission to 2387  
the licensing examination or a reexamination, and for the 2388  
issuance or renewal of a license or limited permit; 2389

~~(C) Determine~~ . 2390

(D) The board shall determine the respiratory care 2391  
educational programs that are acceptable for fulfilling the 2392

requirements of division (A) of section 4761.04 of the Revised Code, 2393  
Code, 2394

~~(D) Schedule, administer, and score the licensing examination or any reexamination for license renewal or reinstatement. The board shall administer the licensing examinations at least twice a year and notify applicants of the time and place of the examinations.~~ 2395  
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~~(E) Investigate complaints concerning alleged violations of section 4761.10 of the Revised Code or grounds for the suspension, permanent revocation, or refusal to issue licenses or limited permits under section 3123.47 or 4761.09 of the Revised Code. The board shall employ investigators who shall, under the direction of the executive director of the board, investigate complaints and make inspections and other inquiries as, in the judgment of the board, are appropriate to enforce sections 3123.41 to 3123.50, 4761.09, and 4761.10 of the Revised Code. Pursuant to an investigation and inspection, the investigators may review and audit records during normal business hours at the place of business of a licensee or person who is the subject of a complaint filed with the board or at any place where the records are kept.~~ 2400  
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~~Except when required by court order, the board and its employees shall not disclose confidential information obtained during an investigation or identifying information about any person who files a complaint with the board.~~ 2414  
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~~The~~ (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 2418  
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chapter or any rule adopted under it. In the absence of bad 2423  
faith, any person who reports information of that nature or who 2424  
testifies before the board in any adjudication conducted under 2425  
Chapter 119. of the Revised Code shall not be liable in damages 2426  
in a civil action as a result of the report or testimony. Each 2427  
complaint or allegation of a violation received by the board 2428  
shall be assigned a case number and shall be recorded by the 2429  
board. 2430

(2) Investigations of alleged violations of this chapter 2431  
or any rule adopted under it shall be supervised by the 2432  
supervising member elected by the board in accordance with 2433  
section 4731.02 of the Revised Code and by the secretary as 2434  
provided in section 4761.012 of the Revised Code. The president 2435  
may designate another member of the board to supervise the 2436  
investigation in place of the supervising member. No member of 2437  
the board who supervises the investigation of a case shall 2438  
participate in further adjudication of the case. 2439

(3) In investigating a possible violation of this chapter 2440  
or any rule adopted under it, the board may ~~hear testimony in~~ 2441  
~~matters relating to the duties imposed upon it and issue~~ 2442  
~~subpoenas pursuant to an investigation. The president and~~ 2443  
~~secretary of the board may, administer oaths, question~~ 2444  
~~witnesses, conduct interviews, order the taking of depositions,~~ 2445  
~~inspect and copy any books, accounts, papers, records, or~~ 2446  
~~documents, and compel the attendance of witnesses and production~~ 2447  
~~of books, accounts, papers, records, documents, and testimony,~~ 2448  
~~except that a subpoena for patient record information shall not~~ 2449  
~~be issued without consultation with the attorney general's~~ 2450  
~~office and approval of the secretary and supervising member of~~ 2451  
~~the board.~~ 2452

Before issuance of a subpoena for patient record 2453  
information, the secretary and supervising member shall 2454  
determine whether there is probable cause to believe that the 2455  
complaint filed alleges a violation of this chapter or any rule 2456  
adopted under it and that the records sought are relevant to the 2457  
alleged violation and material to the investigation. The 2458  
subpoena may apply only to records that cover a reasonable 2459  
period of time surrounding the alleged violation. 2460

On failure to comply with any subpoena issued by the board 2461  
and after reasonable notice to the person being subpoenaed, the 2462  
board may move for an order compelling the production of persons 2463  
or records pursuant to the Rules of Civil Procedure. 2464

A subpoena issued by the board may be served by a sheriff, 2465  
the sheriff's deputy, or a board employee designated by the 2466  
board. Service of a subpoena issued by the board may be made by 2467  
delivering a copy of the subpoena to the person named therein, 2468  
reading it to the person, or leaving it at the person's usual 2469  
place of residence, usual place of business, or address on file 2470  
with the board. When serving a subpoena to an applicant for or 2471  
the holder of a license or limited permit issued under this 2472  
chapter, service of the subpoena may be made by certified mail, 2473  
return receipt requested, and the subpoena shall be deemed 2474  
served on the date delivery is made or the date the person 2475  
refuses to accept delivery. If the person being served refuses 2476  
to accept the subpoena or is not located, service may be made to 2477  
an attorney who notifies the board that the attorney is 2478  
representing the person. 2479

A sheriff's deputy who serves a subpoena shall receive the 2480  
same fees as a sheriff. Each witness who appears before the 2481  
board in obedience to a subpoena shall receive the fees and 2482

mileage provided for under section 119.094 of the Revised Code. 2483

(F) ~~Conduct hearings,~~ The board shall keep records of its 2484  
proceedings, and do other things as are necessary and proper to 2485  
carry out and enforce the provisions of this chapter~~+~~. 2486

(G) ~~Maintain,~~ The board shall maintain and publish, and 2487  
~~make available upon request, for a fee not to exceed the actual-~~ 2488  
~~cost of printing and mailing~~ on its internet web site all of the 2489  
following: 2490

(1) The requirements for the issuance of licenses and 2491  
limited permits under this chapter and rules adopted by the 2492  
board; 2493

(2) A list of the names and locations of the institutions 2494  
that each year granted degrees or certificates of completion in 2495  
respiratory care~~+~~; 2496

~~(3) After the administration of each examination, a list-~~ 2497  
~~of persons who passed the examination.~~ 2498

~~(H) Submit to the governor and to the general assembly-~~ 2499  
~~each year a report of all of its official actions during the~~ 2500  
~~preceding year, together with any findings and recommendations-~~ 2501  
~~with regard to the improvement of the profession of respiratory-~~ 2502  
~~care.~~ 2503

**Sec. 4761.032.** (A) The state medical board shall appoint a 2504  
respiratory care advisory council for the purpose of advising 2505  
the board on issues relating to the practice of respiratory 2506  
care. The advisory council shall consist of not more than seven 2507  
individuals knowledgeable in the area of respiratory care. 2508

A majority of the council members shall be individuals 2509  
licensed under this chapter who are actively engaged in the 2510

practice of respiratory care. The board shall include all of the 2511  
following on the council: 2512

(1) One physician who is a member of the state medical 2513  
board; 2514

(2) One physician who has clinical training and experience 2515  
in pulmonary disease; 2516

(3) One individual who is not affiliated with any health 2517  
care profession, who shall be appointed to represent the 2518  
interest of consumers. 2519

The Ohio state medical association, or its successor 2520  
organization, may nominate not more than three individuals for 2521  
consideration by the board in appointing the physician member 2522  
described in division (A)(2) of this section. 2523

The Ohio society for respiratory care, or its successor 2524  
organization, may nominate not more than three individuals for 2525  
consideration by the board in appointing any member of the 2526  
council other than the physician members described in divisions 2527  
(A)(1) and (2) of this section. 2528

(B) Not later than ninety days after ~~the effective date of~~ 2529  
this section January 21, 2018, the board shall make initial 2530  
appointments to the council. ~~Members~~ Initial members shall serve 2531  
~~three year staggered~~ terms of office in accordance with rules 2532  
~~adopted~~ of one, two, or three years, as selected by the board. 2533  
Thereafter, terms of office shall be for three years, with each 2534  
term ending on the same day of the same month as the term that 2535  
it succeeds. A council member shall continue in office 2536  
subsequent to the expiration date of the member's term until a 2537  
successor is appointed and takes office, or until a period of 2538  
sixty days has elapsed, whichever occurs first. Each council 2539

member shall hold office from the date of appointment until the 2540  
end of the term for which the member was appointed. 2541

~~With approval from the director of administrative~~ 2542  
~~services, members may receive an amount fixed under division (J)~~ 2543  
~~of section 124.15 of the Revised Code for each day the member is~~ 2544  
~~performing the member's official duties and (C) Members shall~~ 2545  
serve without compensation, but shall be reimbursed for actual 2546  
and necessary expenses incurred in performing ~~those~~ their 2547  
official duties. 2548

(D) The council shall meet at least four times each year 2549  
and at such other times as may be necessary to carry out its 2550  
responsibilities. 2551

(E) The council may submit to the board recommendations 2552  
concerning all of the following: 2553

(1) Requirements for issuing a license to practice as a 2554  
respiratory care professional or as a limited permit holder, 2555  
including the educational and experience requirements that must 2556  
be met to receive the license or permit; 2557

(2) Existing and proposed rules pertaining to the practice 2558  
of respiratory care and the administration and enforcement of 2559  
this chapter; 2560

(3) Standards for the approval of educational programs 2561  
required to qualify for licensure and continuing education 2562  
programs for licensure renewal; 2563

(4) Policies related to the issuance and renewal of 2564  
licenses and limited permits; 2565

(5) Fees for the issuance and renewal of a license to 2566  
practice respiratory care as a licensee or as a limited permit 2567



<u>holder;</u>	2568
<u>(6) Standards of practice and ethical conduct in the</u>	2569
<u>practice of respiratory care;</u>	2570
<u>(7) The safe and effective practice of respiratory care,</u>	2571
<u>including scope of practice and minimal standards of care.</u>	2572
<b>Sec. 4761.04.</b> (A) Except as provided in division (B) of	2573
this section, no person is eligible for licensure as a	2574
respiratory care professional unless the person has shown, to	2575
the satisfaction of the state medical board, all of the	2576
following:	2577
(1) That the person is of good moral character;	2578
(2) That the person has successfully completed the	2579
requirements of an educational program approved by the board	2580
that includes instruction in the biological and physical	2581
sciences, pharmacology, respiratory care theory, procedures, and	2582
clinical practice, and cardiopulmonary rehabilitation	2583
techniques;	2584
(3) That the person has passed an examination <del>administered-</del>	2585
<u>approved under rules adopted</u> by the board that tests the	2586
applicant's knowledge of the basic and clinical sciences	2587
relating to respiratory care theory and practice, professional	2588
skills and judgment in the utilization of respiratory care	2589
techniques, and such other subjects as the board considers	2590
useful in determining fitness to practice.	2591
<del>(B) The board may waive the requirements of division (A)-</del>	2592
<del>of this section with respect to any applicant who presents proof-</del>	2593
<del>of current licensure in another state whose standards for-</del>	2594
<del>licensure are at least equal to those in effect in this state on-</del>	2595
<del>the date of application. The board may waive the requirements of-</del>	2596

~~divisions (A) (2) and (3) of this section with respect to any~~ 2597  
~~applicant who presents proof of having successfully completed~~ 2598  
~~any examination recognized by the board as meeting the~~ 2599  
~~requirements of division (A) (3) of this section~~ 2600  
Any person 2600  
licensed to practice respiratory care by the former Ohio 2601  
respiratory care board before January 21, 2018, may continue to 2602  
practice respiratory care in this state under that license if 2603  
the person continues to meet the requirements to renew a license 2604  
under this chapter and renews the license through the state 2605  
medical board. 2606

The state medical board may take any of the following 2607  
actions, as provided in section 4761.09 of the Revised Code, 2608  
against the holder of a license to practice respiratory care 2609  
issued before January 21, 2018, by the former Ohio respiratory 2610  
care board: 2611

(1) Limit, revoke, or suspend the holder's license; 2612

(2) Refuse to renew or reinstate the holder's license; 2613

(3) Reprimand the holder or place the holder on probation. 2614

**Sec. 4761.05.** (A) The state medical board shall issue a 2615  
license to any applicant who complies with the requirements of 2616  
section 4761.04 of the Revised Code, files the prescribed 2617  
application form, and pays the fee or fees required under 2618  
section 4761.07 of the Revised Code. The license entitles the 2619  
holder to practice respiratory care. ~~The licensee shall display~~ 2620  
~~the license in a conspicuous place at the licensee's principal~~ 2621  
~~place of business.~~ 2622

