

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 166

**Senators Kunze, Craig
Cosponsors: Senators Fedor, Maharath**

A BILL

To amend sections 2907.01, 2907.05, 2907.17, 1
2907.18, 2907.24, 4715.30, 4729.16, 4730.25, 2
4731.22, 4732.17, 4732.171, 4755.11, 4755.47, 3
and 4755.64, to enact sections 4725.241 and 4
4753.102 of the Revised Code, and to amend the 5
version of section 2907.05 of the Revised Code 6
that is scheduled to take effect March 22, 2020, 7
to prohibit unlawful sexual contact between 8
health care professionals and patients and to 9
revoke professional licenses for criminal 10
misconduct. 11

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

Section 1. That sections 2907.01, 2907.05, 2907.17, 12
2907.18, 2907.24, 4715.30, 4729.16, 4730.25, 4731.22, 4732.17, 13
4732.171, 4755.11, 4755.47, and 4755.64 be amended and sections 14
4725.241 and 4753.102 of the Revised Code be enacted to read as 15
follows: 16

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and 17
2917.211 of the Revised Code: 18

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

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

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

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

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

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

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

(3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.

(F) When considered as a whole, and judged with reference 48
to ordinary adults or, if it is designed for sexual deviates or 49
other specially susceptible group, judged with reference to that 50
group, any material or performance is "obscene" if any of the 51
following apply: 52

(1) Its dominant appeal is to prurient interest; 53

(2) Its dominant tendency is to arouse lust by displaying 54
or depicting sexual activity, masturbation, sexual excitement, 55
or nudity in a way that tends to represent human beings as mere 56
objects of sexual appetite; 57

(3) Its dominant tendency is to arouse lust by displaying 58
or depicting bestiality or extreme or bizarre violence, cruelty, 59
or brutality; 60

(4) Its dominant tendency is to appeal to scatological 61
interest by displaying or depicting human bodily functions of 62
elimination in a way that inspires disgust or revulsion in 63
persons with ordinary sensibilities, without serving any genuine 64
scientific, educational, sociological, moral, or artistic 65
purpose; 66

(5) It contains a series of displays or descriptions of 67
sexual activity, masturbation, sexual excitement, nudity, 68
bestiality, extreme or bizarre violence, cruelty, or brutality, 69
or human bodily functions of elimination, the cumulative effect 70
of which is a dominant tendency to appeal to prurient or 71
scatological interest, when the appeal to such an interest is 72
primarily for its own sake or for commercial exploitation, 73
rather than primarily for a genuine scientific, educational, 74
sociological, moral, or artistic purpose. 75

(G) "Sexual excitement" means the condition of human male 76

or female genitals when in a state of sexual stimulation or 77
arousal. 78

(H) "Nudity" means the showing, representation, or 79
depiction of human male or female genitals, pubic area, or 80
buttocks with less than a full, opaque covering, or of a female 81
breast with less than a full, opaque covering of any portion 82
thereof below the top of the nipple, or of covered male genitals 83
in a discernibly turgid state. 84

(I) "Juvenile" means an unmarried person under the age of 85
eighteen. 86

(J) "Material" means any book, magazine, newspaper, 87
pamphlet, poster, print, picture, figure, image, description, 88
motion picture film, phonographic record, or tape, or other 89
tangible thing capable of arousing interest through sight, 90
sound, or touch and includes an image or text appearing on a 91
computer monitor, television screen, liquid crystal display, or 92
similar display device or an image or text recorded on a 93
computer hard disk, computer floppy disk, compact disk, magnetic 94
tape, or similar data storage device. 95

(K) "Performance" means any motion picture, preview, 96
trailer, play, show, skit, dance, or other exhibition performed 97
before an audience. 98

(L) "Spouse" means a person married to an offender at the 99
time of an alleged offense, except that such person shall not be 100
considered the spouse when any of the following apply: 101

(1) When the parties have entered into a written 102
separation agreement authorized by section 3103.06 of the 103
Revised Code; 104

(2) During the pendency of an action between the parties 105

for annulment, divorce, dissolution of marriage, or legal separation;	106 107
(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.	108 109
(M) "Minor" means a person under the age of eighteen.	110
(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.	111 112
(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.	113 114
(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.	115 116 117
<u>(Q) "Licensed health care professional" means any of the following health care professionals:</u>	118 119
<u>(1) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;</u>	120 121
<u>(2) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;</u>	122 123
<u>(3) An optometrist licensed under Chapter 4725. of the Revised Code;</u>	124 125
<u>(4) A physician assistant licensed under Chapter 4730. of the Revised Code;</u>	126 127
<u>(5) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;</u>	128 129 130
<u>(6) A psychologist licensed under Chapter 4732. of the Revised Code;</u>	131 132

<u>(7) A chiropractor licensed under Chapter 4734. of the</u>	133
<u>Revised Code;</u>	134
<u>(8) A speech-language pathologist or audiologist licensed</u>	135
<u>under Chapter 4753. of the Revised Code;</u>	136
<u>(9) An occupational therapist, physical therapist, or</u>	137
<u>athletic trainer licensed under Chapter 4755. of the Revised</u>	138
<u>Code;</u>	139
<u>(10) A social worker or independent social worker licensed</u>	140
<u>under Chapter 4757. of the Revised Code.</u>	141
<u>(R) "Person with a developmental disability" has the same</u>	142
<u>meaning as in section 2905.32 of the Revised Code.</u>	143
Sec. 2907.05. (A) No person shall have sexual contact with	144
another, not the spouse of the offender; cause another, not the	145
spouse of the offender, to have sexual contact with the	146
offender; or cause two or more other persons to have sexual	147
contact when any of the following applies:	148
(1) The offender purposely compels the other person, or	149
one of the other persons, to submit by force or threat of force.	150
(2) For the purpose of preventing resistance, the offender	151
substantially impairs the judgment or control of the other	152
person or of one of the other persons by administering any drug,	153
intoxicant, or controlled substance to the other person	154
surreptitiously or by force, threat of force, or deception.	155
(3) The offender knows that the judgment or control of the	156
other person or of one of the other persons is substantially	157
impaired as a result of the influence of any drug or intoxicant	158
administered to the other person with the other person's consent	159
for the purpose of any kind of medical or dental examination,	160

treatment, or surgery. 161

(4) The other person, or one of the other persons, is less 162
than thirteen years of age, whether or not the offender knows 163
the age of that person. 164

(5) The ability of the other person to resist or consent 165
or the ability of one of the other persons to resist or consent 166
is substantially impaired because of a mental or physical 167
condition or because of advanced age, and the offender knows or 168
has reasonable cause to believe that the ability to resist or 169
consent of the other person or of one of the other persons is 170
substantially impaired because of a mental or physical condition 171
or because of advanced age. 172

(6) The offender is a licensed health care professional 173
and has sexual contact with another person who is a patient 174
under the offender's care or supervision and one of the 175
following applies: 176

(a) The offender knows that the sexual contact is 177
offensive to the patient, or is reckless in that regard; 178

(b) The patient is less than sixteen years of age, whether 179
or not the offender knows the age of the patient; 180

(c) The patient is a person with a developmental 181
disability, whether or not the offender knows that the patient 182
is a person with a developmental disability. 183

(B) No person shall knowingly touch the genitalia of 184
another, when the touching is not through clothing, the other 185
person is less than twelve years of age, whether or not the 186
offender knows the age of that person, and the touching is done 187
with an intent to abuse, humiliate, harass, degrade, or arouse 188
or gratify the sexual desire of any person. 189

(C) Whoever violates this section is guilty of gross sexual imposition. 190
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(1) Except as otherwise provided in this section, gross sexual imposition committed in violation of division (A) (1), (2), (3), or (5) of this section is a felony of the fourth degree. If the offender under division (A) (2) of this section substantially impairs the judgment or control of the other person or one of the other persons by administering any controlled substance described in section 3719.41 of the Revised Code to the person surreptitiously or by force, threat of force, or deception, gross sexual imposition committed in violation of division (A) (2) of this section is a felony of the third degree. 192
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(2) Gross sexual imposition committed in violation of division (A) (4) or (B) of this section is a felony of the third degree. Except as otherwise provided in this division, for gross sexual imposition committed in violation of division (A) (4) or (B) of this section there is a presumption that a prison term shall be imposed for the offense. The court shall impose on an offender convicted of gross sexual imposition in violation of division (A) (4) or (B) of this section a mandatory prison term, as described in division (C) (3) of this section, for a felony of the third degree if either of the following applies: 202
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(a) Evidence other than the testimony of the victim was admitted in the case corroborating the violation; 212
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(b) The offender previously was convicted of or pleaded guilty to a violation of this section, rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age. 214
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(3) A mandatory prison term required under division (C) (2) 219
of this section shall be a definite term from the range of 220
prison terms provided in division (A) (3) (a) of section 2929.14 221
of the Revised Code for a felony of the third degree. 222

(4) Except as otherwise provided in this division, gross 223
sexual imposition committed in violation of division (A) (6) of 224
this section is a felony of the fifth degree. If the patient was 225
thirteen years of age or older but less than eighteen years of 226
age or if the patient was a person with a developmental 227
disability, a violation of division (A) (6) of this section is a 228
felony of the third degree and there is a presumption that a 229
prison term shall be imposed for the offense. If the patient was 230
less than thirteen years of age, a violation of division (A) (6) 231
of this section is a felony of the second degree and the court 232
shall impose as the minimum prison term for the offense a 233
mandatory prison term that is one of the minimum terms 234
prescribed in division (A) (2) (a) of section 2929.14 of the 235
Revised Code for a felony of the second degree. 236

(D) A victim need not prove physical resistance to the 237
offender in prosecutions under this section. 238

(E) Evidence of specific instances of the victim's sexual 239
activity, opinion evidence of the victim's sexual activity, and 240
reputation evidence of the victim's sexual activity shall not be 241
admitted under this section unless it involves evidence of the 242
origin of semen, pregnancy, or disease, or the victim's past 243
sexual activity with the offender, and only to the extent that 244
the court finds that the evidence is material to a fact at issue 245
in the case and that its inflammatory or prejudicial nature does 246
not outweigh its probative value. 247

Evidence of specific instances of the defendant's sexual 248

activity, opinion evidence of the defendant's sexual activity, 249
and reputation evidence of the defendant's sexual activity shall 250
not be admitted under this section unless it involves evidence 251
of the origin of semen, pregnancy, or disease, the defendant's 252
past sexual activity with the victim, or is admissible against 253
the defendant under section 2945.59 of the Revised Code, and 254
only to the extent that the court finds that the evidence is 255
material to a fact at issue in the case and that its 256
inflammatory or prejudicial nature does not outweigh its 257
probative value. 258

(F) Prior to taking testimony or receiving evidence of any 259
sexual activity of the victim or the defendant in a proceeding 260
under this section, the court shall resolve the admissibility of 261
the proposed evidence in a hearing in chambers, which shall be 262
held at or before preliminary hearing and not less than three 263
days before trial, or for good cause shown during the trial. 264

(G) Upon approval by the court, the victim may be 265
represented by counsel in any hearing in chambers or other 266
proceeding to resolve the admissibility of evidence. If the 267
victim is indigent or otherwise is unable to obtain the services 268
of counsel, the court, upon request, may appoint counsel to 269
represent the victim without cost to the victim. 270