(B) (1) The board shall issue a limited permit to any 2623  
applicant who meets the requirements of division (A) (1) of 2624  
section 4761.04 of the Revised Code, files ~~the prescribed an~~ 2625

application on a form furnished by the board, pays the fee 2626  
required under section 4761.07 of the Revised Code, and meets 2627  
either of the following requirements: 2628

(a) Is enrolled in and is in good standing in a 2629  
respiratory care educational program approved by the board that 2630  
meets the requirements of division (A) (2) of section 4761.04 of 2631  
the Revised Code leading to a degree or certificate of 2632  
completion or is a graduate of the program; 2633

(b) Is employed as a provider of respiratory care in this 2634  
state and was employed as a provider of respiratory care in this 2635  
state prior to March 14, 1989. 2636

(2) If no grounds apply under section 4761.09 of the 2637  
Revised Code for denying a limited permit to the applicant and 2638  
the applicant meets the requirements of division (B) of this 2639  
section, the board shall issue a limited permit to the 2640  
applicant. 2641

The board shall maintain a register of all persons holding 2642  
limited permits under this chapter. The limited permit 2643  
authorizes the holder to provide respiratory care under the 2644  
supervision of a respiratory care professional. A person issued 2645  
a limited permit under division (B) (1) (a) of this section may 2646  
practice respiratory care under the limited permit for not more 2647  
than the earliest of the following: 2648

(a) Three years after the date the limited permit is 2649  
issued; 2650

(b) One year following the date of receipt of a 2651  
certificate of completion from a board-approved respiratory care 2652  
education program; 2653

(c) Until the holder discontinues participation in the 2654

educational program. 2655

~~The board may extend the term of a limited permit in cases~~ 2656  
~~of unusual hardship. The holder seeking an extension shall~~ 2657  
~~petition the board in the form and manner prescribed by the~~ 2658  
~~board in rules adopted under section 4761.03 of the Revised~~ 2659  
~~Code.~~ This division does not require a student enrolled in an 2660  
educational program leading to a degree or certificate of 2661  
completion in respiratory care approved by the board to obtain a 2662  
limited permit to perform any duties that are part of the 2663  
required course of study. 2664

(3) A person issued a limited permit under division (B) (1) 2665  
(b) of this section may practice under a limited permit for not 2666  
more than three years, except that this restriction does not 2667  
apply to a permit holder who, on March 14, 1989, has been 2668  
employed as a provider of respiratory care for an average of not 2669  
less than twenty-five hours per week for a period of not less 2670  
than five years by a hospital. 2671

(4) The board may revoke a limited permit upon proof 2672  
satisfactory to the board that the permit holder has engaged in 2673  
practice in this state outside the scope of the permit, that the 2674  
holder has engaged in unethical conduct, or that there are 2675  
grounds for action against the holder under section 4761.09 of 2676  
the Revised Code. 2677

~~(C) All holders of licenses and limited permits~~ The holder 2678  
of a license or limited permit issued under this section shall 2679  
~~display, in a conspicuous place on their persons, information~~ 2680  
~~that identifies the type of authorization under which they~~ 2681  
~~practice~~ either provide verification of licensure or permit 2682  
status from the board's internet web site on request or 2683  
prominently display a wall certificate in the license holder's 2684

office or place where the majority of the holder's practice is 2685  
conducted. 2686

**Sec. 4761.06.** (A) Each license to practice respiratory 2687  
care shall be renewed biennially on or before the last day of 2688  
June of every even-numbered year. Each limited permit to 2689  
practice respiratory care shall be renewed annually. Each person 2690  
holding a license or limited permit to practice respiratory care 2691  
shall apply to the state medical board on the form and according 2692  
to the schedule prescribed by the board for renewal of the 2693  
license or limited permit. Licenses and limited permits shall be 2694  
renewed in accordance with the standard renewal procedure of 2695  
Chapter 4745. of the Revised Code. The state medical board shall 2696  
renew a license upon the payment of the license renewal fee 2697  
prescribed under section 4761.07 of the Revised Code and proof 2698  
of satisfactory completion of the continuing education or 2699  
reexamination requirements of division (B) of this section. ~~The~~ 2700

At least one month before a license expires, the board 2701  
shall provide a renewal notice. Failure of any person to receive 2702  
a notice of renewal from the board shall not excuse the person 2703  
from the requirements contained in this section. Each person 2704  
holding a license shall give notice to the board of a change in 2705  
the license holder's residence address, business address, or 2706  
electronic mail address not later than thirty days after the 2707  
change occurs. 2708

The board shall renew a limited permit upon payment of the 2709  
limited permit renewal fee prescribed under section 4761.07 of 2710  
the Revised Code and submission of one of the following: 2711

(1) If the limited permit was issued on the basis of 2712  
division (B)(1)(a) of section 4761.05 of the Revised Code, proof 2713  
acceptable to the board of enrollment and good standing in an 2714

educational program that meets the requirements of division (A) 2715  
(2) of section 4761.04 of the Revised Code or of graduation from 2716  
such a program; 2717

(2) If the limited permit was issued on the basis of 2718  
division (B) (1) (b) of section 4761.05 of the Revised Code, proof 2719  
acceptable to the board of employment as a provider of 2720  
respiratory care under the supervision of a respiratory care 2721  
professional. 2722

(B) On and after March 14, 1991, and every year 2723  
thereafter, on or before the annual renewal date, the holder of 2724  
a limited permit issued under division (B) (1) (b) of section 2725  
4761.05 of the Revised Code shall submit proof to the board that 2726  
the holder has satisfactorily completed the number of hours of 2727  
continuing education required by the board, which shall not be 2728  
less than three nor more than ten hours of continuing education 2729  
acceptable to the board. 2730

On or before the biennial renewal date, a license holder 2731  
shall submit proof to the board that the license holder has 2732  
satisfactorily completed the number of hours of continuing 2733  
education required by the board, which shall be not less than 2734  
six nor more than twenty hours of continuing education 2735  
acceptable to the board, or has passed a reexamination in 2736  
accordance with the board's renewal requirements. ~~The board may~~ 2737  
~~waive all or part of the continuing education requirement for a~~ 2738  
~~license holder who has held the license for less than two years.~~ 2739

(C) (1) A license to practice respiratory care that is not 2740  
renewed on or before its expiration date is automatically 2741  
suspended on its expiration date. Continued practice after 2742  
suspension shall be considered as practicing in violation of 2743  
section 4761.10 of the Revised Code. 2744

(2) If a license has been suspended pursuant to division (C) (1) of this section for two years or less, it may be reinstated. The state medical board shall reinstate the license upon the applicant's submission of a complete renewal application and payment of a reinstatement fee of one hundred dollars. 2745  
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(3) (a) If a license has been suspended pursuant to division (C) (1) of this section for more than two years, it may be restored. The board may restore the license upon an applicant's submission of a complete restoration application and a restoration fee of one hundred twenty-five dollars and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a license unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to division (A) of this section. 2751  
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(b) The board may impose terms and conditions for the restoration, including any one or more of the following: 2761  
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(i) Requiring the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice; 2763  
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(ii) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training; 2766  
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(iii) Restricting or limiting the extent, scope, or type of practice of the applicant. 2768  
2769

**Sec. 4761.07.** (A) The state medical board shall charge any license applicant or holder who is to take an examination required under division (A) (3) of section 4761.04 or a reexamination required under division (B) of section 4761.06 of 2770  
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the Revised Code for license renewal or under section 4761.09 of 2774  
the Revised Code for license reinstatement, a nonrefundable 2775  
examination fee, not to exceed the amount necessary to cover the 2776  
expense of administering the examination. The license applicant 2777  
or holder shall pay the fee at the time of application for 2778  
licensure or renewal. 2779

(B) The board shall establish the following additional 2780  
nonrefundable fees and penalty: 2781

(1) An initial license fee, ~~not to exceed~~ of seventy-five 2782  
dollars; 2783

(2) A biennial license renewal fee, ~~not to exceed one~~ 2784  
~~hundred~~ of seventy-five dollars; 2785

(3) A limited permit fee, ~~not to exceed~~ of twenty 2786  
dollars; 2787

(4) A limited permit renewal fee, ~~not to exceed~~ of ten 2788  
dollars; 2789

(5) ~~A late renewal penalty, not to exceed fifty per cent~~ 2790  
~~of the renewal fee;~~ 2791

~~(6) A fee for accepting and storing hyperbaric~~ 2792  
~~technologist certifications filed with the board under division~~ 2793  
~~(A) (11) of section 4761.11 of the Revised Code, not to exceed~~ 2794  
~~twenty dollars~~ duplicate license or limited permit fee of 2795  
thirty-five dollars; 2796

(6) In the case of a person holding a license issued under 2797  
this chapter, a license verification fee of fifty dollars. 2798

(C) Notwithstanding division (B) (4) of this section, after 2799  
the third renewal of a limited permit that meets the exception 2800  
in division (B) (3) of section 4761.05 of the Revised Code, the 2801



limited permit renewal fee shall be ~~one half the amount of the~~ 2802  
~~biennial license renewal fee established under division (B) (2)~~ 2803  
~~of this section and section 4761.08 of the Revised Code~~ thirty- 2804  
five dollars. 2805

~~(D) The board shall adjust the fees biennially and within~~ 2806  
~~the limits established by division (B) of this section to~~ 2807  
~~provide sufficient revenues to meet its expenses.~~ 2808

~~(E) The board may, by rule, provide for the waiver of all~~ 2809  
~~or part of a license fee when the license is issued less than~~ 2810  
~~eighteen months before its expiration date.~~ 2811

~~(F) All fees received by the board shall be deposited into~~ 2812  
~~the state treasury to the credit of the state medical board~~ 2813  
~~operating fund pursuant to section 4731.24 of the Revised Code.~~ 2814

**Sec. 4761.09.** (A) The state medical board ~~may refuse to~~ 2815  
~~issue or renew a license or a limited permit, may issue a~~ 2816  
~~reprimand, may suspend or permanently revoke a license or~~ 2817  
~~limited permit, or may place a license or limited permit holder~~ 2818  
~~on probation, on any of the following grounds, by an affirmative~~ 2819  
vote of not fewer than six members, shall, to the extent 2820  
permitted by law, limit, revoke, or suspend an individual's 2821  
license or limited permit, refuse to issue a license or limited 2822  
permit to an individual, refuse to renew a license or limited 2823  
permit, refuse to reinstate a license or limited permit, or 2824  
reprimand or place on probation the holder of a license or 2825  
limited permit for one or more of the following reasons: 2826

(1) A plea of guilty to, a judicial finding of guilt of, 2827  
or a judicial finding of eligibility for intervention in lieu of 2828  
conviction for ~~an offense involving moral turpitude or of a~~ 2829  
~~felony, in which case a certified copy of the court record shall~~ 2830

~~be conclusive evidence of the matter, a felony;~~ 2831

~~(2) Violating Commission of an act that constitutes a~~ 2832  
~~felony in this state, regardless of the jurisdiction in which~~ 2833  
~~the act was committed;~~ 2834

~~(3) A plea of guilty to, a judicial finding of guilt of,~~ 2835  
~~or a judicial finding of eligibility for intervention in lieu of~~ 2836  
~~conviction for, a misdemeanor committed in the course of~~ 2837  
~~practice;~~ 2838

~~(4) Commission of an act in the course of practice that~~ 2839  
~~constitutes a misdemeanor in this state, regardless of the~~ 2840  
~~jurisdiction in which the act was committed;~~ 2841

~~(5) A plea of guilty to, a judicial finding of guilt of,~~ 2842  
~~or a judicial finding of eligibility for intervention in lieu of~~ 2843  
~~conviction for, a misdemeanor involving moral turpitude;~~ 2844

~~(6) Commission of an act involving moral turpitude that~~ 2845  
~~constitutes a misdemeanor in this state, regardless of the~~ 2846  
~~jurisdiction in which the act was committed;~~ 2847

~~(7) Except when civil penalties are imposed under section~~ 2848  
~~4761.091 of the Revised Code, violating or attempting to~~ 2849  
~~violate, directly or indirectly, or assisting in or abetting the~~ 2850  
~~violation of, or conspiring to violate, any provision of this~~ 2851  
~~chapter or an order or rule of the rules adopted by the board;~~ 2852