Sec. 2907.17. If a mental health professional or licensed 271
health care professional is indicted or charged and bound over 272
to the court of common pleas for trial for an alleged violation 273
of division (A) (10) of section 2907.03, division (A) (6) of 274
section 2907.05, or division (A) (5) of section 2907.06 of the 275
Revised Code, the prosecuting attorney handling the case shall 276
send written notice of the indictment or the charge and bind 277
over to the regulatory or licensing board or agency, if any, 278

that has the administrative authority to suspend or revoke the 279
mental health professional or licensed health care 280
professional's professional license, certification, 281
registration, or authorization. 282

Sec. 2907.18. If a mental health professional or licensed 283
health care professional is convicted of or pleads guilty to a 284
violation of division (A) (10) of section 2907.03, division (A) 285
(6) of section 2907.05, or division (A) (5) of section 2907.06 of 286
the Revised Code, the court shall transmit a certified copy of 287
the judgment entry of conviction to the regulatory or licensing 288
board or agency, if any, that has the administrative authority 289
to suspend or revoke the mental health professional or licensed 290
health care professional's professional license, certification, 291
registration, or authorization. 292

Sec. 2907.24. (A) (1) No person shall solicit another who 293
is eighteen years of age or older to engage with such other 294
person in sexual activity for hire. 295

(2) No person shall solicit another to engage with such 296
other person in sexual activity for hire if the other person is 297
sixteen or seventeen years of age and the offender knows that 298
the other person is sixteen or seventeen years of age or is 299
reckless in that regard. 300

(3) No person shall solicit another to engage with such 301
other person in sexual activity for hire if either of the 302
following applies: 303

(a) The other person is less than sixteen years of age, 304
whether or not the offender knows the age of the other person. 305

(b) The other person is a person with a developmental 306
disability and the offender knows or has reasonable cause to 307

believe the other person is a person with a developmental 308
disability. 309

(B) No person, with knowledge that the person has tested 310
positive as a carrier of a virus that causes acquired 311
immunodeficiency syndrome, shall engage in conduct in violation 312
of division (A) of this section. 313

(C) (1) Whoever violates division (A) of this section is 314
guilty of soliciting. A violation of division (A) (1) of this 315
section is a misdemeanor of the third degree. A violation of 316
division (A) (2) of this section is a felony of the fifth degree. 317
A violation of division (A) (3) of this section is a felony of 318
the third degree. 319

(2) Whoever violates division (B) of this section is 320
guilty of engaging in solicitation after a positive HIV test. If 321
the offender commits the violation prior to July 1, 1996, 322
engaging in solicitation after a positive HIV test is a felony 323
of the second degree. If the offender commits the violation on 324
or after July 1, 1996, engaging in solicitation after a positive 325
HIV test is a felony of the third degree. 326

(D) If a person is convicted of or pleads guilty to a 327
violation of any provision of this section, an attempt to commit 328
a violation of any provision of this section, or a violation of 329
or an attempt to commit a violation of a municipal ordinance 330
that is substantially equivalent to any provision of this 331
section and if the person, in committing or attempting to commit 332
the violation, was in, was on, or used a motor vehicle, the 333
court, in addition to or independent of all other penalties 334
imposed for the violation, may impose upon the offender a class 335
six suspension of the person's driver's license, commercial 336
driver's license, temporary instruction permit, probationary 337

license, or nonresident operating privilege from the range 338
specified in division (A) (6) of section 4510.02 of the Revised 339
Code. In lieu of imposing upon the offender the class six 340
suspension, the court instead may require the offender to 341
perform community service for a number of hours determined by 342
the court. 343

(E) As used in this section: 344

~~(1) "Person with a developmental disability" has the same 345
meaning as in section 2905.32 of the Revised Code. 346~~

~~(2) "Sexual", "sexual activity for hire" means an implicit 347
or explicit agreement to provide sexual activity in exchange for 348
anything of value paid to the person engaging in such sexual 349
activity, to any person trafficking that person, or to any 350
person associated with either such person. 351~~

Sec. 4715.30. (A) An applicant for or holder of a 352
certificate or license issued under this chapter is subject to 353
disciplinary action by the state dental board for any of the 354
following reasons: 355

(1) Employing or cooperating in fraud or material 356
deception in applying for or obtaining a license or certificate; 357

(2) Obtaining or attempting to obtain money or anything of 358
value by intentional misrepresentation or material deception in 359
the course of practice; 360

(3) Advertising services in a false or misleading manner 361
or violating the board's rules governing time, place, and manner 362
of advertising; 363

(4) Commission of an act that constitutes a felony in this 364
state, regardless of the jurisdiction in which the act was 365

committed;	366
(5) Commission of an act in the course of practice that	367
constitutes a misdemeanor in this state, regardless of the	368
jurisdiction in which the act was committed;	369
(6) Conviction of, a plea of guilty to, a judicial finding	370
of guilt of, a judicial finding of guilt resulting from a plea	371
of no contest to, or a judicial finding of eligibility for	372
intervention in lieu of conviction for, any felony or of a	373
misdemeanor committed in the course of practice;	374
(7) Engaging in lewd or immoral conduct in connection with	375
the provision of dental services;	376
(8) Selling, prescribing, giving away, or administering	377
drugs for other than legal and legitimate therapeutic purposes,	378
or conviction of, a plea of guilty to, a judicial finding of	379
guilt of, a judicial finding of guilt resulting from a plea of	380
no contest to, or a judicial finding of eligibility for	381
intervention in lieu of conviction for, a violation of any	382
federal or state law regulating the possession, distribution, or	383
use of any drug;	384
(9) Providing or allowing dental hygienists, expanded	385
function dental auxiliaries, or other practitioners of auxiliary	386
dental occupations working under the certificate or license	387
holder's supervision, or a dentist holding a temporary limited	388
continuing education license under division (C) of section	389
4715.16 of the Revised Code working under the certificate or	390
license holder's direct supervision, to provide dental care that	391
departs from or fails to conform to accepted standards for the	392
profession, whether or not injury to a patient results;	393
(10) Inability to practice under accepted standards of the	394

profession because of physical or mental disability, dependence	395
on alcohol or other drugs, or excessive use of alcohol or other	396
drugs;	397
(11) Violation of any provision of this chapter or any	398
rule adopted thereunder;	399
(12) Failure to use universal blood and body fluid	400
precautions established by rules adopted under section 4715.03	401
of the Revised Code;	402
(13) Except as provided in division (H) of this section,	403
either of the following:	404
(a) Waiving the payment of all or any part of a deductible	405
or copayment that a patient, pursuant to a health insurance or	406
health care policy, contract, or plan that covers dental	407
services, would otherwise be required to pay if the waiver is	408
used as an enticement to a patient or group of patients to	409
receive health care services from that certificate or license	410
holder;	411
(b) Advertising that the certificate or license holder	412
will waive the payment of all or any part of a deductible or	413
copayment that a patient, pursuant to a health insurance or	414
health care policy, contract, or plan that covers dental	415
services, would otherwise be required to pay.	416
(14) Failure to comply with section 4715.302 or 4729.79 of	417
the Revised Code, unless the state board of pharmacy no longer	418
maintains a drug database pursuant to section 4729.75 of the	419
Revised Code;	420
(15) Any of the following actions taken by an agency	421
responsible for authorizing, certifying, or regulating an	422
individual to practice a health care occupation or provide	423

health care services in this state or another jurisdiction, for 424
any reason other than the nonpayment of fees: the limitation, 425
revocation, or suspension of an individual's license to 426
practice; acceptance of an individual's license surrender; 427
denial of a license; refusal to renew or reinstate a license; 428
imposition of probation; or issuance of an order of censure or 429
other reprimand; 430

(16) Failure to cooperate in an investigation conducted by 431
the board under division (D) of section 4715.03 of the Revised 432
Code, including failure to comply with a subpoena or order 433
issued by the board or failure to answer truthfully a question 434
presented by the board at a deposition or in written 435
interrogatories, except that failure to cooperate with an 436
investigation shall not constitute grounds for discipline under 437
this section if a court of competent jurisdiction has issued an 438
order that either quashes a subpoena or permits the individual 439
to withhold the testimony or evidence in issue; 440

(17) Failure to comply with the requirements in section 441
3719.061 of the Revised Code before issuing for a minor a 442
prescription for an opioid analgesic, as defined in section 443
3719.01 of the Revised Code. 444

(B) A manager, proprietor, operator, or conductor of a 445
dental facility shall be subject to disciplinary action if any 446
dentist, dental hygienist, expanded function dental auxiliary, 447
or qualified personnel providing services in the facility is 448
found to have committed a violation listed in division (A) of 449
this section and the manager, proprietor, operator, or conductor 450
knew of the violation and permitted it to occur on a recurring 451
basis. 452

(C) Subject to Chapter 119. of the Revised Code, the board 453

may take one or more of the following disciplinary actions if 454
one or more of the grounds for discipline listed in divisions 455
(A) and (B) of this section exist: 456

(1) Censure the license or certificate holder; 457

(2) Place the license or certificate on probationary 458
status for such period of time the board determines necessary 459
and require the holder to: 460

(a) Report regularly to the board upon the matters which 461
are the basis of probation; 462

(b) Limit practice to those areas specified by the board; 463

(c) Continue or renew professional education until a 464
satisfactory degree of knowledge or clinical competency has been 465
attained in specified areas. 466

(3) Suspend the certificate or license; 467

(4) Revoke the certificate or license. 468

Where the board places a holder of a license or 469
certificate on probationary status pursuant to division (C) (2) 470
of this section, the board may subsequently suspend or revoke 471
the license or certificate if it determines that the holder has 472
not met the requirements of the probation or continues to engage 473
in activities that constitute grounds for discipline pursuant to 474
division (A) or (B) of this section. 475

Any order suspending a license or certificate shall state 476
the conditions under which the license or certificate will be 477
restored, which may include a conditional restoration during 478
which time the holder is in a probationary status pursuant to 479
division (C) (2) of this section. The board shall restore the 480
license or certificate unconditionally when such conditions are 481

met. 482

(D) If the physical or mental condition of an applicant or 483
a license or certificate holder is at issue in a disciplinary 484
proceeding, the board may order the license or certificate 485
holder to submit to reasonable examinations by an individual 486
designated or approved by the board and at the board's expense. 487
The physical examination may be conducted by any individual 488
authorized by the Revised Code to do so, including a physician 489
assistant, a clinical nurse specialist, a certified nurse 490
practitioner, or a certified nurse-midwife. Any written 491
documentation of the physical examination shall be completed by 492
the individual who conducted the examination. 493

Failure to comply with an order for an examination shall 494
be grounds for refusal of a license or certificate or summary 495
suspension of a license or certificate under division (E) of 496
this section. 497

(E) If a license or certificate holder has failed to 498
comply with an order under division (D) of this section, the 499
board may apply to the court of common pleas of the county in 500
which the holder resides for an order temporarily suspending the 501
holder's license or certificate, without a prior hearing being 502
afforded by the board, until the board conducts an adjudication 503
hearing pursuant to Chapter 119. of the Revised Code. If the 504
court temporarily suspends a holder's license or certificate, 505
the board shall give written notice of the suspension personally 506
or by certified mail to the license or certificate holder. Such 507
notice shall inform the license or certificate holder of the 508
right to a hearing pursuant to Chapter 119. of the Revised Code. 509

(F) Any holder of a certificate or license issued under 510
this chapter who has pleaded guilty to, ~~has~~ or been convicted 511