~~(3) Assisting another person in that person's violation of~~ 2853  
~~any provision of this chapter or an order or rule of the board;~~ 2854

~~(4) Obtaining a license or limited permit by means of~~ 2855  
~~fraud,~~ (8) ~~Making a false, fraudulent, deceptive, or misleading~~ 2856  
~~representation, or concealment of material facts or making any~~ 2857  
~~other material misrepresentation to the board statement in the~~ 2858

solicitation of or advertising for patients; in relation to the 2859  
practice of respiratory care; or in securing or attempting to 2860  
secure any license or permit issued by the board under this 2861  
chapter. 2862

As used in division (A) (8) of this section, "false, 2863  
fraudulent, deceptive, or misleading statement" means a 2864  
statement that includes a misrepresentation of fact, is likely 2865  
to mislead or deceive because of a failure to disclose material 2866  
facts, is intended or is likely to create false or unjustified 2867  
expectations of favorable results, or includes representations 2868  
or implications that in reasonable probability will cause an 2869  
ordinarily prudent person to misunderstand or be deceived. 2870

(9) Committing fraud during the administration of the 2871  
examination for a license to practice or committing fraud, 2872  
misrepresentation, or deception in applying for, renewing, or 2873  
securing any license or permit issued by the board; 2874

(10) A departure from, or failure to conform to, minimal 2875  
standards of care of similar practitioners under the same or 2876  
similar circumstances, whether or not actual injury to a patient 2877  
is established; 2878

~~(5) Being guilty of negligence or gross misconduct in the~~ 2879  
~~practice of respiratory care;~~ 2880

~~(6)~~ (11) Violating the standards of ethical conduct 2881  
adopted by the board, in the practice of respiratory care; 2882

~~(7) Engaging in dishonorable, unethical, or unprofessional~~ 2883  
~~conduct of a character likely to deceive, defraud, or harm the~~ 2884  
~~public;~~ 2885

~~(8) Using any dangerous drug, as defined in section~~ 2886  
~~4729.01 of the Revised Code, or alcohol to the extent that the~~ 2887

<del>use impairs the ability to practice respiratory care at an</del>	2888
<del>acceptable level of competency;</del>	2889
<del>(9) Practicing respiratory care while mentally</del>	2890
<del>incompetent;</del>	2891
<del>(10) Accepting commissions, rebates, or other forms of</del>	2892
<del>remuneration for patient referrals</del>	2893
<u>(12) The obtaining of, or</u>	2894
<u>attempting to obtain, money or anything of value by fraudulent</u>	2895
<u>misrepresentations in the course of practice;</u>	2896
<u>(13) Violation of the conditions of limitation placed by</u>	2897
<u>the board upon a license or permit;</u>	2898
<u>(14) Inability to practice according to acceptable and</u>	2899
<u>prevailing standards of care by reason of mental illness or</u>	2900
<u>physical illness, including physical deterioration that</u>	2901
<u>adversely affects cognitive, motor, or perceptive skills;</u>	2902
<u>(15) Any of the following actions taken by an agency</u>	2903
<u>responsible for authorizing, certifying, or regulating an</u>	2904
<u>individual to practice a health care occupation or provide</u>	2905
<u>health care services in this state or another jurisdiction, for</u>	2906
<u>any reason other than the nonpayment of fees: the limitation,</u>	2907
<u>revocation, or suspension of an individual's license; acceptance</u>	2908
<u>of an individual's license surrender; denial of a license;</u>	2909
<u>refusal to renew or reinstate a license; imposition of</u>	2910
<u>probation; or issuance of an order of censure or other</u>	2911
<u>reprimand;</u>	2912
<u>(16) The revocation, suspension, restriction, reduction,</u>	2913
<u>or termination of practice privileges by the United States</u>	2914
<u>department of defense or department of veterans affairs;</u>	2915
<u>(17) Termination or suspension from participation in the</u>	2916
<u>medicare or medicaid programs by the department of health and</u>	

human services or other responsible agency for any act or acts 2917  
that also would constitute a violation of division (A) (10), 2918  
(12), or (14) of this section; 2919

(18) Impairment of ability to practice according to 2920  
acceptable and prevailing standards of care because of habitual 2921  
or excessive use or abuse of drugs, alcohol, or other substances 2922  
that impair ability to practice; 2923

(19) Failure to cooperate in an investigation conducted by 2924  
the board under division (E) of section 4761.03 of the Revised 2925  
Code, including failure to comply with a subpoena or order 2926  
issued by the board or failure to answer truthfully a question 2927  
presented by the board in an investigative interview, an 2928  
investigative office conference, at a deposition, or in written 2929  
interrogatories, except that failure to cooperate with an 2930  
investigation shall not constitute grounds for discipline under 2931  
this section if a court of competent jurisdiction has issued an 2932  
order that either quashes a subpoena or permits the individual 2933  
to withhold the testimony or evidence in issue; 2934

~~(11)~~(20) Practicing in an area of respiratory care for 2935  
which the person is clearly untrained or incompetent or 2936  
practicing in a manner that conflicts with section 4761.17 of 2937  
the Revised Code; 2938

~~(12)~~(21) Employing, directing, or supervising a person 2939  
who is not authorized to practice respiratory care under this 2940  
chapter in the performance of respiratory care procedures; 2941

~~(13)~~(22) Misrepresenting educational attainments or 2942  
authorized functions for the purpose of obtaining some benefit 2943  
related to the practice of respiratory care; 2944

~~(14)~~(23) Assisting suicide as defined in section 3795.01 2945

of the Revised Code; 2946

(24) Representing, with the purpose of obtaining 2947  
compensation or other advantage as personal gain or for any 2948  
other person, that an incurable disease or injury, or other 2949  
incurable condition, can be permanently cured. 2950

~~Before the board may take any action under this section,~~ 2951  
~~other than issuance of a summary suspension order under division~~ 2952  
~~(C) of this section, the executive director of the board shall~~ 2953  
~~prepare and file written charges with the board. Disciplinary~~ 2954  
actions taken by the board under division (A) of this section 2955  
shall be taken pursuant to an adjudication under Chapter 119. of 2956  
the Revised Code, except that in lieu of an adjudication, the 2957  
board may enter into a consent agreement with an individual to 2958  
resolve an allegation of a violation of this chapter or any rule 2959  
adopted under it. A consent agreement, when ratified by an 2960  
affirmative vote of not fewer than six members of the board, 2961  
shall constitute the findings and order of the board with 2962  
respect to the matter addressed in the agreement. If the board 2963  
refuses to ratify a consent agreement, the admissions and 2964  
findings contained in the consent agreement shall be of no 2965  
effect. 2966

A telephone conference call may be utilized for 2967  
ratification of a consent agreement that revokes or suspends an 2968  
individual's license or permit. The telephone conference call 2969  
shall be considered a special meeting under division (F) of 2970  
section 121.22 of the Revised Code. 2971

~~(B) If the board orders a license or limited permit holder~~ 2972  
~~placed on probation, the order shall be accompanied by a written~~ 2973  
~~statement of the conditions under which the person may be~~ 2974  
~~restored to practice.~~ 2975

~~The person may reapply to the board for original issuance of a license after one year following the date the license was denied.~~ 2976  
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~~Except as otherwise provided in division (D) of this section, a person may apply to the board for the reinstatement of a license or limited permit after one year following the date of suspension or refusal to renew. The board may accept or refuse the application for reinstatement and may require that the applicant pass a reexamination as a condition of eligibility for reinstatement.~~ 2979  
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~~(C) If the president and secretary of the board determine that there is clear and convincing evidence that a license or limited permit holder has committed an act that is grounds for board action under division (A) of this section and that continued practice by the license or permit holder presents a danger of immediate and serious harm to the public, the president and secretary may recommend that the board suspend the license or limited permit without a prior hearing. The president and secretary shall submit in writing to the board the allegations causing them to recommend the suspension.~~ 2986  
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~~On review of the allegations, the board, by a vote of not less than seven of its members, may suspend a license or limited permit without a prior hearing. The board may review the allegations and vote on the suspension by a telephone conference call.~~ 2996  
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~~If the board votes to suspend a license or limited permit under this division, the board shall issue a written order of summary suspension to the license or limited permit holder in accordance with section 119.07 of the Revised Code. If the license or limited permit holder requests a hearing by the~~ 3001  
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~~board, the board shall conduct the hearing in accordance with 3006  
Chapter 119. of the Revised Code. Notwithstanding section 119.12- 3007  
of the Revised Code, a court of common pleas shall not grant a 3008  
suspension of the board's order of summary suspension pending 3009  
determination of an appeal filed under that section. 3010~~

~~Any order of summary suspension issued under this division 3011  
shall remain in effect until a final adjudication order issued 3012  
by the board pursuant to division (A) of this section becomes 3013  
effective. The board shall issue its final adjudication order 3014  
regarding an order of summary suspension issued under this 3015  
division not later than sixty days after completion of its 3016  
hearing. Failure to issue the order within sixty days shall 3017  
result in immediate dissolution of the suspension order, but 3018  
shall not invalidate any subsequent, final adjudication order 3019  
Any action taken by the board under division (A) of this section 3020  
resulting in a suspension from practice shall be accompanied by 3021  
a written statement of the conditions under which the 3022  
individual's license or permit may be reinstated. The board 3023  
shall adopt rules governing conditions to be imposed for 3024  
reinstatement. Reinstatement of a license or permit suspended 3025  
pursuant to division (A) of this section requires an affirmative 3026  
vote of not fewer than six members of the board. 3027~~

~~(C) When the board refuses to grant or issue a license or 3028  
permit to an applicant, revokes an individual's license or 3029  
permit, refuses to renew an individual's license or permit, or 3030  
refuses to reinstate an individual's license or permit, the 3031  
board may specify that its action is permanent. An individual 3032  
subject to a permanent action taken by the board is forever 3033  
thereafter ineligible to hold a license or permit and the board 3034  
shall not accept an application for reinstatement of the license 3035  
or permit or for issuance of a new license or permit. 3036~~



(D) If the board is required by Chapter 119. of the 3037  
Revised Code to give notice of an opportunity for a hearing and 3038  
if the individual subject to the notice does not timely request 3039  
a hearing in accordance with section 119.07 of the Revised Code, 3040  
the board is not required to hold a hearing, but may adopt, by 3041  
an affirmative vote of not fewer than six of its members, a 3042  
final order that contains the board's findings. In the final 3043  
order, the board may order any of the sanctions identified under 3044  
division (A) of this section. 3045

(E) In enforcing division (A) (14) of this section, the 3046  
board, upon a showing of a possible violation, may compel any 3047  
individual authorized to practice by this chapter or who has 3048  
submitted an application pursuant to this chapter to submit to a 3049  
mental examination, physical examination, including an HIV test, 3050  
or both a mental and a physical examination. The expense of the 3051  
examination is the responsibility of the individual compelled to 3052  
be examined. Failure to submit to a mental or physical 3053  
examination or consent to an HIV test ordered by the board 3054  
constitutes an admission of the allegations against the 3055  
individual unless the failure is due to circumstances beyond the 3056  
individual's control, and a default and final order may be 3057  
entered without the taking of testimony or presentation of 3058  
evidence. If the board finds an individual unable to practice 3059  
because of the reasons set forth in division (A) (14) of this 3060  
section, the board shall require the individual to submit to 3061  
care, counseling, or treatment by physicians approved or 3062  
designated by the board, as a condition for initial, continued, 3063  
reinstated, or renewed authority to practice. An individual 3064  
affected under this division shall be afforded an opportunity to 3065  
demonstrate to the board the ability to resume practice in 3066  
compliance with acceptable and prevailing standards under the 3067

provisions of the individual's license or permit. For the 3068  
purpose of division (A) (14) of this section, any individual who 3069  
applies for or receives a license or permit to practice under 3070  
this chapter accepts the privilege of practicing in this state 3071  
and, by so doing, shall be deemed to have given consent to 3072  
submit to a mental or physical examination when directed to do 3073  
so in writing by the board, and to have waived all objections to 3074  
the admissibility of testimony or examination reports that 3075  
constitute a privileged communication. 3076

(F) For the purposes of division (A) (18) of this section, 3077  
any individual authorized to practice by this chapter accepts 3078  
the privilege of practicing in this state subject to supervision 3079  
by the board. By filing an application for or holding a license 3080  
or permit under this chapter, an individual shall be deemed to 3081  
have given consent to submit to a mental or physical examination 3082  
when ordered to do so by the board in writing, and to have 3083  
waived all objections to the admissibility of testimony or 3084  
examination reports that constitute privileged communications. 3085

If it has reason to believe that any individual authorized 3086  
to practice by this chapter or any applicant for a license or 3087  
permit suffers such impairment, the board may compel the 3088  
individual to submit to a mental or physical examination, or 3089  
both. The expense of the examination is the responsibility of 3090  
the individual compelled to be examined. Any mental or physical 3091  
examination required under this division shall be undertaken by 3092  
a treatment provider or physician who is qualified to conduct 3093  
the examination and who is chosen by the board. 3094

Failure to submit to a mental or physical examination 3095  
ordered by the board constitutes an admission of the allegations 3096  
against the individual unless the failure is due to 3097

circumstances beyond the individual's control, and a default and 3098  
final order may be entered without the taking of testimony or 3099  
presentation of evidence. If the board determines that the 3100  
individual's ability to practice is impaired, the board shall 3101  
suspend the individual's license or permit or deny the 3102  
individual's application and shall require the individual, as a 3103  
condition for an initial, continued, reinstated, or renewed 3104  
license or permit, to submit to treatment. 3105

Before being eligible to apply for reinstatement of a 3106  
license or permit suspended under this division, the impaired 3107  
practitioner shall demonstrate to the board the ability to 3108  
resume practice in compliance with acceptable and prevailing 3109  
standards of care under the provisions of the practitioner's 3110  
license or permit. The demonstration shall include, but shall 3111  
not be limited to, the following: 3112

(1) Certification from a treatment provider approved under 3113  
section 4731.25 of the Revised Code that the individual has 3114  
successfully completed any required inpatient treatment; 3115

(2) Evidence of continuing full compliance with an 3116  
aftercare contract or consent agreement; 3117

(3) Two written reports indicating that the individual's 3118  
ability to practice has been assessed and that the individual 3119  
has been found capable of practicing according to acceptable and 3120  
prevailing standards of care. The reports shall be made by 3121  
individuals or providers approved by the board for making the 3122  
assessments and shall describe the basis for their 3123  
determination. 3124

The board may reinstate a license or permit suspended 3125  
under this division after that demonstration and after the 3126

individual has entered into a written consent agreement. 3127

When the impaired practitioner resumes practice, the board 3128  
shall require continued monitoring of the individual. The 3129  
monitoring shall include, but not be limited to, compliance with 3130  
the written consent agreement entered into before reinstatement 3131  
or with conditions imposed by board order after a hearing, and, 3132  
upon termination of the consent agreement, submission to the 3133  
board for at least two years of annual written progress reports 3134  
made under penalty of perjury stating whether the individual has 3135  
maintained sobriety. 3136

(G) If the secretary and supervising member determine both 3137  
of the following, they may recommend that the board suspend an 3138  
individual's license or permit without a prior hearing: 3139

(1) That there is clear and convincing evidence that an 3140  
individual has violated division (A) of this section; 3141

(2) That the individual's continued practice presents a 3142  
danger of immediate and serious harm to the public. 3143

Written allegations shall be prepared for consideration by 3144  
the board. The board, upon review of those allegations and by an 3145  
affirmative vote of not fewer than six of its members, excluding 3146  
the secretary and supervising member, may suspend a license or 3147  
permit without a prior hearing. A telephone conference call may 3148  
be utilized for reviewing the allegations and taking the vote on 3149  
the summary suspension. 3150

The board shall issue a written order of suspension by 3151  
certified mail or in person in accordance with section 119.07 of 3152  
the Revised Code. The order shall not be subject to suspension 3153  
by the court during pendency of any appeal filed under section 3154  
119.12 of the Revised Code. If the individual subject to the 3155

summary suspension requests an adjudicatory hearing by the 3156  
board, the date set for the hearing shall be within fifteen 3157  
days, but not earlier than seven days, after the individual 3158  
requests the hearing, unless otherwise agreed to by both the 3159  
board and the individual. 3160

Any summary suspension imposed under this division shall 3161  
remain in effect, unless reversed on appeal, until a final 3162  
adjudicative order issued by the board pursuant to this section 3163  
and Chapter 119. of the Revised Code becomes effective. The 3164  
board shall issue its final adjudicative order within seventy- 3165  
five days after completion of its hearing. A failure to issue 3166  
the order within seventy-five days shall result in dissolution 3167  
of the summary suspension order but shall not invalidate any 3168  
subsequent, final adjudicative order. 3169

~~(D) For purposes of this division, any individual who~~ 3170  
~~holds a license or permit issued under this chapter, or applies~~ 3171  
~~for a license or permit to practice respiratory care, is deemed~~ 3172  
~~to have given consent to submit to a mental or physical~~ 3173  
~~examination when directed to do so in writing by the board and~~ 3174  
~~to have waived all objections to the admissibility of testimony~~ 3175  
~~or examination reports that constitute a privileged~~ 3176  
~~communication.~~ 3177

~~For purposes of division (A) (8) of this section, if the~~ 3178  
~~board has reason to believe that any individual who holds a~~ 3179  
~~license or permit issued under this chapter or any applicant for~~ 3180  
~~a license or permit suffers such impairment, the board may~~ 3181  
~~compel the individual to submit to a mental or physical~~ 3182  
~~examination, or both. The expense of the examination is the~~ 3183  
~~responsibility of the individual compelled to be examined. Any~~ 3184  
~~mental or physical examination required under this division~~ 3185

~~shall be undertaken by a treatment provider or physician  
qualified to conduct such examination and chosen by the board.~~ 3186  
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~~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 permit 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.~~ 3188  
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~~Before being eligible to apply for reinstatement of a  
license or permit suspended under this division, the respiratory  
care professional shall demonstrate to the board the ability to  
resume practice in compliance with acceptable and prevailing  
standards of care. The demonstration shall include the  
following:~~ 3199  
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~~(1) Certification from a treatment provider approved under  
section 4731.25 of the Revised Code that the individual has  
successfully completed any required inpatient treatment;~~ 3205  
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~~(2) Evidence of continuing full compliance with an  
aftercare contract or consent agreement;~~ 3208  
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~~(3) 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~~ 3210  
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~~assessments and shall describe the basis for their~~ 3215  
~~determination.~~ 3216

~~The board may reinstate a license or permit suspended~~ 3217  
~~under this division after such demonstration and after the~~ 3218  
~~individual has entered into a written consent agreement.~~ 3219

~~When the impaired respiratory care professional resumes~~ 3220  
~~practice, the board shall require continued monitoring of the~~ 3221  
~~respiratory care professional. The monitoring shall include~~ 3222  
~~compliance with the written consent agreement entered into~~ 3223  
~~before reinstatement or with conditions imposed by board order~~ 3224  
~~after a hearing, and, upon termination of the consent agreement,~~ 3225  
~~submission to the board for at least two years of annual written~~ 3226  
~~progress reports made under penalty of falsification stating~~ 3227  
~~whether the respiratory care professional has maintained~~ 3228  
~~sobriety.~~ 3229

(H) For purposes of divisions (A) (2), (4), and (6) of this 3230  
section, the commission of the act may be established by a 3231  
finding by the board, pursuant to an adjudication under Chapter 3232  
119. of the Revised Code, that the individual committed the act. 3233  
The board does not have jurisdiction under those divisions if 3234  
the trial court renders a final judgment in the individual's 3235  
favor and that judgment is based upon an adjudication on the 3236  
merits. The board has jurisdiction under those divisions if the 3237  
trial court issues an order of dismissal upon technical or 3238  
procedural grounds. 3239

(I) The sealing of conviction records by any court shall 3240  
have no effect upon a prior board order entered under this 3241  
section or upon the board's jurisdiction to take action under 3242  
this section if, based upon a plea of guilty, a judicial finding 3243  
of guilt, or a judicial finding of eligibility for intervention 3244

in lieu of conviction, the board issued a notice of opportunity 3245  
for a hearing prior to the court's order to seal the records. 3246  
The board shall not be required to seal, destroy, redact, or 3247  
otherwise modify its records to reflect the court's sealing of 3248  
conviction records. 3249

(J) If the board takes action under division (A) (1), (3), 3250  
or (5) of this section, and the judicial finding of guilt, 3251  
guilty plea, or judicial finding of eligibility for intervention 3252  
in lieu of conviction is overturned on appeal, upon exhaustion 3253  
of the criminal appeal, a petition for reconsideration of the 3254  
order may be filed with the board along with appropriate court 3255  
documents. Upon receipt of a petition for reconsideration and 3256  
supporting court documents, the board shall reinstate the 3257  
individual's license or permit. The board may then hold an 3258  
adjudication under Chapter 119. of the Revised Code to determine 3259  
whether the individual committed the act in question. Notice of 3260  
an opportunity for a hearing shall be given in accordance with 3261  
Chapter 119. of the Revised Code. If the board finds, pursuant 3262  
to an adjudication held under this division, that the individual 3263  
committed the act or if no hearing is requested, the board may 3264  
order any of the sanctions identified under division (A) of this 3265  
section. 3266

(K) The license or permit issued to an individual under 3267  
this chapter and the individual's practice in this state are 3268  
automatically suspended as of the date the individual pleads 3269  
guilty to, is found by a judge or jury to be guilty of, or is 3270  
subject to a judicial finding of eligibility for intervention in 3271  
lieu of conviction in this state or treatment or intervention in 3272  
lieu of conviction in another jurisdiction for any of the 3273  
following criminal offenses in this state or a substantially 3274  
equivalent criminal offense in another jurisdiction: aggravated 3275



murder, murder, voluntary manslaughter, felonious assault, 3276  
kidnapping, rape, sexual battery, gross sexual imposition, 3277  
aggravated arson, aggravated robbery, or aggravated burglary. 3278  
Continued practice after suspension shall be considered 3279  
practicing without a license or permit. 3280

The board shall notify the individual subject to the 3281  
suspension by certified mail or in person in accordance with 3282  
section 119.07 of the Revised Code. If an individual whose 3283  
license or permit is automatically suspended under this division 3284  
fails to make a timely request for an adjudication under Chapter 3285  
119. of the Revised Code, the board shall enter a final order 3286  
permanently revoking the individual's license or permit. 3287

(L) Notwithstanding any other provision of the Revised 3288  
Code, all of the following apply: 3289

(1) The surrender of a license or permit issued under this 3290  
chapter shall not be effective unless or until accepted by the 3291  
board. A telephone conference call may be utilized for 3292  
acceptance of the surrender of an individual's license or 3293  
permit. The telephone conference call shall be considered a 3294  
special meeting under division (F) of section 121.22 of the 3295  
Revised Code. Reinstatement of a license or permit surrendered 3296  
to the board requires an affirmative vote of not fewer than six 3297  
members of the board. 3298

(2) An application for a license or permit made under the 3299  
provisions of this chapter may not be withdrawn without approval 3300  
of the board. 3301

(3) Failure by an individual to renew a license or permit 3302  
in accordance with this chapter shall not remove or limit the 3303  
board's jurisdiction to take any disciplinary action under this 3304

section against the individual. 3305

(4) At the request of the board, a license or permit 3306  
holder shall immediately surrender to the board a license or 3307  
permit that the board has suspended, revoked, or permanently 3308  
revoked. 3309

**Sec. 4761.091.** (A) (1) If the holder of a license or 3310  
limited permit issued under this chapter violates any section of 3311  
this chapter, other than continuing education requirements set 3312  
forth in section 4761.06 of the Revised Code, or violates any 3313  
rule adopted under this chapter, the state medical board may, 3314  
pursuant to an adjudication under Chapter 119. of the Revised 3315  
Code and an affirmative vote of not fewer than six of its 3316  
members, impose a civil penalty. The amount of the civil penalty 3317  
shall be determined by the board in accordance with the 3318  
guidelines adopted under division (A) (2) of this section. The 3319  
civil penalty may be in addition to any other action the board 3320  
may take under section 4761.09 of the Revised Code. 3321