~~of, or has had a judicial finding of eligibility for~~ 512
~~intervention in lieu of conviction entered against the holder in~~ 513
~~this state for~~ aggravated murder, murder, voluntary 514
manslaughter, felonious assault, kidnapping, rape, sexual 515
battery, gross sexual imposition, aggravated arson, aggravated 516
robbery, or aggravated burglary, or ~~who has pleaded guilty to,~~ 517
~~has been convicted of, or has had a judicial finding of~~ 518
~~eligibility for treatment or intervention in lieu of conviction~~ 519
~~entered against the holder in another jurisdiction for any~~ 520
substantially equivalent criminal offense in another 521
jurisdiction, is automatically suspended from practice under 522
this chapter in this state and any certificate or license issued 523
to the holder under this chapter is automatically suspended, as 524
of the date of the guilty plea, or conviction, ~~or judicial~~ 525
~~finding,~~ whether the proceedings are brought in this state or 526
another jurisdiction. Continued practice by an individual after 527
the suspension of the individual's certificate or license under 528
this division shall be considered practicing without a 529
certificate or license. The board shall notify the suspended 530
individual of the suspension of the individual's certificate or 531
license under this division by certified mail or in person in 532
accordance with section 119.07 of the Revised Code. If an 533
individual whose certificate or license is suspended under this 534
division fails to make a timely request for an adjudicatory 535
hearing, the board shall enter a final order revoking the 536
individual's certificate or license. 537

(G) If the supervisory investigative panel determines both 538
of the following, the panel may recommend that the board suspend 539
an individual's certificate or license without a prior hearing: 540

(1) That there is clear and convincing evidence that an 541
individual has violated division (A) of this section; 542

(2) That the individual's continued practice presents a 543
danger of immediate and serious harm to the public. 544

Written allegations shall be prepared for consideration by 545
the board. The board, upon review of those allegations and by an 546
affirmative vote of not fewer than four dentist members of the 547
board and seven of its members in total, excluding any member on 548
the supervisory investigative panel, may suspend a certificate 549
or license without a prior hearing. A telephone conference call 550
may be utilized for reviewing the allegations and taking the 551
vote on the summary suspension. 552

The board shall issue a written order of suspension by 553
certified mail or in person in accordance with section 119.07 of 554
the Revised Code. The order shall not be subject to suspension 555
by the court during pendency or any appeal filed under section 556
119.12 of the Revised Code. If the individual subject to the 557
summary suspension requests an adjudicatory hearing by the 558
board, the date set for the hearing shall be within fifteen 559
days, but not earlier than seven days, after the individual 560
requests the hearing, unless otherwise agreed to by both the 561
board and the individual. 562

Any summary suspension imposed under this division shall 563
remain in effect, unless reversed on appeal, until a final 564
adjudicative order issued by the board pursuant to this section 565
and Chapter 119. of the Revised Code becomes effective. The 566
board shall issue its final adjudicative order within seventy- 567
five days after completion of its hearing. A failure to issue 568
the order within seventy-five days shall result in dissolution 569
of the summary suspension order but shall not invalidate any 570
subsequent, final adjudicative order. 571

(H) Sanctions shall not be imposed under division (A) (13) 572

of this section against any certificate or license holder who 573
waives deductibles and copayments as follows: 574

(1) In compliance with the health benefit plan that 575
expressly allows such a practice. Waiver of the deductibles or 576
copayments shall be made only with the full knowledge and 577
consent of the plan purchaser, payer, and third-party 578
administrator. Documentation of the consent shall be made 579
available to the board upon request. 580

(2) For professional services rendered to any other person 581
who holds a certificate or license issued pursuant to this 582
chapter to the extent allowed by this chapter and the rules of 583
the board. 584

(I) In no event shall the board consider or raise during a 585
hearing required by Chapter 119. of the Revised Code the 586
circumstances of, or the fact that the board has received, one 587
or more complaints about a person unless the one or more 588
complaints are the subject of the hearing or resulted in the 589
board taking an action authorized by this section against the 590
person on a prior occasion. 591

(J) The board may share any information it receives 592
pursuant to an investigation under division (D) of section 593
4715.03 of the Revised Code, including patient records and 594
patient record information, with law enforcement agencies, other 595
licensing boards, and other governmental agencies that are 596
prosecuting, adjudicating, or investigating alleged violations 597
of statutes or administrative rules. An agency or board that 598
receives the information shall comply with the same requirements 599
regarding confidentiality as those with which the state dental 600
board must comply, notwithstanding any conflicting provision of 601
the Revised Code or procedure of the agency or board that 602

applies when it is dealing with other information in its 603
possession. In a judicial proceeding, the information may be 604
admitted into evidence only in accordance with the Rules of 605
Evidence, but the court shall require that appropriate measures 606
are taken to ensure that confidentiality is maintained with 607
respect to any part of the information that contains names or 608
other identifying information about patients or complainants 609
whose confidentiality was protected by the state dental board 610
when the information was in the board's possession. Measures to 611
ensure confidentiality that may be taken by the court include 612
sealing its records or deleting specific information from its 613
records. 614

Sec. 4725.241. Any licensee under this chapter who has 615
pleaded guilty to or been convicted of aggravated murder, 616
murder, voluntary manslaughter, felonious assault, kidnapping, 617
rape, sexual battery, gross sexual imposition, aggravated arson, 618
aggravated robbery, or aggravated burglary, or any substantially 619
equivalent criminal offense in another jurisdiction, is 620
automatically suspended from practice under this chapter in this 621
state and any license issued to the licensee under this chapter 622
is automatically suspended, as of the date of the guilty plea or 623
conviction, whether the proceedings are brought in this state or 624
another jurisdiction. Continued practice by an individual after 625
the suspension of the individual's license under this division 626
shall be considered practicing without a license. The state 627
vision professionals board shall notify the suspended individual 628
of the suspension of the individual's license under this section 629
by certified mail or in person in accordance with section 119.07 630
of the Revised Code. If an individual whose license is suspended 631
under this section fails to make a timely request for an 632
adjudicatory hearing, the board shall enter a final order 633

permanently revoking the individual's license. 634

Sec. 4729.16. (A) (1) The state board of pharmacy, after 635
notice and hearing in accordance with Chapter 119. of the 636
Revised Code, may impose any one or more of the following 637
sanctions on a pharmacist or pharmacy intern if the board finds 638
the individual engaged in any of the conduct set forth in 639
division (A) (2) of this section: 640

(a) Revoke, suspend, restrict, limit, or refuse to grant 641
or renew a license; 642

(b) Reprimand or place the license holder on probation; 643

(c) Impose a monetary penalty or forfeiture not to exceed 644
in severity any fine designated under the Revised Code for a 645
similar offense, or in the case of a violation of a section of 646
the Revised Code that does not bear a penalty, a monetary 647
penalty or forfeiture of not more than five hundred dollars. 648

(2) The board may impose the sanctions listed in division 649
(A) (1) of this section if the board finds a pharmacist or 650
pharmacy intern: 651

(a) Has been convicted of a felony, or a crime of moral 652
turpitude, as defined in section 4776.10 of the Revised Code; 653

(b) Engaged in dishonesty or unprofessional conduct in the 654
practice of pharmacy; 655

(c) Is addicted to or abusing alcohol or drugs or is 656
impaired physically or mentally to such a degree as to render 657
the pharmacist or pharmacy intern unfit to practice pharmacy; 658

(d) Has been convicted of a misdemeanor related to, or 659
committed in, the practice of pharmacy; 660

(e) Violated, conspired to violate, attempted to violate, 661
or aided and abetted the violation of any of the provisions of 662
this chapter, sections 3715.52 to 3715.72 of the Revised Code, 663
Chapter 2925. or 3719. of the Revised Code, or any rule adopted 664
by the board under those provisions; 665

(f) Permitted someone other than a pharmacist or pharmacy 666
intern to practice pharmacy; 667

(g) Knowingly lent the pharmacist's or pharmacy intern's 668
name to an illegal practitioner of pharmacy or had a 669
professional connection with an illegal practitioner of 670
pharmacy; 671

(h) Divided or agreed to divide remuneration made in the 672
practice of pharmacy with any other individual, including, but 673
not limited to, any licensed health professional authorized to 674
prescribe drugs or any owner, manager, or employee of a health 675
care facility, residential care facility, or nursing home; 676

(i) Violated the terms of a consult agreement entered into 677
pursuant to section 4729.39 of the Revised Code; 678

(j) Committed fraud, misrepresentation, or deception in 679
applying for or securing a license issued by the board under 680
this chapter or under Chapter 3715. or 3719. of the Revised 681
Code; 682

(k) Failed to comply with an order of the board or a 683
settlement agreement; 684

(l) Engaged in any other conduct for which the board may 685
impose discipline as set forth in rules adopted under section 686
4729.26 of the Revised Code. 687

(B) Any individual whose license is revoked, suspended, or 688

refused, shall return the license to the offices of the state 689
board of pharmacy within ten days after receipt of notice of 690
such action. 691

(C) As used in this section: 692

"Unprofessional conduct in the practice of pharmacy" 693
includes any of the following: 694

(1) Advertising or displaying signs that promote dangerous 695
drugs to the public in a manner that is false or misleading; 696

(2) Except as provided in section 4729.281, 4729.44, or 697
4729.47 of the Revised Code, the dispensing or sale of any drug 698
for which a prescription is required, without having received a 699
prescription for the drug; 700

(3) Knowingly dispensing medication pursuant to false or 701
forged prescriptions; 702

(4) Knowingly failing to maintain complete and accurate 703
records of all dangerous drugs received or dispensed in 704
compliance with federal laws and regulations and state laws and 705
rules; 706

(5) Obtaining any remuneration by fraud, 707
misrepresentation, or deception; 708

(6) Failing to conform to prevailing standards of care of 709
similar pharmacists or pharmacy interns under the same or 710
similar circumstances, whether or not actual injury to a patient 711
is established; 712

(7) Engaging in any other conduct that the board specifies 713
as unprofessional conduct in the practice of pharmacy in rules 714
adopted under section 4729.26 of the Revised Code. 715

(D) The board may suspend a license under division (B) of 716
section 3719.121 of the Revised Code by utilizing a telephone 717
conference call to review the allegations and take a vote. 718

(E) For purposes of this division, an individual 719
authorized to practice as a pharmacist or pharmacy intern 720
accepts the privilege of practicing in this state subject to 721
supervision by the board. By filing an application for or 722
holding a license to practice as a pharmacist or pharmacy 723
intern, an individual gives consent to submit to a mental or 724
physical examination when ordered to do so by the board in 725
writing and waives all objections to the admissibility of 726
testimony or examination reports that constitute privileged 727
communications. 728

If the board has reasonable cause to believe that an 729
individual who is a pharmacist or pharmacy intern is physically 730
or mentally impaired, the board may require the individual to 731
submit to a physical or mental examination, or both. The expense 732
of the examination is the responsibility of the individual 733
required to be examined. 734

Failure of an individual who is a pharmacist or pharmacy 735
intern to submit to a physical or mental examination ordered by 736
the board, unless the failure is due to circumstances beyond the 737
individual's control, constitutes an admission of the 738
allegations and a suspension order shall be entered without the 739
taking of testimony or presentation of evidence. Any subsequent 740
adjudication hearing under Chapter 119. of the Revised Code 741
concerning failure to submit to an examination is limited to 742
consideration of whether the failure was beyond the individual's 743
control. 744

If, based on the results of an examination ordered under 745

this division, the board determines that the individual's 746
ability to practice is impaired, the board shall suspend the 747
individual's license or deny the individual's application and 748
shall require the individual, as a condition for an initial, 749
continued, reinstated, or renewed license to practice, to submit 750
to a physical or mental examination and treatment. 751

An order of suspension issued under this division shall 752
not be subject to suspension by a court during pendency of any 753
appeal filed under section 119.12 of the Revised Code. 754

(F) If the board is required under Chapter 119. of the 755
Revised Code to give notice of an opportunity for a hearing and 756
the applicant or licensee does not make a timely request for a 757
hearing in accordance with section 119.07 of the Revised Code, 758
the board is not required to hold a hearing, but may adopt a 759
final order that contains the board's findings. In the final 760
order, the board may impose any of the sanctions listed in 761
division (A) of this section. 762

(G) Notwithstanding the provision of division (C) (2) of 763
section 2953.32 of the Revised Code specifying that if records 764
pertaining to a criminal case are sealed under that section the 765
proceedings in the case must be deemed not to have occurred, 766
sealing of the following records on which the board has based an 767
action under this section shall have no effect on the board's 768
action or any sanction imposed by the board under this section: 769
records of any conviction, guilty plea, judicial finding of 770
guilt resulting from a plea of no contest, or a judicial finding 771
of eligibility for a pretrial diversion program or intervention 772
in lieu of conviction. The board shall not be required to seal, 773
destroy, redact, or otherwise modify its records to reflect the 774
court's sealing of conviction records. 775

(H) No pharmacist or pharmacy intern shall knowingly 776
engage in any conduct described in divisions (A) (2) (b) or (A) (2) 777
(e) to (l) of this section. 778

(I) Any pharmacist who holds a license issued under this 779
chapter who has pleaded guilty to or been convicted of 780
aggravated murder, murder, voluntary manslaughter, felonious 781
assault, kidnapping, rape, sexual battery, gross sexual 782
imposition, aggravated arson, aggravated robbery, or aggravated 783
burglary, or any substantially equivalent criminal offense in 784
another jurisdiction, is automatically suspended from practice 785
under this chapter in this state and any license issued to the 786
holder under this chapter is automatically suspended, as of the 787
date of the guilty plea or conviction, whether the proceedings 788
are brought in this state or another jurisdiction. Continued 789
practice by an individual after the suspension of the 790
individual's license under this division shall be considered 791
practicing without a license. The board shall notify the 792
suspended individual of the suspension of the individual's 793
license under this division by certified mail or in person in 794
accordance with section 119.07 of the Revised Code. If an 795
individual whose license is suspended under this division fails 796
to make a timely request for an adjudicatory hearing, the board 797
shall enter a final order permanently revoking the individual's 798
license. 799

Sec. 4730.25. (A) The state medical board, by an 800
affirmative vote of not fewer than six members, may revoke or 801
may refuse to grant a license to practice as a physician 802
assistant to a person found by the board to have committed 803
fraud, misrepresentation, or deception in applying for or 804
securing the license. 805

(B) The board, by an affirmative vote of not fewer than 806
six members, shall, to the extent permitted by law, limit, 807
revoke, or suspend an individual's license to practice as a 808
physician assistant or prescriber number, refuse to issue a 809
license to an applicant, refuse to renew a ~~certificate~~ license, 810
refuse to reinstate a license, or reprimand or place on 811
probation the holder of a license for any of the following 812
reasons: 813

(1) Failure to practice in accordance with the supervising 814
physician's supervision agreement with the physician assistant, 815
including, if applicable, the policies of the health care 816
facility in which the supervising physician and physician 817
assistant are practicing; 818

(2) Failure to comply with the requirements of this 819
chapter, Chapter 4731. of the Revised Code, or any rules adopted 820
by the board; 821

(3) Violating or attempting to violate, directly or 822
indirectly, or assisting in or abetting the violation of, or 823
conspiring to violate, any provision of this chapter, Chapter 824
4731. of the Revised Code, or the rules adopted by the board; 825

(4) Inability to practice according to acceptable and 826
prevailing standards of care by reason of mental illness or 827
physical illness, including physical deterioration that 828
adversely affects cognitive, motor, or perceptive skills; 829

(5) Impairment of ability to practice according to 830
acceptable and prevailing standards of care because of habitual 831
or excessive use or abuse of drugs, alcohol, or other substances 832
that impair ability to practice; 833

(6) Administering drugs for purposes other than those 834

authorized under this chapter;	835
(7) Willfully betraying a professional confidence;	836
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a license to practice as a physician assistant.	837 838 839 840 841 842 843
As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.	844 845 846 847 848 849 850 851
(9) Representing, with the purpose of obtaining compensation or other advantage personally or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;	852 853 854 855
(10) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	856 857 858
(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	859 860 861
(12) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was	862 863

committed;	864
(13) A plea of guilty to, a judicial finding of guilt of,	865
or a judicial finding of eligibility for intervention in lieu of	866
conviction for, a misdemeanor committed in the course of	867
practice;	868
(14) A plea of guilty to, a judicial finding of guilt of,	869
or a judicial finding of eligibility for intervention in lieu of	870
conviction for, a misdemeanor involving moral turpitude;	871
(15) Commission of an act in the course of practice that	872
constitutes a misdemeanor in this state, regardless of the	873
jurisdiction in which the act was committed;	874
(16) Commission of an act involving moral turpitude that	875
constitutes a misdemeanor in this state, regardless of the	876
jurisdiction in which the act was committed;	877
(17) A plea of guilty to, a judicial finding of guilt of,	878
or a judicial finding of eligibility for intervention in lieu of	879
conviction for violating any state or federal law regulating the	880
possession, distribution, or use of any drug, including	881
trafficking in drugs;	882
(18) Any of the following actions taken by the state	883
agency responsible for regulating the practice of physician	884
assistants in another state, for any reason other than the	885
nonpayment of fees: the limitation, revocation, or suspension of	886
an individual's license to practice; acceptance of an	887
individual's license surrender; denial of a license; refusal to	888
renew or reinstate a license; imposition of probation; or	889
issuance of an order of censure or other reprimand;	890
(19) A departure from, or failure to conform to, minimal	891
standards of care of similar physician assistants under the same	892

or similar circumstances, regardless of whether actual injury to	893
a patient is established;	894
(20) Violation of the conditions placed by the board on a	895
license to practice as a physician assistant;	896
(21) Failure to use universal blood and body fluid	897
precautions established by rules adopted under section 4731.051	898
of the Revised Code;	899
(22) Failure to cooperate in an investigation conducted by	900
the board under section 4730.26 of the Revised Code, including	901
failure to comply with a subpoena or order issued by the board	902
or failure to answer truthfully a question presented by the	903
board at a deposition or in written interrogatories, except that	904
failure to cooperate with an investigation shall not constitute	905
grounds for discipline under this section if a court of	906
competent jurisdiction has issued an order that either quashes a	907
subpoena or permits the individual to withhold the testimony or	908
evidence in issue;	909
(23) Assisting suicide, as defined in section 3795.01 of	910
the Revised Code;	911
(24) Prescribing any drug or device to perform or induce	912
an abortion, or otherwise performing or inducing an abortion;	913
(25) Failure to comply with section 4730.53 of the Revised	914
Code, unless the board no longer maintains a drug database	915
pursuant to section 4729.75 of the Revised Code;	916
(26) Failure to comply with the requirements in section	917
3719.061 of the Revised Code before issuing for a minor a	918
prescription for an opioid analgesic, as defined in section	919
3719.01 of the Revised Code;	920

(27) Having certification by the national commission on 921
certification of physician assistants or a successor 922
organization expire, lapse, or be suspended or revoked; 923

(28) The revocation, suspension, restriction, reduction, 924
or termination of clinical privileges by the United States 925
department of defense or department of veterans affairs or the 926
termination or suspension of a certificate of registration to 927
prescribe drugs by the drug enforcement administration of the 928
United States department of justice. 929

(C) Disciplinary actions taken by the board under 930
divisions (A) and (B) of this section shall be taken pursuant to 931
an adjudication under Chapter 119. of the Revised Code, except 932
that in lieu of an adjudication, the board may enter into a 933
consent agreement with a physician assistant or applicant to 934
resolve an allegation of a violation of this chapter or any rule 935
adopted under it. A consent agreement, when ratified by an 936
affirmative vote of not fewer than six members of the board, 937
shall constitute the findings and order of the board with 938
respect to the matter addressed in the agreement. If the board 939
refuses to ratify a consent agreement, the admissions and 940
findings contained in the consent agreement shall be of no force 941
or effect. 942

(D) For purposes of divisions (B)(12), (15), and (16) of 943
this section, the commission of the act may be established by a 944
finding by the board, pursuant to an adjudication under Chapter 945
119. of the Revised Code, that the applicant or license holder 946
committed the act in question. The board shall have no 947
jurisdiction under these divisions in cases where the trial 948
court renders a final judgment in the license holder's favor and 949
that judgment is based upon an adjudication on the merits. The 950

board shall have jurisdiction under these divisions in cases 951
where the trial court issues an order of dismissal upon 952
technical or procedural grounds. 953

(E) The sealing of conviction records by any court shall 954
have no effect upon a prior board order entered under the 955
provisions of this section or upon the board's jurisdiction to 956
take action under the provisions of this section if, based upon 957
a plea of guilty, a judicial finding of guilt, or a judicial 958
finding of eligibility for intervention in lieu of conviction, 959
the board issued a notice of opportunity for a hearing prior to 960
the court's order to seal the records. The board shall not be 961
required to seal, destroy, redact, or otherwise modify its 962
records to reflect the court's sealing of conviction records. 963

(F) For purposes of this division, any individual who 964
holds a license issued under this chapter, or applies for a 965
license issued under this chapter, shall be deemed to have given 966
consent to submit to a mental or physical examination when 967
directed to do so in writing by the board and to have waived all 968
objections to the admissibility of testimony or examination 969
reports that constitute a privileged communication. 970

(1) In enforcing division (B) (4) of this section, the 971
board, upon a showing of a possible violation, may compel any 972
individual who holds a license issued under this chapter or who 973
has applied for a license pursuant to this chapter to submit to 974
a mental examination, physical examination, including an HIV 975
test, or both a mental and physical examination. The expense of 976
the examination is the responsibility of the individual 977
compelled to be examined. Failure to submit to a mental or 978
physical examination or consent to an HIV test ordered by the 979
board constitutes an admission of the allegations against the 980

individual unless the failure is due to circumstances beyond the 981
individual's control, and a default and final order may be 982
entered without the taking of testimony or presentation of 983
evidence. If the board finds a physician assistant unable to 984
practice because of the reasons set forth in division (B) (4) of 985
this section, the board shall require the physician assistant to 986
submit to care, counseling, or treatment by physicians approved 987
or designated by the board, as a condition for an initial, 988
continued, reinstated, or renewed license. An individual 989
affected under this division shall be afforded an opportunity to 990
demonstrate to the board the ability to resume practicing in 991
compliance with acceptable and prevailing standards of care. 992

(2) For purposes of division (B) (5) of this section, if 993
the board has reason to believe that any individual who holds a 994
license issued under this chapter or any applicant for a license 995
suffers such impairment, the board may compel the individual to 996
submit to a mental or physical examination, or both. The expense 997
of the examination is the responsibility of the individual 998
compelled to be examined. Any mental or physical examination 999
required under this division shall be undertaken by a treatment 1000
provider or physician qualified to conduct such examination and 1001
chosen by the board. 1002

Failure to submit to a mental or physical examination 1003
ordered by the board constitutes an admission of the allegations 1004
against the individual unless the failure is due to 1005
circumstances beyond the individual's control, and a default and 1006
final order may be entered without the taking of testimony or 1007
presentation of evidence. If the board determines that the 1008
individual's ability to practice is impaired, the board shall 1009
suspend the individual's license or deny the individual's 1010
application and shall require the individual, as a condition for 1011

initial, continued, reinstated, or renewed licensure, to submit 1012
to treatment. 1013