(2) The board shall adopt and may amend guidelines 3322  
regarding the amounts of civil penalties to be imposed under 3323  
this section. Adoption or amendment of the guidelines requires 3324  
the approval of not fewer than six board members. Under the 3325  
guidelines, no civil penalty amount shall exceed twenty thousand 3326  
dollars. 3327

(B) Amounts received from payment of civil penalties 3328  
imposed under this section shall be deposited by the board in 3329  
accordance with section 4731.24 of the Revised Code. Amounts 3330  
received from payment of civil penalties imposed for violations 3331  
of division (A) (18) of section 4761.09 of the Revised Code shall 3332  
be used by the board solely for investigations, enforcement, and 3333  
compliance monitoring. 3334

**Sec. 4761.10.** (A) No person shall offer or render 3335  
respiratory care services, or represent that the person is a 3336  
respiratory care professional, respiratory therapist, 3337  
respiratory technologist, respiratory care technician, 3338  
respiratory practitioner, inhalation therapist, inhalation 3339  
technologist, or inhalation therapy technician, or to have any 3340  
similar title or to provide these services under a similar 3341  
description, unless the person holds a license or limited permit 3342  
issued under this chapter. No partnership, association, or 3343  
corporation shall advertise or otherwise offer to provide or 3344  
convey the impression that it is providing respiratory care 3345  
unless an individual holding a license or limited permit issued 3346  
under this chapter is employed by or under contract with the 3347  
partnership, association, or corporation and will be performing 3348  
the respiratory care services to which reference is made. 3349

(B) Notwithstanding the provisions of division (A) of this 3350  
section, all of the following apply: 3351

(1) In the case of a hospital or nursing facility, some 3352  
limited aspects of respiratory care services such as measuring 3353  
blood pressure and taking blood samples may be performed by 3354  
persons demonstrating current competence in such procedures, as 3355  
long as the person acts under the direction of a physician or 3356  
the delegation of a registered nurse and the person does not 3357  
represent that the person is engaged in the practice of 3358  
respiratory care. The above limited aspects of respiratory care 3359  
do not include any of the following: the administration of 3360  
aerosol medication, the maintenance of patients on mechanical 3361  
ventilators, aspiration, and the application and maintenance of 3362  
artificial airways. 3363

(2) In the case of a facility, institution, or other 3364

setting that exists for a purpose substantially other than the 3365  
provision of health care, if nursing tasks are delegated by a 3366  
registered nurse as provided in Chapter 4723. of the Revised 3367  
Code and the rules adopted under it, respiratory care tasks may 3368  
be performed under that delegation by persons demonstrating 3369  
current competence in performing the tasks, as long as the 3370  
person does not represent that the person is engaged in the 3371  
practice of respiratory care. 3372

(3) A polysomnographic technologist credentialed by an 3373  
organization the state medical board recognizes, a trainee under 3374  
the direct supervision of a polysomnographic technologist 3375  
credentialed by an organization the board recognizes, or a 3376  
person the board recognizes as being eligible to be credentialed 3377  
as a polysomnographic technologist may perform the respiratory 3378  
care tasks specified in rules adopted under section 4761.03 of 3379  
the Revised Code, as long as both of the following apply: 3380

(a) The tasks are performed in the diagnosis and 3381  
therapeutic intervention of sleep-related breathing disorders 3382  
and under the general supervision of a physician. 3383

(b) The person performing the tasks does not represent 3384  
that the person is engaged in the practice of respiratory care. 3385

~~(C) If the state medical board finds that any person, 3386  
including any partnership, association, or corporation, has 3387  
engaged or is engaging in any activity or conduct that is 3388  
prohibited under division (A) of this section or rules of the 3389  
board, or that is grounds for the denial, suspension, or 3390  
permanent revocation of a person's license under section 4761.09 3391  
of the Revised Code, it may apply to the court of common pleas 3392  
in the county in which the violation occurred for an order 3393  
restraining the unlawful activity or conduct, including the 3394~~

~~continued practice of respiratory care. Upon a showing that the~~ 3395  
~~law or rule has been violated, or the person has engaged in~~ 3396  
~~conduct constituting such grounds, the court may issue an~~ 3397  
~~injunction or other appropriate restraining order.~~ The attorney 3398  
general, the prosecuting attorney of any county in which the 3399  
offense was committed or the offender resides, the state medical 3400  
board, or any other person having knowledge of a person who 3401  
either directly or by complicity is in violation of this 3402  
section, may, in accordance with provisions of the Revised Code 3403  
governing injunctions, maintain an action in the name of the 3404  
state to enjoin any person from engaging either directly or by 3405  
complicity in the unlawful activity by applying for an 3406  
injunction in the Franklin county court of common pleas or any 3407  
other court of competent jurisdiction. 3408

Prior to application for such injunction, the secretary of 3409  
the state medical board shall notify the person allegedly 3410  
engaged either directly or by complicity in the unlawful 3411  
activity by registered mail that the secretary has received 3412  
information indicating that this person is so engaged. The 3413  
person shall answer the secretary within thirty days showing 3414  
that the person is either properly licensed for the stated 3415  
activity or that the person is not in violation of this chapter. 3416  
If the answer is not forthcoming within thirty days after notice 3417  
by the secretary, the secretary shall request that the attorney 3418  
general, the prosecuting attorney of the county in which the 3419  
offense was committed or the offender resides, or the state 3420  
medical board proceed as authorized in this section. 3421

Upon the filing of a verified petition in court, the court 3422  
shall conduct a hearing on the petition and shall give the same 3423  
preference to this proceeding as is given all proceedings under 3424  
Chapter 119. of the Revised Code, irrespective of the position 3425

of the proceeding on the calendar of the court. Injunction 3426  
proceedings shall be in addition to, and not in lieu of, all 3427  
penalties and other remedies provided under this chapter. 3428

**Sec. 4761.11.** (A) Nothing in this chapter shall be 3429  
construed to prevent or restrict the practice, services, or 3430  
activities of any person who: 3431

(1) Is a health care professional licensed by this state 3432  
providing respiratory care services included in the scope of 3433  
practice established by the license held, as long as the person 3434  
does not represent that the person is engaged in the practice of 3435  
respiratory care; 3436

(2) Is employed as a respiratory care professional by an 3437  
agency of the United States government and provides respiratory 3438  
care solely under the direction or control of the employing 3439  
agency; 3440

(3) Is a student enrolled in a respiratory care education 3441  
program approved by the state medical board leading to a 3442  
certificate of completion in respiratory care and is performing 3443  
duties that are part of a supervised course of study; 3444

~~(4) Is a nonresident of this state practicing or offering~~ 3445  
~~to practice respiratory care, if the respiratory care services~~ 3446  
~~are offered for not more than thirty days in a year, services~~ 3447  
~~are provided under the supervision of a respiratory care~~ 3448  
~~professional licensed under this chapter, and the nonresident~~ 3449  
~~registers with the board in accordance with rules adopted by the~~ 3450  
~~board under section 4761.03 of the Revised Code and meets either~~ 3451  
~~of the following requirements:~~ 3452

~~(a) Qualifies for licensure under this chapter, except for~~ 3453  
~~passage of the examination required under division (A) (3) of~~ 3454

~~section 4761.04 of the Revised Code;~~ 3455

~~(b) Holds a valid license issued by a state that has licensure requirements considered by the board to be comparable to those of this state and has not been issued a license in another state that has been revoked or is currently under suspension or on probation.~~ 3456  
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~~(5) Provides respiratory care only to relatives or in medical emergencies;~~ 3461  
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~~(6) Provides gratuitous care to friends or personal family members;~~ 3463  
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~~(7) Provides only self care;~~ 3465

~~(8) Is employed in the office of a physician and renders medical assistance under the physician's direct supervision without representing that the person is engaged in the practice of respiratory care;~~ 3466  
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~~(9) (5) Is employed in a clinical chemistry or arterial blood gas laboratory and is supervised by a physician without representing that the person is engaged in the practice of respiratory care;~~ 3470  
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~~(10) (6) Is engaged in the practice of respiratory care as an employee of a person or governmental entity located in another state and provides respiratory care services for less than seventy-two hours to patients being transported into, out of, or through this state;~~ 3474  
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~~(11) (7) Is employed as a certified hyperbaric technologist, has filed with the board a copy of the person's current certification as a hyperbaric technologist in accordance with the rules adopted by the board under section 4761.03 of the~~ 3479  
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~~Revised Code, has paid the fee established pursuant to section-~~ 3483  
~~4761.07 of the Revised Code,~~ and administers hyperbaric oxygen 3484  
therapy under the direct supervision of a physician, a 3485  
podiatrist acting in compliance with section 4731.511 of the 3486  
Revised Code, a physician assistant, or an advanced practice 3487  
registered nurse and without representing that the person is 3488  
engaged in the practice of respiratory care. 3489

As used in division (A) (7) of this section: 3490

(a) "Certified hyperbaric technologist" means a person who 3491  
is certified as a hyperbaric technologist by the national board 3492  
of diving and hyperbaric medical technology or its successor 3493  
organization. 3494

(b) "Hyperbaric oxygen therapy" means the administration 3495  
of pure oxygen in a pressurized room or chamber, except that it 3496  
does not include ventilator management. 3497

(B) Nothing in this chapter shall be construed to prevent 3498  
any person from advertising, describing, or offering to provide 3499  
respiratory care or billing for respiratory care when the 3500  
respiratory care services are provided by a health care 3501  
professional licensed by this state practicing within the scope 3502  
of practice established by the license held. Nothing in this 3503  
chapter shall be construed to prevent a hospital or nursing 3504  
facility from advertising, describing, or offering to provide 3505  
respiratory care, or billing for respiratory care rendered by a 3506  
person licensed under this chapter or persons who may provide 3507  
limited aspects of respiratory care or respiratory care tasks 3508  
pursuant to division (B) of section 4761.10 of the Revised Code. 3509

(C) Notwithstanding division (A) of section 4761.10 of the 3510  
Revised Code, in a life-threatening situation, in the absence of 3511



licensed personnel, unlicensed persons shall not be prohibited 3512  
from taking life-saving measures. 3513

(D) Nothing in this chapter shall be construed as 3514  
authorizing a respiratory care professional to practice medicine 3515  
and surgery or osteopathic medicine and surgery. This division 3516  
does not prohibit a respiratory care professional from 3517  
administering topical or intradermal medications for the purpose 3518  
of producing localized decreased sensation as part of a 3519  
procedure or task that is within the scope of practice of a 3520  
respiratory care professional. 3521

**Sec. 4761.14.** An employer that disciplines or terminates 3522  
the employment of a respiratory care professional or individual 3523  
holding a limited permit issued under this chapter because of 3524  
conduct that would be grounds for disciplinary action under 3525  
section 4761.09 of the Revised Code shall, not later than sixty 3526  
days after the discipline or termination, report the action to 3527  
the state medical board. The report shall state the name of the 3528  
respiratory care professional or individual holding the limited 3529  
permit and the reason the employer took the action. If an 3530  
employer fails to report to the board, the board may seek an 3531  
order from a the Franklin county court of common pleas, or any 3532  
other court of competent jurisdiction, compelling submission of 3533  
the report. 3534

**Sec. 4761.19.** A respiratory care professional, 3535  
professional association or society of respiratory care 3536  
professionals, physician, or professional association or society 3537  
of physicians that believes a violation of division (A) (18) of 3538  
section 4761.09 of the Revised Code has occurred shall report 3539  
the information upon which the belief is based to the monitoring 3540  
organization conducting the program established by the state 3541

medical board under section 4731.251 of the Revised Code. If any 3542  
such report is made to the board, it shall be referred to the 3543  
monitoring organization unless the board is aware that the 3544  
individual who is the subject of the report does not meet the 3545  
program eligibility requirements of section 4731.252 of the 3546  
Revised Code. 3547

An individual or entity that reports to the board, reports 3548  
to the monitoring organization described in section 4731.251 of 3549  
the Revised Code, or refers an impaired respiratory care 3550  
professional to a treatment provider approved by the board under 3551  
section 4731.25 of the Revised Code shall not be subject to suit 3552  
for civil damages as a result of the report, referral, or 3553  
provision of the information. 3554

In the absence of fraud or bad faith, a professional 3555  
association or society of respiratory care professionals that 3556  
sponsors a committee or program to provide peer assistance to a 3557  
respiratory care professional with substance abuse problems, a 3558  
representative or agent of such a committee or program, a 3559  
representative or agent of the monitoring organization described 3560  
in section 4731.251 of the Revised Code, and a member of the 3561  
state medical board shall not be held liable in damages to any 3562  
person by reason of actions taken to refer a respiratory care 3563  
professional to a treatment provider approved under section 3564  
4731.25 of the Revised Code for examination or treatment. 3565

**Sec. 4762.14.** (A) The state medical board shall 3566  
investigate evidence that appears to show that any person has 3567  
violated this chapter or the rules adopted under it. Any person 3568  
may report to the board in a signed writing any information the 3569  
person has that appears to show a violation of any provision of 3570  
this chapter or the rules adopted under it. In the absence of 3571

bad faith, a person who reports such information or testifies 3572  
before the board in an adjudication conducted under Chapter 119. 3573  
of the Revised Code shall not be liable for civil damages as a 3574  
result of reporting the information or providing testimony. Each 3575  
complaint or allegation of a violation received by the board 3576  
shall be assigned a case number and be recorded by the board. 3577

(B) Investigations of alleged violations of this chapter 3578  
or rules adopted under it shall be supervised by the supervising 3579  
member elected by the board in accordance with section 4731.02 3580  
of the Revised Code and by the secretary as provided in section 3581  
4762.17 of the Revised Code. The board's president may designate 3582  
another member of the board to supervise the investigation in 3583  
place of the supervising member. A member of the board who 3584  
supervises the investigation of a case shall not participate in 3585  
further adjudication of the case. 3586

(C) In investigating a possible violation of this chapter 3587  
or the rules adopted under it, the board may administer oaths, 3588  
order the taking of depositions, issue subpoenas, and compel the 3589  
attendance of witnesses and production of books, accounts, 3590  
papers, records, documents, and testimony, except that a 3591  
subpoena for patient record information shall not be issued 3592  
without consultation with the attorney general's office and 3593  
approval of the secretary and supervising member of the board. 3594  
Before issuance of a subpoena for patient record information, 3595  
the secretary and supervising member shall determine whether 3596  
there is probable cause to believe that the complaint filed 3597  
alleges a violation of this chapter or the rules adopted under 3598  
it and that the records sought are relevant to the alleged 3599  
violation and material to the investigation. The subpoena may 3600  
apply only to records that cover a reasonable period of time 3601  
surrounding the alleged violation. 3602

On failure to comply with any subpoena issued by the board 3603  
and after reasonable notice to the person being subpoenaed, the 3604  
board may move for an order compelling the production of persons 3605  
or records pursuant to the Rules of Civil Procedure. 3606

A subpoena issued by the board may be served by a sheriff, 3607  
the sheriff's deputy, or a board employee designated by the 3608  
board. Service of a subpoena issued by the board may be made by 3609  
delivering a copy of the subpoena to the person named therein, 3610  
reading it to the person, or leaving it at the person's usual 3611  
place of residence. When the person being served is an oriental 3612  
medicine practitioner or acupuncturist, service of the subpoena 3613  
may be made by certified mail, restricted delivery, return 3614  
receipt requested, and the subpoena shall be deemed served on 3615  
the date delivery is made or the date the person refuses to 3616  
accept delivery. 3617

A sheriff's deputy who serves a subpoena shall receive the 3618  
same fees as a sheriff. Each witness who appears before the 3619  
board in obedience to a subpoena shall receive the fees and 3620  
mileage provided for under section 119.094 of the Revised Code. 3621

(D) All hearings and investigations of the board shall be 3622  
considered civil actions for the purposes of section 2305.252 of 3623  
the Revised Code. 3624

(E) Information received by the board pursuant to an 3625  
investigation is confidential and not subject to discovery in 3626  
any civil action. 3627

The board shall conduct all investigations and proceedings 3628  
in a manner that protects the confidentiality of patients and 3629  
persons who file complaints with the board. The board shall not 3630  
make public the names or any other identifying information about 3631

patients or complainants unless proper consent is given. 3632

The board may share any information it receives pursuant 3633  
to an investigation, including patient records and patient 3634  
record information, with law enforcement agencies, other 3635  
licensing boards, and other governmental agencies that are 3636  
prosecuting, adjudicating, or investigating alleged violations 3637  
of statutes or administrative rules. An agency or board that 3638  
receives the information shall comply with the same requirements 3639  
regarding confidentiality as those with which the state medical 3640  
board must comply, notwithstanding any conflicting provision of 3641  
the Revised Code or procedure of the agency or board that 3642  
applies when it is dealing with other information in its 3643  
possession. In a judicial proceeding, the information may be 3644  
admitted into evidence only in accordance with the Rules of 3645  
Evidence, but the court shall require that appropriate measures 3646  
are taken to ensure that confidentiality is maintained with 3647  
respect to any part of the information that contains names or 3648  
other identifying information about patients or complainants 3649  
whose confidentiality was protected by the state medical board 3650  
when the information was in the board's possession. Measures to 3651  
ensure confidentiality that may be taken by the court include 3652  
sealing its records or deleting specific information from its 3653  
records. 3654

(F) The state medical board shall develop requirements for 3655  
and provide appropriate initial training and continuing 3656  
education for investigators employed by the board to carry out 3657  
its duties under this chapter. The training and continuing 3658  
education may include enrollment in courses operated or approved 3659  
by the Ohio peace officer training ~~council~~ commission that the 3660  
board considers appropriate under conditions set forth in 3661  
section 109.79 of the Revised Code. 3662

(G) On a quarterly basis, the board shall prepare a report 3663  
that documents the disposition of all cases during the preceding 3664  
three months. The report shall contain the following information 3665  
for each case with which the board has completed its activities: 3666

(1) The case number assigned to the complaint or alleged 3667  
violation; 3668

(2) The type of certificate to practice, if any, held by 3669  
the individual against whom the complaint is directed; 3670

(3) A description of the allegations contained in the 3671  
complaint; 3672

(4) The disposition of the case. 3673

The report shall state how many cases are still pending, 3674  
and shall be prepared in a manner that protects the identity of 3675  
each person involved in each case. The report is a public record 3676  
for purposes of section 149.43 of the Revised Code. 3677

**Sec. 4762.16.** (A) Within sixty days after the imposition 3678  
of any formal disciplinary action taken by any health care 3679  
facility, including a hospital, health care facility operated by 3680  
a health insuring corporation, ambulatory surgical center, or 3681  
similar facility, against any individual holding a valid 3682  
certificate to practice as an oriental medicine practitioner or 3683  
valid certificate to practice as an acupuncturist, the chief 3684  
administrator or executive officer of the facility shall report 3685  
to the state medical board the name of the individual, the 3686  
action taken by the facility, and a summary of the underlying 3687  
facts leading to the action taken. Upon request, the board shall 3688  
be provided certified copies of the patient records that were 3689  
the basis for the facility's action. Prior to release to the 3690  
board, the summary shall be approved by the peer review 3691

committee that reviewed the case or by the governing board of 3692  
the facility. 3693

The filing of a report with the board or decision not to 3694  
file a report, investigation by the board, or any disciplinary 3695  
action taken by the board, does not preclude a health care 3696  
facility from taking disciplinary action against an oriental 3697  
medicine practitioner or acupuncturist. 3698

In the absence of fraud or bad faith, no individual or 3699  
entity that provides patient records to the board shall be 3700  
liable in damages to any person as a result of providing the 3701  
records. 3702

~~(B) An (1) Except as provided in division (B) (2) of this 3703  
section, an oriental medicine practitioner or acupuncturist, 3704  
professional association or society of oriental medicine 3705  
practitioners or acupuncturists, physician, or professional 3706  
association or society of physicians that believes a violation 3707  
of any provision of this chapter, Chapter 4731. of the Revised 3708  
Code, or rule of the board has occurred shall report to the 3709  
board the information upon which the belief is based. ~~This~~ 3710  
~~division does not require any treatment provider approved by the~~ 3711  
~~board under section 4731.25 of the Revised Code or any employee,~~ 3712  
~~agent, or representative of such a provider to make reports with~~ 3713  
~~respect to an oriental medicine practitioner or acupuncturist~~ 3714  
~~participating in treatment or aftercare for substance abuse as~~ 3715  
~~long as the practitioner or acupuncturist maintains~~ 3716  
~~participation in accordance with the requirements of section~~ 3717  
~~4731.25 of the Revised Code and the treatment provider or~~ 3718  
~~employee, agent, or representative of the provider has no reason~~ 3719  
~~to believe that the practitioner or acupuncturist has violated~~ 3720  
~~any provision of this chapter or rule adopted under it, other~~ 3721~~

~~than being impaired by alcohol, drugs, or other substances. This 3722~~  
~~division does not require reporting by any member of an impaired 3723~~  
~~practitioner committee established by a health care facility or 3724~~  
~~by any representative or agent of a committee or program 3725~~  
~~sponsored by a professional association or society of oriental 3726~~  
~~medicine practitioners or acupuncturists to provide peer 3727~~  
~~assistance to oriental medicine practitioners or acupuncturists 3728~~  
~~with substance abuse problems with respect to an oriental 3729~~  
~~medicine practitioner or acupuncturist who has been referred for 3730~~  
~~examination to a treatment program approved by the board under 3731~~  
~~section 4731.25 of the Revised Code if the individual cooperates 3732~~  
~~with the referral for examination and with any determination 3733~~  
~~that the individual should enter treatment and as long as the 3734~~  
~~committee member, representative, or agent has no reason to 3735~~  
~~believe that the individual has ceased to participate in the 3736~~  
~~treatment program in accordance with section 4731.25 of the 3737~~  
~~Revised Code or has violated any provision of this chapter or 3738~~  
~~rule adopted under it, other than being impaired by alcohol, 3739~~  
~~drugs, or other substances. 3740~~

(2) An oriental medicine practitioner or acupuncturist, 3741  
professional association or society of oriental medicine 3742  
practitioners or acupuncturists, physician, or professional 3743  
association or society of physicians that believes a violation 3744  
of division (B) (6) of section 4762.13 of the Revised Code has 3745  
occurred shall report the information upon which the belief is 3746  
based to the monitoring organization conducting the program 3747  
established by the board under section 4731.251 of the Revised 3748  
Code. If any such report is made to the board, it shall be 3749  
referred to the monitoring organization unless the board is 3750  
aware that the individual who is the subject of the report does 3751  
not meet the program eligibility requirements of section 3752



4731.252 of the Revised Code. 3753

(C) Any professional association or society composed 3754  
primarily of oriental medicine practitioners or acupuncturists 3755  
that suspends or revokes an individual's membership for 3756  
violations of professional ethics, or for reasons of 3757  
professional incompetence or professional malpractice, within 3758  
sixty days after a final decision, shall report to the board, on 3759  
forms prescribed and provided by the board, the name of the 3760  
individual, the action taken by the professional organization, 3761  
and a summary of the underlying facts leading to the action 3762  
taken. 3763

The filing of a report with the board or decision not to 3764  
file a report, investigation by the board, or any disciplinary 3765  
action taken by the board, does not preclude a professional 3766  
organization from taking disciplinary action against an 3767  
individual. 3768

(D) Any insurer providing professional liability insurance 3769  
to any person holding a valid certificate to practice as an 3770  
oriental medicine practitioner or valid certificate to practice 3771  
as an acupuncturist or any other entity that seeks to indemnify 3772  
the professional liability of an oriental medicine practitioner 3773  
or acupuncturist shall notify the board within thirty days after 3774  
the final disposition of any written claim for damages where 3775  
such disposition results in a payment exceeding twenty-five 3776  
thousand dollars. The notice shall contain the following 3777  
information: 3778

(1) The name and address of the person submitting the 3779  
notification; 3780

(2) The name and address of the insured who is the subject 3781

of the claim; 3782

(3) The name of the person filing the written claim; 3783

(4) The date of final disposition; 3784

(5) If applicable, the identity of the court in which the 3785  
final disposition of the claim took place. 3786