Before being eligible to apply for reinstatement of a 1014
license suspended under this division, the physician assistant 1015
shall demonstrate to the board the ability to resume practice or 1016
prescribing in compliance with acceptable and prevailing 1017
standards of care. The demonstration shall include the 1018
following: 1019

(a) Certification from a treatment provider approved under 1020
section 4731.25 of the Revised Code that the individual has 1021
successfully completed any required inpatient treatment; 1022

(b) Evidence of continuing full compliance with an 1023
aftercare contract or consent agreement; 1024

(c) Two written reports indicating that the individual's 1025
ability to practice has been assessed and that the individual 1026
has been found capable of practicing according to acceptable and 1027
prevailing standards of care. The reports shall be made by 1028
individuals or providers approved by the board for making such 1029
assessments and shall describe the basis for their 1030
determination. 1031

The board may reinstate a license suspended under this 1032
division after such demonstration and after the individual has 1033
entered into a written consent agreement. 1034

When the impaired physician assistant resumes practice or 1035
prescribing, the board shall require continued monitoring of the 1036
physician assistant. The monitoring shall include compliance 1037
with the written consent agreement entered into before 1038
reinstatement or with conditions imposed by board order after a 1039
hearing, and, upon termination of the consent agreement, 1040

submission to the board for at least two years of annual written 1041
progress reports made under penalty of falsification stating 1042
whether the physician assistant has maintained sobriety. 1043

(G) If the secretary and supervising member determine that 1044
there is clear and convincing evidence that a physician 1045
assistant has violated division (B) of this section and that the 1046
individual's continued practice or prescribing presents a danger 1047
of immediate and serious harm to the public, they may recommend 1048
that the board suspend the individual's license without a prior 1049
hearing. Written allegations shall be prepared for consideration 1050
by the board. 1051

The board, upon review of those allegations and by an 1052
affirmative vote of not fewer than six of its members, excluding 1053
the secretary and supervising member, may suspend a license 1054
without a prior hearing. A telephone conference call may be 1055
utilized for reviewing the allegations and taking the vote on 1056
the summary suspension. 1057

The board shall issue a written order of suspension by 1058
certified mail or in person in accordance with section 119.07 of 1059
the Revised Code. The order shall not be subject to suspension 1060
by the court during pendency of any appeal filed under section 1061
119.12 of the Revised Code. If the physician assistant requests 1062
an adjudicatory hearing by the board, the date set for the 1063
hearing shall be within fifteen days, but not earlier than seven 1064
days, after the physician assistant requests the hearing, unless 1065
otherwise agreed to by both the board and the license holder. 1066

A summary suspension imposed under this division shall 1067
remain in effect, unless reversed on appeal, until a final 1068
adjudicative order issued by the board pursuant to this section 1069
and Chapter 119. of the Revised Code becomes effective. The 1070

board shall issue its final adjudicative order within sixty days 1071
after completion of its hearing. Failure to issue the order 1072
within sixty days shall result in dissolution of the summary 1073
suspension order, but shall not invalidate any subsequent, final 1074
adjudicative order. 1075

(H) If the board takes action under division (B) (11), 1076
(13), or (14) of this section, and the judicial finding of 1077
guilt, guilty plea, or judicial finding of eligibility for 1078
intervention in lieu of conviction is overturned on appeal, upon 1079
exhaustion of the criminal appeal, a petition for 1080
reconsideration of the order may be filed with the board along 1081
with appropriate court documents. Upon receipt of a petition and 1082
supporting court documents, the board shall reinstate the 1083
individual's license. The board may then hold an adjudication 1084
under Chapter 119. of the Revised Code to determine whether the 1085
individual committed the act in question. Notice of opportunity 1086
for hearing shall be given in accordance with Chapter 119. of 1087
the Revised Code. If the board finds, pursuant to an 1088
adjudication held under this division, that the individual 1089
committed the act, or if no hearing is requested, it may order 1090
any of the sanctions identified under division (B) of this 1091
section. 1092

(I) The license to practice issued to a physician 1093
assistant and the physician assistant's practice in this state 1094
are automatically suspended as of the date the physician 1095
assistant pleads guilty to or is found by a judge or jury to be 1096
guilty of, ~~or is subject to a judicial finding of eligibility~~ 1097
~~for intervention in lieu of conviction in this state or~~ 1098
~~treatment or intervention in lieu of conviction in another state~~ 1099
~~for~~ any of the following criminal offenses in this state or a 1100
substantially equivalent criminal offense in another 1101

jurisdiction: aggravated murder, murder, voluntary manslaughter, 1102
felonious assault, kidnapping, rape, sexual battery, gross 1103
sexual imposition, aggravated arson, aggravated robbery, or 1104
aggravated burglary. Continued practice after the suspension 1105
shall be considered practicing without a license. 1106

The board shall notify the individual subject to the 1107
suspension by certified mail or in person in accordance with 1108
section 119.07 of the Revised Code. If an individual whose 1109
license is suspended under this division fails to make a timely 1110
request for an adjudication under Chapter 119. of the Revised 1111
Code, the board shall enter a final order permanently revoking 1112
the individual's license to practice. 1113

(J) In any instance in which the board is required by 1114
Chapter 119. of the Revised Code to give notice of opportunity 1115
for hearing and the individual subject to the notice does not 1116
timely request a hearing in accordance with section 119.07 of 1117
the Revised Code, the board is not required to hold a hearing, 1118
but may adopt, by an affirmative vote of not fewer than six of 1119
its members, a final order that contains the board's findings. 1120
In that final order, the board may order any of the sanctions 1121
identified under division (A) or (B) of this section. 1122

(K) Any action taken by the board under division (B) of 1123
this section resulting in a suspension shall be accompanied by a 1124
written statement of the conditions under which the physician 1125
assistant's license may be reinstated. The board shall adopt 1126
rules in accordance with Chapter 119. of the Revised Code 1127
governing conditions to be imposed for reinstatement. 1128
Reinstatement of a license suspended pursuant to division (B) of 1129
this section requires an affirmative vote of not fewer than six 1130
members of the board. 1131

(L) When the board refuses to grant or issue to an 1132
applicant a license to practice as a physician assistant, 1133
revokes an individual's license, refuses to renew an 1134
individual's license, or refuses to reinstate an individual's 1135
license, the board may specify that its action is permanent. An 1136
individual subject to a permanent action taken by the board is 1137
forever thereafter ineligible to hold the license and the board 1138
shall not accept an application for reinstatement of the license 1139
or for issuance of a new license. 1140

(M) Notwithstanding any other provision of the Revised 1141
Code, all of the following apply: 1142

(1) The surrender of a license issued under this chapter 1143
is not effective unless or until accepted by the board. 1144
Reinstatement of a license surrendered to the board requires an 1145
affirmative vote of not fewer than six members of the board. 1146

(2) An application made under this chapter for a license 1147
may not be withdrawn without approval of the board. 1148

(3) Failure by an individual to renew a license in 1149
accordance with section 4730.14 of the Revised Code shall not 1150
remove or limit the board's jurisdiction to take disciplinary 1151
action under this section against the individual. 1152

Sec. 4731.22. (A) The state medical board, by an 1153
affirmative vote of not fewer than six of its members, may 1154
limit, revoke, or suspend a license or certificate to practice 1155
or certificate to recommend, refuse to grant a license or 1156
certificate, refuse to renew a license or certificate, refuse to 1157
reinstate a license or certificate, or reprimand or place on 1158
probation the holder of a license or certificate if the 1159
individual applying for or holding the license or certificate is 1160

found by the board to have committed fraud during the 1161
administration of the examination for a license or certificate 1162
to practice or to have committed fraud, misrepresentation, or 1163
deception in applying for, renewing, or securing any license or 1164
certificate to practice or certificate to recommend issued by 1165
the board. 1166

(B) The board, by an affirmative vote of not fewer than 1167
six members, shall, to the extent permitted by law, limit, 1168
revoke, or suspend a license or certificate to practice or 1169
certificate to recommend, refuse to issue a license or 1170
certificate, refuse to renew a license or certificate, refuse to 1171
reinstate a license or certificate, or reprimand or place on 1172
probation the holder of a license or certificate for one or more 1173
of the following reasons: 1174

(1) Permitting one's name or one's license or certificate 1175
to practice to be used by a person, group, or corporation when 1176
the individual concerned is not actually directing the treatment 1177
given; 1178

(2) Failure to maintain minimal standards applicable to 1179
the selection or administration of drugs, or failure to employ 1180
acceptable scientific methods in the selection of drugs or other 1181
modalities for treatment of disease; 1182

(3) Except as provided in section 4731.97 of the Revised 1183
Code, selling, giving away, personally furnishing, prescribing, 1184
or administering drugs for other than legal and legitimate 1185
therapeutic purposes or a plea of guilty to, a judicial finding 1186
of guilt of, or a judicial finding of eligibility for 1187
intervention in lieu of conviction of, a violation of any 1188
federal or state law regulating the possession, distribution, or 1189
use of any drug; 1190

(4) Willfully betraying a professional confidence. 1191

For purposes of this division, "willfully betraying a 1192
professional confidence" does not include providing any 1193
information, documents, or reports under sections 307.621 to 1194
307.629 of the Revised Code to a child fatality review board; 1195
does not include providing any information, documents, or 1196
reports to the director of health pursuant to guidelines 1197
established under section 3701.70 of the Revised Code; does not 1198
include written notice to a mental health professional under 1199
section 4731.62 of the Revised Code; and does not include the 1200
making of a report of an employee's use of a drug of abuse, or a 1201
report of a condition of an employee other than one involving 1202
the use of a drug of abuse, to the employer of the employee as 1203
described in division (B) of section 2305.33 of the Revised 1204
Code. Nothing in this division affects the immunity from civil 1205
liability conferred by section 2305.33 or 4731.62 of the Revised 1206
Code upon a physician who makes a report in accordance with 1207
section 2305.33 or notifies a mental health professional in 1208
accordance with section 4731.62 of the Revised Code. As used in 1209
this division, "employee," "employer," and "physician" have the 1210
same meanings as in section 2305.33 of the Revised Code. 1211

(5) Making a false, fraudulent, deceptive, or misleading 1212
statement in the solicitation of or advertising for patients; in 1213
relation to the practice of medicine and surgery, osteopathic 1214
medicine and surgery, podiatric medicine and surgery, or a 1215
limited branch of medicine; or in securing or attempting to 1216
secure any license or certificate to practice issued by the 1217
board. 1218

As used in this division, "false, fraudulent, deceptive, 1219
or misleading statement" means a statement that includes a 1220

misrepresentation of fact, is likely to mislead or deceive 1221
because of a failure to disclose material facts, is intended or 1222
is likely to create false or unjustified expectations of 1223
favorable results, or includes representations or implications 1224
that in reasonable probability will cause an ordinarily prudent 1225
person to misunderstand or be deceived. 1226

(6) A departure from, or the failure to conform to, 1227
minimal standards of care of similar practitioners under the 1228
same or similar circumstances, whether or not actual injury to a 1229
patient is established; 1230

(7) Representing, with the purpose of obtaining 1231
compensation or other advantage as personal gain or for any 1232
other person, that an incurable disease or injury, or other 1233
incurable condition, can be permanently cured; 1234

(8) The obtaining of, or attempting to obtain, money or 1235
anything of value by fraudulent misrepresentations in the course 1236
of practice; 1237

(9) A plea of guilty to, a judicial finding of guilt of, 1238
or a judicial finding of eligibility for intervention in lieu of 1239
conviction for, a felony; 1240