(E) The board may investigate possible violations of this 3787  
chapter or the rules adopted under it that are brought to its 3788  
attention as a result of the reporting requirements of this 3789  
section, except that the board shall conduct an investigation if 3790  
a possible violation involves repeated malpractice. As used in 3791  
this division, "repeated malpractice" means three or more claims 3792  
for malpractice within the previous five-year period, each 3793  
resulting in a judgment or settlement in excess of twenty-five 3794  
thousand dollars in favor of the claimant, and each involving 3795  
negligent conduct by the oriental medicine practitioner or 3796  
acupuncturist. 3797

(F) All summaries, reports, and records received and 3798  
maintained by the board pursuant to this section shall be held 3799  
in confidence and shall not be subject to discovery or 3800  
introduction in evidence in any federal or state civil action 3801  
involving an oriental medicine practitioner, acupuncturist, 3802  
supervising physician, or health care facility arising out of 3803  
matters that are the subject of the reporting required by this 3804  
section. The board may use the information obtained only as the 3805  
basis for an investigation, as evidence in a disciplinary 3806  
hearing against an oriental medicine practitioner, 3807  
acupuncturist, or supervising physician, or in any subsequent 3808  
trial or appeal of a board action or order. 3809

The board may disclose the summaries and reports it 3810

receives under this section only to health care facility 3811  
committees within or outside this state that are involved in 3812  
credentialing or recredentialing an oriental medicine 3813  
practitioner, acupuncturist, or supervising physician or 3814  
reviewing their privilege to practice within a particular 3815  
facility. The board shall indicate whether or not the 3816  
information has been verified. Information transmitted by the 3817  
board shall be subject to the same confidentiality provisions as 3818  
when maintained by the board. 3819

(G) Except for reports filed by an individual pursuant to 3820  
division (B) of this section, the board shall send a copy of any 3821  
reports or summaries it receives pursuant to this section to the 3822  
acupuncturist. The oriental medicine practitioner or 3823  
acupuncturist shall have the right to file a statement with the 3824  
board concerning the correctness or relevance of the 3825  
information. The statement shall at all times accompany that 3826  
part of the record in contention. 3827

(H) An individual or entity that reports to the board,  3828  
reports to the monitoring organization described in section 3829  
4731.251 of the Revised Code, or refers an impaired oriental 3830  
medicine practitioner or impaired acupuncturist to a treatment 3831  
provider approved by the board under section 4731.25 of the 3832  
Revised Code shall not be subject to suit for civil damages as a 3833  
result of the report, referral, or provision of the information. 3834

(I) In the absence of fraud or bad faith, a professional 3835  
association or society of oriental medicine practitioners or 3836  
acupuncturists that sponsors a committee or program to provide 3837  
peer assistance to an oriental medicine practitioner or 3838  
acupuncturist with substance abuse problems, a representative or 3839  
agent of such a committee or program, a representative or agent 3840

of the monitoring organization described in section 4731.251 of 3841  
the Revised Code, and a member of the state medical board shall 3842  
not be held liable in damages to any person by reason of actions 3843  
taken to refer an oriental medicine practitioner or 3844  
acupuncturist to a treatment provider approved under section 3845  
4731.25 of the Revised Code for examination or treatment. 3846

**Sec. 4774.01.** As used in this chapter: 3847

(A) "Radiologist assistant" means an individual who 3848  
assists a radiologist in the care of radiology patients by 3849  
engaging in any of the activities authorized under section 3850  
4774.08 of the Revised Code. 3851

(B) "Radiologist" means a physician who has successfully 3852  
completed an approved radiology training program, as specified 3853  
in the accreditation requirements that must be met to qualify as 3854  
graduate medical education ~~under~~, as defined in section 3855  
~~4731.091-4731.04~~ of the Revised Code. 3856

(C) "Radiology" means the branch of medicine that deals 3857  
with the use of radiation in diagnosis and treatment of disease 3858  
or conditions. 3859

(D) "Physician" means an individual authorized under 3860  
Chapter 4731. of the Revised Code to practice medicine and 3861  
surgery or osteopathic medicine and surgery. 3862

(E) "General anesthesia," "deep sedation," "moderate 3863  
sedation," and "minimal sedation" have the meanings specified by 3864  
the state medical board in rules adopted under section 4774.11 3865  
of the Revised Code. 3866

**Sec. 4774.14.** (A) The state medical board shall 3867  
investigate evidence that appears to show that any person has 3868  
violated this chapter or the rules adopted under it. Any person 3869

may report to the board in a signed writing any information the 3870  
person has that appears to show a violation of any provision of 3871  
this chapter or the rules adopted under it. In the absence of 3872  
bad faith, a person who reports such information or testifies 3873  
before the board in an adjudication conducted under Chapter 119. 3874  
of the Revised Code shall not be liable for civil damages as a 3875  
result of reporting the information or providing testimony. Each 3876  
complaint or allegation of a violation received by the board 3877  
shall be assigned a case number and be recorded by the board. 3878

(B) Investigations of alleged violations of this chapter 3879  
or rules adopted under it shall be supervised by the supervising 3880  
member elected by the board in accordance with section 4731.02 3881  
of the Revised Code and by the secretary as provided in section 3882  
4774.17 of the Revised Code. The board's president may designate 3883  
another member of the board to supervise the investigation in 3884  
place of the supervising member. A member of the board who 3885  
supervises the investigation of a case shall not participate in 3886  
further adjudication of the case. 3887

(C) In investigating a possible violation of this chapter 3888  
or the rules adopted under it, the board may administer oaths, 3889  
order the taking of depositions, issue subpoenas, and compel the 3890  
attendance of witnesses and production of books, accounts, 3891  
papers, records, documents, and testimony, except that a 3892  
subpoena for patient record information shall not be issued 3893  
without consultation with the attorney general's office and 3894  
approval of the secretary and supervising member of the board. 3895  
Before issuance of a subpoena for patient record information, 3896  
the secretary and supervising member shall determine whether 3897  
there is probable cause to believe that the complaint filed 3898  
alleges a violation of this chapter or the rules adopted under 3899  
it and that the records sought are relevant to the alleged 3900

violation and material to the investigation. The subpoena may 3901  
apply only to records that cover a reasonable period of time 3902  
surrounding the alleged violation. 3903

On failure to comply with any subpoena issued by the board 3904  
and after reasonable notice to the person being subpoenaed, the 3905  
board may move for an order compelling the production of persons 3906  
or records pursuant to the Rules of Civil Procedure. 3907

A subpoena issued by the board may be served by a sheriff, 3908  
the sheriff's deputy, or a board employee designated by the 3909  
board. Service of a subpoena issued by the board may be made by 3910  
delivering a copy of the subpoena to the person named therein, 3911  
reading it to the person, or leaving it at the person's usual 3912  
place of residence. When the person being served is a 3913  
radiologist assistant, service of the subpoena may be made by 3914  
certified mail, restricted delivery, return receipt requested, 3915  
and the subpoena shall be deemed served on the date delivery is 3916  
made or the date the person refuses to accept delivery. 3917

A sheriff's deputy who serves a subpoena shall receive the 3918  
same fees as a sheriff. Each witness who appears before the 3919  
board in obedience to a subpoena shall receive the fees and 3920  
mileage provided for witnesses in civil cases in the courts of 3921  
common pleas. 3922

(D) All hearings and investigations of the board shall be 3923  
considered civil actions for the purposes of section 2305.252 of 3924  
the Revised Code. 3925

(E) Information received by the board pursuant to an 3926  
investigation is confidential and not subject to discovery in 3927  
any civil action. 3928

The board shall conduct all investigations and proceedings 3929

in a manner that protects the confidentiality of patients and 3930  
persons who file complaints with the board. The board shall not 3931  
make public the names or any other identifying information about 3932  
patients or complainants unless proper consent is given. 3933

The board may share any information it receives pursuant 3934  
to an investigation, including patient records and patient 3935  
record information, with law enforcement agencies, other 3936  
licensing boards, and other governmental agencies that are 3937  
prosecuting, adjudicating, or investigating alleged violations 3938  
of statutes or administrative rules. An agency or board that 3939  
receives the information shall comply with the same requirements 3940  
regarding confidentiality as those with which the state medical 3941  
board must comply, notwithstanding any conflicting provision of 3942  
the Revised Code or procedure of the agency or board that 3943  
applies when it is dealing with other information in its 3944  
possession. In a judicial proceeding, the information may be 3945  
admitted into evidence only in accordance with the Rules of 3946  
Evidence, but the court shall require that appropriate measures 3947  
are taken to ensure that confidentiality is maintained with 3948  
respect to any part of the information that contains names or 3949  
other identifying information about patients or complainants 3950  
whose confidentiality was protected by the state medical board 3951  
when the information was in the board's possession. Measures to 3952  
ensure confidentiality that may be taken by the court include 3953  
sealing its records or deleting specific information from its 3954  
records. 3955

(F) The state medical board shall develop requirements for 3956  
and provide appropriate initial training and continuing 3957  
education for investigators employed by the board to carry out 3958  
its duties under this chapter. The training and continuing 3959  
education may include enrollment in courses operated or approved 3960

by the Ohio peace officer training ~~council~~commission that the 3961  
board considers appropriate under conditions set forth in 3962  
section 109.79 of the Revised Code. 3963

(G) On a quarterly basis, the board shall prepare a report 3964  
that documents the disposition of all cases during the preceding 3965  
three months. The report shall contain the following information 3966  
for each case with which the board has completed its activities: 3967

(1) The case number assigned to the complaint or alleged 3968  
violation; 3969

(2) The type of certificate, if any, held by the 3970  
individual against whom the complaint is directed; 3971

(3) A description of the allegations contained in the 3972  
complaint; 3973

(4) The disposition of the case. 3974

The report shall state how many cases are still pending, 3975  
and shall be prepared in a manner that protects the identity of 3976  
each person involved in each case. The report is a public record 3977  
for purposes of section 149.43 of the Revised Code. 3978

**Sec. 4774.16.** (A) Within sixty days after the imposition 3979  
of any formal disciplinary action taken by any health care 3980  
facility, including a hospital, health care facility operated by 3981  
a health insuring corporation, ambulatory surgical facility, or 3982  
similar facility, against any individual holding a valid 3983  
certificate to practice as a radiologist assistant, the chief 3984  
administrator or executive officer of the facility shall report 3985  
to the state medical board the name of the individual, the 3986  
action taken by the facility, and a summary of the underlying 3987  
facts leading to the action taken. On request, the board shall 3988  
be provided certified copies of the patient records that were 3989



the basis for the facility's action. Prior to release to the 3990  
board, the summary shall be approved by the peer review 3991  
committee that reviewed the case or by the governing board of 3992  
the facility. 3993

The filing of a report with the board or decision not to 3994  
file a report, investigation by the board, or any disciplinary 3995  
action taken by the board, does not preclude a health care 3996  
facility from taking disciplinary action against a radiologist 3997  
assistant. 3998

In the absence of fraud or bad faith, no individual or 3999  
entity that provides patient records to the board shall be 4000  
liable in damages to any person as a result of providing the 4001  
records. 4002

~~(B) A(1) Except as provided in division (B)(2) of this 4003  
section, a radiologist assistant, professional association or 4004  
society of radiologist assistants, physician, or professional 4005  
association or society of physicians that believes a violation 4006  
of any provision of this chapter, Chapter 4731. of the Revised 4007  
Code, or rule of the board has occurred shall report to the 4008  
board the information on which the belief is based. ~~This 4009  
division does not require any treatment provider approved by the 4010  
board under section 4731.25 of the Revised Code or any employee, 4011  
agent, or representative of such a provider to make reports with 4012  
respect to a radiologist assistant participating in treatment or 4013  
aftercare for substance abuse as long as the radiologist 4014  
assistant maintains participation in accordance with the 4015  
requirements of section 4731.25 of the Revised Code and the 4016  
treatment provider or employee, agent, or representative of the 4017  
provider has no reason to believe that the radiologist assistant 4018  
has violated any provision of this chapter or rule adopted under 4019~~~~

~~it, other than being impaired by alcohol, drugs, or other  
substances. This division does not require reporting by any  
member of an impaired practitioner committee established by a  
health care facility or by any representative or agent of a  
committee or program sponsored by a professional association or  
society of radiologist assistants to provide peer assistance to  
radiologist assistants with substance abuse problems with  
respect to a radiologist assistant who has been referred for  
examination to a treatment program approved by the board under  
section 4731.25 of the Revised Code if the radiologist assistant  
cooperates with the referral for examination and with any  
determination that the radiologist assistant should enter  
treatment and as long as the committee member, representative,  
or agent has no reason to believe that the radiologist assistant  
has ceased to participate in the treatment program in accordance  
with section 4731.25 of the Revised Code or has violated any  
provision of this chapter or rule adopted under it, other than  
being impaired by alcohol, drugs, or other substances.~~

(2) A radiologist assistant, professional association or  
society of radiologist assistants, physician, or professional  
association or society of physicians that believes a violation  
of division (B) (6) of section 4774.13 of the Revised Code has  
occurred shall report the information upon which the belief is  
based to the monitoring organization conducting the program  
established by the board under section 4731.251 of the Revised  
Code. If any such report is made to the board, it shall be  
referred to the monitoring organization unless the board is  
aware that the individual who is the subject of the report does  
not meet the program eligibility requirements of section  
4731.252 of the Revised Code.