(10) Commission of an act that constitutes a felony in 1241
this state, regardless of the jurisdiction in which the act was 1242
committed; 1243

(11) A plea of guilty to, a judicial finding of guilt of, 1244
or a judicial finding of eligibility for intervention in lieu of 1245
conviction for, a misdemeanor committed in the course of 1246
practice; 1247

(12) Commission of an act in the course of practice that 1248
constitutes a misdemeanor in this state, regardless of the 1249

jurisdiction in which the act was committed;	1250
(13) A plea of guilty to, a judicial finding of guilt of,	1251
or a judicial finding of eligibility for intervention in lieu of	1252
conviction for, a misdemeanor involving moral turpitude;	1253
(14) Commission of an act involving moral turpitude that	1254
constitutes a misdemeanor in this state, regardless of the	1255
jurisdiction in which the act was committed;	1256
(15) Violation of the conditions of limitation placed by	1257
the board upon a license or certificate to practice;	1258
(16) Failure to pay license renewal fees specified in this	1259
chapter;	1260
(17) Except as authorized in section 4731.31 of the	1261
Revised Code, engaging in the division of fees for referral of	1262
patients, or the receiving of a thing of value in return for a	1263
specific referral of a patient to utilize a particular service	1264
or business;	1265
(18) Subject to section 4731.226 of the Revised Code,	1266
violation of any provision of a code of ethics of the American	1267
medical association, the American osteopathic association, the	1268
American podiatric medical association, or any other national	1269
professional organizations that the board specifies by rule. The	1270
state medical board shall obtain and keep on file current copies	1271
of the codes of ethics of the various national professional	1272
organizations. The individual whose license or certificate is	1273
being suspended or revoked shall not be found to have violated	1274
any provision of a code of ethics of an organization not	1275
appropriate to the individual's profession.	1276
For purposes of this division, a "provision of a code of	1277
ethics of a national professional organization" does not include	1278

any provision that would preclude the making of a report by a 1279
physician of an employee's use of a drug of abuse, or of a 1280
condition of an employee other than one involving the use of a 1281
drug of abuse, to the employer of the employee as described in 1282
division (B) of section 2305.33 of the Revised Code. Nothing in 1283
this division affects the immunity from civil liability 1284
conferred by that section upon a physician who makes either type 1285
of report in accordance with division (B) of that section. As 1286
used in this division, "employee," "employer," and "physician" 1287
have the same meanings as in section 2305.33 of the Revised 1288
Code. 1289

(19) Inability to practice according to acceptable and 1290
prevailing standards of care by reason of mental illness or 1291
physical illness, including, but not limited to, physical 1292
deterioration that adversely affects cognitive, motor, or 1293
perceptive skills. 1294

In enforcing this division, the board, upon a showing of a 1295
possible violation, may compel any individual authorized to 1296
practice by this chapter or who has submitted an application 1297
pursuant to this chapter to submit to a mental examination, 1298
physical examination, including an HIV test, or both a mental 1299
and a physical examination. The expense of the examination is 1300
the responsibility of the individual compelled to be examined. 1301
Failure to submit to a mental or physical examination or consent 1302
to an HIV test ordered by the board constitutes an admission of 1303
the allegations against the individual unless the failure is due 1304
to circumstances beyond the individual's control, and a default 1305
and final order may be entered without the taking of testimony 1306
or presentation of evidence. If the board finds an individual 1307
unable to practice because of the reasons set forth in this 1308
division, the board shall require the individual to submit to 1309

care, counseling, or treatment by physicians approved or 1310
designated by the board, as a condition for initial, continued, 1311
reinstated, or renewed authority to practice. An individual 1312
affected under this division shall be afforded an opportunity to 1313
demonstrate to the board the ability to resume practice in 1314
compliance with acceptable and prevailing standards under the 1315
provisions of the individual's license or certificate. For the 1316
purpose of this division, any individual who applies for or 1317
receives a license or certificate to practice under this chapter 1318
accepts the privilege of practicing in this state and, by so 1319
doing, shall be deemed to have given consent to submit to a 1320
mental or physical examination when directed to do so in writing 1321
by the board, and to have waived all objections to the 1322
admissibility of testimony or examination reports that 1323
constitute a privileged communication. 1324

(20) Except as provided in division (F)(1)(b) of section 1325
4731.282 of the Revised Code or when civil penalties are imposed 1326
under section 4731.225 of the Revised Code, and subject to 1327
section 4731.226 of the Revised Code, violating or attempting to 1328
violate, directly or indirectly, or assisting in or abetting the 1329
violation of, or conspiring to violate, any provisions of this 1330
chapter or any rule promulgated by the board. 1331

This division does not apply to a violation or attempted 1332
violation of, assisting in or abetting the violation of, or a 1333
conspiracy to violate, any provision of this chapter or any rule 1334
adopted by the board that would preclude the making of a report 1335
by a physician of an employee's use of a drug of abuse, or of a 1336
condition of an employee other than one involving the use of a 1337
drug of abuse, to the employer of the employee as described in 1338
division (B) of section 2305.33 of the Revised Code. Nothing in 1339
this division affects the immunity from civil liability 1340

conferred by that section upon a physician who makes either type 1341
of report in accordance with division (B) of that section. As 1342
used in this division, "employee," "employer," and "physician" 1343
have the same meanings as in section 2305.33 of the Revised 1344
Code. 1345

(21) The violation of section 3701.79 of the Revised Code 1346
or of any abortion rule adopted by the director of health 1347
pursuant to section 3701.341 of the Revised Code; 1348

(22) Any of the following actions taken by an agency 1349
responsible for authorizing, certifying, or regulating an 1350
individual to practice a health care occupation or provide 1351
health care services in this state or another jurisdiction, for 1352
any reason other than the nonpayment of fees: the limitation, 1353
revocation, or suspension of an individual's license to 1354
practice; acceptance of an individual's license surrender; 1355
denial of a license; refusal to renew or reinstate a license; 1356
imposition of probation; or issuance of an order of censure or 1357
other reprimand; 1358

(23) The violation of section 2919.12 of the Revised Code 1359
or the performance or inducement of an abortion upon a pregnant 1360
woman with actual knowledge that the conditions specified in 1361
division (B) of section 2317.56 of the Revised Code have not 1362
been satisfied or with a heedless indifference as to whether 1363
those conditions have been satisfied, unless an affirmative 1364
defense as specified in division (H)(2) of that section would 1365
apply in a civil action authorized by division (H)(1) of that 1366
section; 1367

(24) The revocation, suspension, restriction, reduction, 1368
or termination of clinical privileges by the United States 1369
department of defense or department of veterans affairs or the 1370

termination or suspension of a certificate of registration to 1371
prescribe drugs by the drug enforcement administration of the 1372
United States department of justice; 1373

(25) Termination or suspension from participation in the 1374
medicare or medicaid programs by the department of health and 1375
human services or other responsible agency; 1376

(26) Impairment of ability to practice according to 1377
acceptable and prevailing standards of care because of habitual 1378
or excessive use or abuse of drugs, alcohol, or other substances 1379
that impair ability to practice. 1380

For the purposes of this division, any individual 1381
authorized to practice by this chapter accepts the privilege of 1382
practicing in this state subject to supervision by the board. By 1383
filing an application for or holding a license or certificate to 1384
practice under this chapter, an individual shall be deemed to 1385
have given consent to submit to a mental or physical examination 1386
when ordered to do so by the board in writing, and to have 1387
waived all objections to the admissibility of testimony or 1388
examination reports that constitute privileged communications. 1389

If it has reason to believe that any individual authorized 1390
to practice by this chapter or any applicant for licensure or 1391
certification to practice suffers such impairment, the board may 1392
compel the individual to submit to a mental or physical 1393
examination, or both. The expense of the examination is the 1394
responsibility of the individual compelled to be examined. Any 1395
mental or physical examination required under this division 1396
shall be undertaken by a treatment provider or physician who is 1397
qualified to conduct the examination and who is chosen by the 1398
board. 1399

Failure to submit to a mental or physical examination 1400
ordered by the board constitutes an admission of the allegations 1401
against the individual unless the failure is due to 1402
circumstances beyond the individual's control, and a default and 1403
final order may be entered without the taking of testimony or 1404
presentation of evidence. If the board determines that the 1405
individual's ability to practice is impaired, the board shall 1406
suspend the individual's license or certificate or deny the 1407
individual's application and shall require the individual, as a 1408
condition for initial, continued, reinstated, or renewed 1409
licensure or certification to practice, to submit to treatment. 1410

Before being eligible to apply for reinstatement of a 1411
license or certificate suspended under this division, the 1412
impaired practitioner shall demonstrate to the board the ability 1413
to resume practice in compliance with acceptable and prevailing 1414
standards of care under the provisions of the practitioner's 1415
license or certificate. The demonstration shall include, but 1416
shall not be limited to, the following: 1417

(a) Certification from a treatment provider approved under 1418
section 4731.25 of the Revised Code that the individual has 1419
successfully completed any required inpatient treatment; 1420

(b) Evidence of continuing full compliance with an 1421
aftercare contract or consent agreement; 1422

(c) Two written reports indicating that the individual's 1423
ability to practice has been assessed and that the individual 1424
has been found capable of practicing according to acceptable and 1425
prevailing standards of care. The reports shall be made by 1426
individuals or providers approved by the board for making the 1427
assessments and shall describe the basis for their 1428
determination. 1429

The board may reinstate a license or certificate suspended 1430
under this division after that demonstration and after the 1431
individual has entered into a written consent agreement. 1432

When the impaired practitioner resumes practice, the board 1433
shall require continued monitoring of the individual. The 1434
monitoring shall include, but not be limited to, compliance with 1435
the written consent agreement entered into before reinstatement 1436
or with conditions imposed by board order after a hearing, and, 1437
upon termination of the consent agreement, submission to the 1438
board for at least two years of annual written progress reports 1439
made under penalty of perjury stating whether the individual has 1440
maintained sobriety. 1441

(27) A second or subsequent violation of section 4731.66 1442
or 4731.69 of the Revised Code; 1443

(28) Except as provided in division (N) of this section: 1444

(a) Waiving the payment of all or any part of a deductible 1445
or copayment that a patient, pursuant to a health insurance or 1446
health care policy, contract, or plan that covers the 1447
individual's services, otherwise would be required to pay if the 1448
waiver is used as an enticement to a patient or group of 1449
patients to receive health care services from that individual; 1450

(b) Advertising that the individual will waive the payment 1451
of all or any part of a deductible or copayment that a patient, 1452
pursuant to a health insurance or health care policy, contract, 1453
or plan that covers the individual's services, otherwise would 1454
be required to pay. 1455

(29) Failure to use universal blood and body fluid 1456
precautions established by rules adopted under section 4731.051 1457
of the Revised Code; 1458

(30) Failure to provide notice to, and receive 1459
acknowledgment of the notice from, a patient when required by 1460
section 4731.143 of the Revised Code prior to providing 1461
nonemergency professional services, or failure to maintain that 1462
notice in the patient's medical record; 1463

(31) Failure of a physician supervising a physician 1464
assistant to maintain supervision in accordance with the 1465
requirements of Chapter 4730. of the Revised Code and the rules 1466
adopted under that chapter; 1467

(32) Failure of a physician or podiatrist to enter into a 1468
standard care arrangement with a clinical nurse specialist, 1469
certified nurse-midwife, or certified nurse practitioner with 1470
whom the physician or podiatrist is in collaboration pursuant to 1471
section 4731.27 of the Revised Code or failure to fulfill the 1472
responsibilities of collaboration after entering into a standard 1473
care arrangement; 1474

(33) Failure to comply with the terms of a consult 1475
agreement entered into with a pharmacist pursuant to section 1476
4729.39 of the Revised Code; 1477

(34) Failure to cooperate in an investigation conducted by 1478
the board under division (F) of this section, including failure 1479
to comply with a subpoena or order issued by the board or 1480
failure to answer truthfully a question presented by the board 1481
in an investigative interview, an investigative office 1482
conference, at a deposition, or in written interrogatories, 1483
except that failure to cooperate with an investigation shall not 1484
constitute grounds for discipline under this section if a court 1485
of competent jurisdiction has issued an order that either 1486
quashes a subpoena or permits the individual to withhold the 1487
testimony or evidence in issue; 1488

(35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;	1489 1490 1491 1492
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	1493 1494 1495
(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	1496 1497
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	1498 1499
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	1500 1501 1502
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	1503 1504 1505 1506
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	1507 1508 1509 1510
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	1511 1512 1513 1514
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board	1515 1516

of pharmacy no longer maintains a drug database pursuant to 1517
section 4729.75 of the Revised Code; 1518

(44) Failure to comply with the requirements of section 1519
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 1520
to submit to the department of health in accordance with a court 1521
order a complete report as described in section 2919.171 or 1522
2919.202 of the Revised Code; 1523

(45) Practicing at a facility that is subject to licensure 1524
as a category III terminal distributor of dangerous drugs with a 1525
pain management clinic classification unless the person 1526
operating the facility has obtained and maintains the license 1527
with the classification; 1528

(46) Owning a facility that is subject to licensure as a 1529
category III terminal distributor of dangerous drugs with a pain 1530
management clinic classification unless the facility is licensed 1531
with the classification; 1532

(47) Failure to comply with the requirement regarding 1533
maintaining notes described in division (B) of section 2919.191 1534
of the Revised Code or failure to satisfy the requirements of 1535
section 2919.191 of the Revised Code prior to performing or 1536
inducing an abortion upon a pregnant woman; 1537

(48) Failure to comply with the requirements in section 1538
3719.061 of the Revised Code before issuing for a minor a 1539
prescription for an opioid analgesic, as defined in section 1540
3719.01 of the Revised Code; 1541

(49) Failure to comply with the requirements of section 1542
4731.30 of the Revised Code or rules adopted under section 1543
4731.301 of the Revised Code when recommending treatment with 1544
medical marijuana; 1545

(50) Practicing at a facility, clinic, or other location 1546
that is subject to licensure as a category III terminal 1547
distributor of dangerous drugs with an office-based opioid 1548
treatment classification unless the person operating that place 1549
has obtained and maintains the license with the classification; 1550

(51) Owning a facility, clinic, or other location that is 1551
subject to licensure as a category III terminal distributor of 1552
dangerous drugs with an office-based opioid treatment 1553
classification unless that place is licensed with the 1554
classification; 1555

(52) A pattern of continuous or repeated violations of 1556
division (E) (2) or (3) of section 3963.02 of the Revised Code. 1557

(C) Disciplinary actions taken by the board under 1558
divisions (A) and (B) of this section shall be taken pursuant to 1559
an adjudication under Chapter 119. of the Revised Code, except 1560
that in lieu of an adjudication, the board may enter into a 1561
consent agreement with an individual to resolve an allegation of 1562
a violation of this chapter or any rule adopted under it. A 1563
consent agreement, when ratified by an affirmative vote of not 1564
fewer than six members of the board, shall constitute the 1565
findings and order of the board with respect to the matter 1566
addressed in the agreement. If the board refuses to ratify a 1567
consent agreement, the admissions and findings contained in the 1568
consent agreement shall be of no force or effect. 1569

A telephone conference call may be utilized for 1570
ratification of a consent agreement that revokes or suspends an 1571
individual's license or certificate to practice or certificate 1572
to recommend. The telephone conference call shall be considered 1573
a special meeting under division (F) of section 121.22 of the 1574
Revised Code. 1575

If the board takes disciplinary action against an 1576
individual under division (B) of this section for a second or 1577
subsequent plea of guilty to, or judicial finding of guilt of, a 1578
violation of section 2919.123 of the Revised Code, the 1579
disciplinary action shall consist of a suspension of the 1580
individual's license or certificate to practice for a period of 1581
at least one year or, if determined appropriate by the board, a 1582
more serious sanction involving the individual's license or 1583
certificate to practice. Any consent agreement entered into 1584
under this division with an individual that pertains to a second 1585
or subsequent plea of guilty to, or judicial finding of guilt 1586
of, a violation of that section shall provide for a suspension 1587
of the individual's license or certificate to practice for a 1588
period of at least one year or, if determined appropriate by the 1589
board, a more serious sanction involving the individual's 1590
license or certificate to practice. 1591

(D) For purposes of divisions (B) (10), (12), and (14) of 1592
this section, the commission of the act may be established by a 1593
finding by the board, pursuant to an adjudication under Chapter 1594
119. of the Revised Code, that the individual committed the act. 1595
The board does not have jurisdiction under those divisions if 1596
the trial court renders a final judgment in the individual's 1597
favor and that judgment is based upon an adjudication on the 1598
merits. The board has jurisdiction under those divisions if the 1599
trial court issues an order of dismissal upon technical or 1600
procedural grounds. 1601

(E) The sealing of conviction records by any court shall 1602
have no effect upon a prior board order entered under this 1603
section or upon the board's jurisdiction to take action under 1604
this section if, based upon a plea of guilty, a judicial finding 1605
of guilt, or a judicial finding of eligibility for intervention 1606

in lieu of conviction, the board issued a notice of opportunity 1607
for a hearing prior to the court's order to seal the records. 1608
The board shall not be required to seal, destroy, redact, or 1609
otherwise modify its records to reflect the court's sealing of 1610
conviction records. 1611

(F) (1) The board shall investigate evidence that appears 1612
to show that a person has violated any provision of this chapter 1613
or any rule adopted under it. Any person may report to the board 1614
in a signed writing any information that the person may have 1615
that appears to show a violation of any provision of this 1616
chapter or any rule adopted under it. In the absence of bad 1617
faith, any person who reports information of that nature or who 1618
testifies before the board in any adjudication conducted under 1619
Chapter 119. of the Revised Code shall not be liable in damages 1620
in a civil action as a result of the report or testimony. Each 1621
complaint or allegation of a violation received by the board 1622
shall be assigned a case number and shall be recorded by the 1623
board. 1624

(2) Investigations of alleged violations of this chapter 1625
or any rule adopted under it shall be supervised by the 1626
supervising member elected by the board in accordance with 1627
section 4731.02 of the Revised Code and by the secretary as 1628
provided in section 4731.39 of the Revised Code. The president 1629
may designate another member of the board to supervise the 1630
investigation in place of the supervising member. No member of 1631
the board who supervises the investigation of a case shall 1632
participate in further adjudication of the case. 1633

(3) In investigating a possible violation of this chapter 1634
or any rule adopted under this chapter, or in conducting an 1635
inspection under division (E) of section 4731.054 of the Revised 1636

Code, the board may question witnesses, conduct interviews, 1637
administer oaths, order the taking of depositions, inspect and 1638
copy any books, accounts, papers, records, or documents, issue 1639
subpoenas, and compel the attendance of witnesses and production 1640
of books, accounts, papers, records, documents, and testimony, 1641
except that a subpoena for patient record information shall not 1642
be issued without consultation with the attorney general's 1643
office and approval of the secretary and supervising member of 1644
the board. 1645

(a) Before issuance of a subpoena for patient record 1646
information, the secretary and supervising member shall 1647
determine whether there is probable cause to believe that the 1648
complaint filed alleges a violation of this chapter or any rule 1649
adopted under it and that the records sought are relevant to the 1650
alleged violation and material to the investigation. The 1651
subpoena may apply only to records that cover a reasonable 1652
period of time surrounding the alleged violation. 1653

(b) On failure to comply with any subpoena issued by the 1654
board and after reasonable notice to the person being 1655
subpoenaed, the board may move for an order compelling the 1656
production of persons or records pursuant to the Rules of Civil 1657
Procedure. 1658

(c) A subpoena issued by the board may be served by a 1659
sheriff, the sheriff's deputy, or a board employee or agent 1660
designated by the board. Service of a subpoena issued by the 1661
board may be made by delivering a copy of the subpoena to the 1662
person named therein, reading it to the person, or leaving it at 1663
the person's usual place of residence, usual place of business, 1664
or address on file with the board. When serving a subpoena to an 1665
applicant for or the holder of a license or certificate issued 1666

under this chapter, service of the subpoena may be made by 1667
certified mail, return receipt requested, and the subpoena shall 1668
be deemed served on the date delivery is made or the date the 1669
person refuses to accept delivery. If the person being served 1670
refuses to accept the subpoena or is not located, service may be 1671
made to an attorney who notifies the board that the attorney is 1672
representing the person. 1673

(d) A sheriff's deputy who serves a subpoena shall receive 1674
the same fees as a sheriff. Each witness who appears before the 1675
board in obedience to a subpoena shall receive the fees and 1676
mileage provided for under section 119.094 of the Revised Code. 1677

(4) All hearings, investigations, and inspections of the 1678
board shall be considered civil actions for the purposes of 1679
section 2305.252 of the Revised Code. 1680

(5) A report required to be submitted to the board under 1681
this chapter, a complaint, or information received by the board 1682
pursuant to an investigation or pursuant to an inspection under 1683
division (E) of section 4731.054 of the Revised Code is 1684
confidential and not subject to discovery in any civil action. 1685

The board shall conduct all investigations or inspections 1686
and proceedings in a manner that protects the confidentiality of 1687
patients and persons who file complaints with the board. The 1688
board shall not make public the names or any other identifying 1689
information about patients or complainants unless proper consent 1690
is given or, in the case of a patient, a waiver of the patient 1691
privilege exists under division (B) of section 2317.02 of the 1692
Revised Code, except that consent or a waiver of that nature is 1693
not required if the board possesses reliable and substantial 1694
evidence that no bona fide physician-patient relationship 1695
exists. 1696

The board may share any information it receives pursuant 1697
to an investigation or inspection, including patient records and 1698
patient record information, with law enforcement agencies, other 1699
licensing boards, and other governmental agencies that are 1700
prosecuting, adjudicating, or investigating alleged violations 1701
of statutes or administrative rules. An agency or board that 1702
receives the information shall comply with the same requirements 1703
regarding confidentiality as those with which the state medical 1704
board must comply, notwithstanding any conflicting provision of 1705
the Revised Code or procedure of the agency or board that 1706
applies when it is dealing with other information in its 1707
possession. In a judicial proceeding, the information may be 1708
admitted into evidence only in accordance with the Rules of 1709
Evidence, but the court shall require that appropriate measures 1710
are taken to ensure that confidentiality is maintained with 1711
respect to any part of the information that contains names or 1712
other identifying information about patients or complainants 1713
whose confidentiality was protected by the state medical board 1714
when the information was in the board's possession. Measures to 1715
ensure confidentiality that may be taken by the court include 1716
sealing its records or deleting specific information from its 1717
records. 1718

(6) On a quarterly basis, the board shall prepare a report 1719
that documents the disposition of all cases during the preceding 1720
three months. The report shall contain the following information 1721
for each case with which the board has completed its activities: 1722