(C) Any professional association or society composed 4050

primarily of radiologist assistants that suspends or revokes an 4051  
individual's membership for violations of professional ethics, 4052  
or for reasons of professional incompetence or professional 4053  
malpractice, within sixty days after a final decision, shall 4054  
report to the board, on forms prescribed and provided by the 4055  
board, the name of the individual, the action taken by the 4056  
professional organization, and a summary of the underlying facts 4057  
leading to the action taken. 4058

The filing of a report with the board or decision not to 4059  
file a report, investigation by the board, or any disciplinary 4060  
action taken by the board, does not preclude a professional 4061  
organization from taking disciplinary action against a 4062  
radiologist assistant. 4063

(D) Any insurer providing professional liability insurance 4064  
to any person holding a valid certificate to practice as a 4065  
radiologist assistant or any other entity that seeks to 4066  
indemnify the professional liability of a radiologist assistant 4067  
shall notify the board within thirty days after the final 4068  
disposition of any written claim for damages where such 4069  
disposition results in a payment exceeding twenty-five thousand 4070  
dollars. The notice shall contain the following information: 4071

(1) The name and address of the person submitting the 4072  
notification; 4073

(2) The name and address of the insured who is the subject 4074  
of the claim; 4075

(3) The name of the person filing the written claim; 4076

(4) The date of final disposition; 4077

(5) If applicable, the identity of the court in which the 4078  
final disposition of the claim took place. 4079

(E) The board may investigate possible violations of this 4080  
chapter or the rules adopted under it that are brought to its 4081  
attention as a result of the reporting requirements of this 4082  
section, except that the board shall conduct an investigation if 4083  
a possible violation involves repeated malpractice. As used in 4084  
this division, "repeated malpractice" means three or more claims 4085  
for malpractice within the previous five-year period, each 4086  
resulting in a judgment or settlement in excess of twenty-five 4087  
thousand dollars in favor of the claimant, and each involving 4088  
negligent conduct by the radiologist assistant. 4089

(F) All summaries, reports, and records received and 4090  
maintained by the board pursuant to this section shall be held 4091  
in confidence and shall not be subject to discovery or 4092  
introduction in evidence in any federal or state civil action 4093  
involving a radiologist assistant, supervising physician, or 4094  
health care facility arising out of matters that are the subject 4095  
of the reporting required by this section. The board may use the 4096  
information obtained only as the basis for an investigation, as 4097  
evidence in a disciplinary hearing against a radiologist 4098  
assistant or supervising radiologist, or in any subsequent trial 4099  
or appeal of a board action or order. 4100

The board may disclose the summaries and reports it 4101  
receives under this section only to health care facility 4102  
committees within or outside this state that are involved in 4103  
credentialing or recredentialing a radiologist assistant or 4104  
supervising radiologist or reviewing their privilege to practice 4105  
within a particular facility. The board shall indicate whether 4106  
or not the information has been verified. Information 4107  
transmitted by the board shall be subject to the same 4108  
confidentiality provisions as when maintained by the board. 4109

(G) Except for reports filed by an individual pursuant to 4110  
division (B) of this section, the board shall send a copy of any 4111  
reports or summaries it receives pursuant to this section to the 4112  
radiologist assistant. The radiologist assistant shall have the 4113  
right to file a statement with the board concerning the 4114  
correctness or relevance of the information. The statement shall 4115  
at all times accompany that part of the record in contention. 4116

(H) An individual or entity that reports to the board, 4117  
reports to the monitoring organization described in section 4118  
4731.251 of the Revised Code, or refers an impaired radiologist 4119  
assistant to a treatment provider approved by the board under 4120  
section 4731.25 of the Revised Code shall not be subject to suit 4121  
for civil damages as a result of the report, referral, or 4122  
provision of the information. 4123

(I) In the absence of fraud or bad faith, a professional 4124  
association or society of radiologist assistants that sponsors a 4125  
committee or program to provide peer assistance to a radiologist 4126  
assistant with substance abuse problems, a representative or 4127  
agent of such a committee or program, a representative or agent 4128  
of the monitoring organization described in section 4731.251 of 4129  
the Revised Code, and a member of the state medical board shall 4130  
not be held liable in damages to any person by reason of actions 4131  
taken to refer a radiologist assistant to a treatment provider 4132  
approved under section 4731.25 of the Revised Code for 4133  
examination or treatment. 4134

Sec. 4778.17. A genetic counselor, professional 4135  
association or society of genetic counselors, physician, or 4136  
professional association or society of physicians that believes 4137  
a violation of division (B) (6) of section 4778.14 of the Revised 4138  
Code has occurred shall report the information upon which the 4139

belief is based to the monitoring organization conducting the 4140  
program established by the state medical board under section 4141  
4731.251 of the Revised Code. If any such report is made to the 4142  
board, it shall be referred to the monitoring organization 4143  
unless the board is aware that the individual who is the subject 4144  
of the report does not meet the program eligibility requirements 4145  
of section 4731.252 of the Revised Code. 4146

An individual or entity that reports to the board, reports 4147  
to the monitoring organization described in section 4731.251 of 4148  
the Revised Code, or refers an impaired genetic counselor to a 4149  
treatment provider approved by the board under section 4731.25 4150  
of the Revised Code shall not be subject to suit for civil 4151  
damages as a result of the report, referral, or provision of the 4152  
information. 4153

In the absence of fraud or bad faith, a professional 4154  
association or society of genetic counselors that sponsors a 4155  
committee or program to provide peer assistance to a genetic 4156  
counselor with substance abuse problems, a representative or 4157  
agent of such a committee or program, a representative or agent 4158  
of the monitoring organization described in section 4731.251 of 4159  
the Revised Code, and a member of the state medical board shall 4160  
not be held liable in damages to any person by reason of actions 4161  
taken to refer a genetic counselor to a treatment provider 4162  
approved under section 4731.25 of the Revised Code for 4163  
examination or treatment. 4164

**Sec. 5167.01.** As used in this chapter: 4165

(A) "Controlled substance" has the same meaning as in 4166  
section 3719.01 of the Revised Code. 4167

(B) "Dual eligible individual" has the same meaning as in 4168

section 5160.01 of the Revised Code. 4169

(C) "Emergency services" has the same meaning as in the 4170  
"Social Security Act," section 1932(b)(2), 42 U.S.C. 1396u-2(b) 4171  
(2). 4172

(D) ~~"Home and community-based services medicaid waiver~~ 4173  
~~component"~~ "ICDS participant" has the same meaning as in section 4174  
~~5166.01-5164.01~~ of the Revised Code. 4175

(E) "Medicaid managed care organization" means a managed 4176  
care organization under contract with the department of medicaid 4177  
pursuant to section 5167.10 of the Revised Code. 4178

(F) "Medicaid waiver component" has the same meaning as in 4179  
section 5166.01 of the Revised Code. 4180

(G) "Nursing facility services" has the same meaning as in 4181  
section 5165.01 of the Revised Code. 4182

(H) "Prescribed drug" has the same meaning as in section 4183  
5164.01 of the Revised Code. 4184

(I) "Provider" means any person or government entity that 4185  
furnishes services to a medicaid recipient enrolled in a 4186  
medicaid managed care organization, regardless of whether the 4187  
person or entity has a provider agreement. 4188

(J) "Provider agreement" has the same meaning as in 4189  
section 5164.01 of the Revised Code. 4190

**Sec. 5167.03.** As part of the medicaid program, the 4191  
department of medicaid shall establish a care management system. 4192  
The department shall implement the system in some or all 4193  
counties. 4194

The department shall designate the medicaid recipients who 4195

are required or permitted to participate in the care management 4196  
system. Those who shall be required to participate in the system 4197  
include medicaid recipients who receive cognitive behavioral 4198  
therapy as described in division (A) (2) of section 5167.16 of 4199  
the Revised Code. Except as provided in section 5166.406 of the 4200  
Revised Code, no medicaid recipient participating in the healthy 4201  
Ohio program established under section 5166.40 of the Revised 4202  
Code shall participate in the ~~care management~~ system. 4203

The general assembly's authorization through the enactment 4204  
of legislation is needed before home and community-based 4205  
services available under a medicaid waiver component or nursing 4206  
facility services are included in the care management system, 4207  
except that ICDS participants may be required or permitted to 4208  
obtain such services under the system. Medicaid recipients who 4209  
receive such services may be designated for voluntary or 4210  
mandatory participation in the system in order to receive other 4211  
health care services included in the system. 4212

The department may require or permit participants in the 4213  
care management system to obtain health care services from 4214  
providers designated by the department. The department may 4215  
require or permit participants to obtain health care services 4216  
through medicaid managed care organizations. 4217

**Section 2.** That existing sections 4730.26, 4730.32, 4218  
4731.224, 4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 4219  
4759.05, 4759.051, 4759.06, 4759.07, 4759.08, 4759.10, 4760.01, 4220  
4760.14, 4760.16, 4761.01, 4761.03, 4761.032, 4761.04, 4761.05, 4221  
4761.06, 4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 4762.14, 4222  
4762.16, 4774.01, 4774.14, 4774.16, 5167.01, and 5167.03 and 4223  
sections 4761.031 and 4761.08 of the Revised Code are hereby 4224  
repealed. 4225



**Section 3.** A dietitian whose license to practice dietetics 4226  
under Chapter 4759. of the Revised Code was placed in inactive 4227  
status before the effective date of this section shall, not 4228  
later than June 30, 2018, have the dietitian's license placed in 4229  
active status by meeting the continuing education requirements 4230  
established in rules adopted under section 4759.05 of the 4231  
Revised Code, as amended by this act, and paying the license 4232  
renewal fee specified in section 4759.08 of the Revised Code, as 4233  
amended by this act. A dietitian's inactive license that is not 4234  
placed in active status by June 30, 2018, shall be considered 4235  
expired. 4236

**Section 4.** A respiratory care professional whose license 4237  
to practice respiratory care under Chapter 4761. of the Revised 4238  
Code was placed in inactive status before the effective date of 4239  
this section shall, not later than June 30, 2018, have the 4240  
license placed in active status by meeting the continuing 4241  
education requirements of section 4761.06 of the Revised Code, 4242  
as amended by this act, and paying the license renewal fee 4243  
specified in section 4761.07 of the Revised Code, as amended by 4244  
this act. A respiratory care professional's inactive license 4245  
that is not placed in active status by June 30, 2018, shall be 4246  
considered expired. 4247

**Section 5.** This act is hereby declared to be an emergency 4248  
measure necessary for the immediate preservation of the public 4249  
peace, health, and safety. The reason for such necessity is that 4250  
impaired practitioners present significant risks to the health 4251  
and safety of patients in this state and improved access to 4252  
substance abuse treatment for those practitioners greatly 4253  
decreases those risks. Therefore, this act shall go into 4254  
immediate effect. 4255