(a) The case number assigned to the complaint or alleged 1723
violation; 1724

(b) The type of license or certificate to practice, if 1725
any, held by the individual against whom the complaint is 1726

directed; 1727

(c) A description of the allegations contained in the 1728
complaint; 1729

(d) The disposition of the case. 1730

The report shall state how many cases are still pending 1731
and shall be prepared in a manner that protects the identity of 1732
each person involved in each case. The report shall be a public 1733
record under section 149.43 of the Revised Code. 1734

(G) If the secretary and supervising member determine both 1735
of the following, they may recommend that the board suspend an 1736
individual's license or certificate to practice or certificate 1737
to recommend without a prior hearing: 1738

(1) That there is clear and convincing evidence that an 1739
individual has violated division (B) of this section; 1740

(2) That the individual's continued practice presents a 1741
danger of immediate and serious harm to the public. 1742

Written allegations shall be prepared for consideration by 1743
the board. The board, upon review of those allegations and by an 1744
affirmative vote of not fewer than six of its members, excluding 1745
the secretary and supervising member, may suspend a license or 1746
certificate without a prior hearing. A telephone conference call 1747
may be utilized for reviewing the allegations and taking the 1748
vote on the summary suspension. 1749

The board shall issue a written order of suspension by 1750
certified mail or in person in accordance with section 119.07 of 1751
the Revised Code. The order shall not be subject to suspension 1752
by the court during pendency of any appeal filed under section 1753
119.12 of the Revised Code. If the individual subject to the 1754

summary suspension requests an adjudicatory hearing by the 1755
board, the date set for the hearing shall be within fifteen 1756
days, but not earlier than seven days, after the individual 1757
requests the hearing, unless otherwise agreed to by both the 1758
board and the individual. 1759

Any summary suspension imposed under this division shall 1760
remain in effect, unless reversed on appeal, until a final 1761
adjudicative order issued by the board pursuant to this section 1762
and Chapter 119. of the Revised Code becomes effective. The 1763
board shall issue its final adjudicative order within seventy- 1764
five days after completion of its hearing. A failure to issue 1765
the order within seventy-five days shall result in dissolution 1766
of the summary suspension order but shall not invalidate any 1767
subsequent, final adjudicative order. 1768

(H) If the board takes action under division (B) (9), (11), 1769
or (13) of this section and the judicial finding of guilt, 1770
guilty plea, or judicial finding of eligibility for intervention 1771
in lieu of conviction is overturned on appeal, upon exhaustion 1772
of the criminal appeal, a petition for reconsideration of the 1773
order may be filed with the board along with appropriate court 1774
documents. Upon receipt of a petition of that nature and 1775
supporting court documents, the board shall reinstate the 1776
individual's license or certificate to practice. The board may 1777
then hold an adjudication under Chapter 119. of the Revised Code 1778
to determine whether the individual committed the act in 1779
question. Notice of an opportunity for a hearing shall be given 1780
in accordance with Chapter 119. of the Revised Code. If the 1781
board finds, pursuant to an adjudication held under this 1782
division, that the individual committed the act or if no hearing 1783
is requested, the board may order any of the sanctions 1784
identified under division (B) of this section. 1785

(I) The license or certificate to practice issued to an 1786
individual under this chapter and the individual's practice in 1787
this state are automatically suspended as of the date of the 1788
individual's second or subsequent plea of guilty to, or judicial 1789
finding of guilt of, a violation of section 2919.123 of the 1790
Revised Code. In addition, the license or certificate to 1791
practice or certificate to recommend issued to an individual 1792
under this chapter and the individual's practice in this state 1793
are automatically suspended as of the date the individual pleads 1794
guilty to, or is found by a judge or jury to be guilty of, ~~or is~~ 1795
~~subject to a judicial finding of eligibility for intervention in~~ 1796
~~lieu of conviction in this state or treatment or intervention in~~ 1797
~~lieu of conviction in another jurisdiction for~~ any of the 1798
following criminal offenses in this state or a substantially 1799
equivalent criminal offense in another jurisdiction: aggravated 1800
murder, murder, voluntary manslaughter, felonious assault, 1801
kidnapping, rape, sexual battery, gross sexual imposition, 1802
aggravated arson, aggravated robbery, or aggravated burglary. 1803
Continued practice after suspension shall be considered 1804
practicing without a license or certificate. 1805

The board shall notify the individual subject to the 1806
suspension by certified mail or in person in accordance with 1807
section 119.07 of the Revised Code. If an individual whose 1808
license or certificate is automatically suspended under this 1809
division fails to make a timely request for an adjudication 1810
under Chapter 119. of the Revised Code, the board shall do 1811
whichever of the following is applicable: 1812

(1) If the automatic suspension under this division is for 1813
a second or subsequent plea of guilty to, or judicial finding of 1814
guilt of, a violation of section 2919.123 of the Revised Code, 1815
the board shall enter an order suspending the individual's 1816

license or certificate to practice for a period of at least one 1817
year or, if determined appropriate by the board, imposing a more 1818
serious sanction involving the individual's license or 1819
certificate to practice. 1820

(2) In all circumstances in which division (I)(1) of this 1821
section does not apply, enter a final order permanently revoking 1822
the individual's license or certificate to practice. 1823

(J) If the board is required by Chapter 119. of the 1824
Revised Code to give notice of an opportunity for a hearing and 1825
if the individual subject to the notice does not timely request 1826
a hearing in accordance with section 119.07 of the Revised Code, 1827
the board is not required to hold a hearing, but may adopt, by 1828
an affirmative vote of not fewer than six of its members, a 1829
final order that contains the board's findings. In that final 1830
order, the board may order any of the sanctions identified under 1831
division (A) or (B) of this section. 1832

(K) Any action taken by the board under division (B) of 1833
this section resulting in a suspension from practice shall be 1834
accompanied by a written statement of the conditions under which 1835
the individual's license or certificate to practice may be 1836
reinstated. The board shall adopt rules governing conditions to 1837
be imposed for reinstatement. Reinstatement of a license or 1838
certificate suspended pursuant to division (B) of this section 1839
requires an affirmative vote of not fewer than six members of 1840
the board. 1841

(L) When the board refuses to grant or issue a license or 1842
certificate to practice to an applicant, revokes an individual's 1843
license or certificate to practice, refuses to renew an 1844
individual's license or certificate to practice, or refuses to 1845
reinstate an individual's license or certificate to practice, 1846

the board may specify that its action is permanent. An 1847
individual subject to a permanent action taken by the board is 1848
forever thereafter ineligible to hold a license or certificate 1849
to practice and the board shall not accept an application for 1850
reinstatement of the license or certificate or for issuance of a 1851
new license or certificate. 1852

(M) Notwithstanding any other provision of the Revised 1853
Code, all of the following apply: 1854

(1) The surrender of a license or certificate issued under 1855
this chapter shall not be effective unless or until accepted by 1856
the board. A telephone conference call may be utilized for 1857
acceptance of the surrender of an individual's license or 1858
certificate to practice. The telephone conference call shall be 1859
considered a special meeting under division (F) of section 1860
121.22 of the Revised Code. Reinstatement of a license or 1861
certificate surrendered to the board requires an affirmative 1862
vote of not fewer than six members of the board. 1863

(2) An application for a license or certificate made under 1864
the provisions of this chapter may not be withdrawn without 1865
approval of the board. 1866

(3) Failure by an individual to renew a license or 1867
certificate to practice in accordance with this chapter or a 1868
certificate to recommend in accordance with rules adopted under 1869
section 4731.301 of the Revised Code shall not remove or limit 1870
the board's jurisdiction to take any disciplinary action under 1871
this section against the individual. 1872

(4) At the request of the board, a license or certificate 1873
holder shall immediately surrender to the board a license or 1874
certificate that the board has suspended, revoked, or 1875

permanently revoked. 1876

(N) Sanctions shall not be imposed under division (B) (28) 1877
of this section against any person who waives deductibles and 1878
copayments as follows: 1879

(1) In compliance with the health benefit plan that 1880
expressly allows such a practice. Waiver of the deductibles or 1881
copayments shall be made only with the full knowledge and 1882
consent of the plan purchaser, payer, and third-party 1883
administrator. Documentation of the consent shall be made 1884
available to the board upon request. 1885

(2) For professional services rendered to any other person 1886
authorized to practice pursuant to this chapter, to the extent 1887
allowed by this chapter and rules adopted by the board. 1888

(O) Under the board's investigative duties described in 1889
this section and subject to division (F) of this section, the 1890
board shall develop and implement a quality intervention program 1891
designed to improve through remedial education the clinical and 1892
communication skills of individuals authorized under this 1893
chapter to practice medicine and surgery, osteopathic medicine 1894
and surgery, and podiatric medicine and surgery. In developing 1895
and implementing the quality intervention program, the board may 1896
do all of the following: 1897

(1) Offer in appropriate cases as determined by the board 1898
an educational and assessment program pursuant to an 1899
investigation the board conducts under this section; 1900

(2) Select providers of educational and assessment 1901
services, including a quality intervention program panel of case 1902
reviewers; 1903

(3) Make referrals to educational and assessment service 1904

providers and approve individual educational programs 1905
recommended by those providers. The board shall monitor the 1906
progress of each individual undertaking a recommended individual 1907
educational program. 1908

(4) Determine what constitutes successful completion of an 1909
individual educational program and require further monitoring of 1910
the individual who completed the program or other action that 1911
the board determines to be appropriate; 1912

(5) Adopt rules in accordance with Chapter 119. of the 1913
Revised Code to further implement the quality intervention 1914
program. 1915

An individual who participates in an individual 1916
educational program pursuant to this division shall pay the 1917
financial obligations arising from that educational program. 1918

Sec. 4732.17. (A) Subject to division (F) of this section, 1919
the state board of psychology may take any of the actions 1920
specified in division (C) of this section against an applicant 1921
for or a person who holds a license issued under this chapter on 1922
any of the following grounds as applicable: 1923

(1) Conviction, including a plea of guilty or no contest, 1924
of a felony, or of any offense involving moral turpitude, in a 1925
court of this or any other state or in a federal court; 1926

(2) A judicial finding of eligibility for intervention in 1927
lieu of conviction for a felony or any offense involving moral 1928
turpitude in a court of this or any other state or in a federal 1929
court; 1930

(3) Using fraud or deceit in the procurement of the 1931
license to practice psychology or school psychology or knowingly 1932
assisting another in the procurement of such a license through 1933

fraud or deceit;	1934
(4) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;	1935
(5) Willful, unauthorized communication of information received in professional confidence;	1937
(6) Being negligent in the practice of psychology or school psychology;	1938
(7) Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse;	1939
(8) Subject to section 4732.28 of the Revised Code, violating any rule of professional conduct promulgated by the board;	1940
(9) Practicing in an area of psychology for which the person is clearly untrained or incompetent;	1941
(10) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the license. Such person may have the person's license issued or restored only upon determination by a court that the person is competent for the purpose of holding the license and upon the decision by the board that such license be issued or restored. The board may require an examination prior to such issuance or restoration.	1942
(11) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of	1943
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patients to receive health care services from that provider;	1962
(12) Advertising that the person will waive the payment of	1963
all or any part of a deductible or copayment that a patient,	1964
pursuant to a health insurance or health care policy, contract,	1965
or plan that covers psychological services, would otherwise be	1966
required to pay;	1967
(13) Any of the following actions taken by the agency	1968
responsible for authorizing or certifying the person to practice	1969
or regulating the person's practice of a health care occupation	1970
or provision of health care services in this state or another	1971
jurisdiction, as evidenced by a certified copy of that agency's	1972
records and findings for any reason other than the nonpayment of	1973
fees:	1974
(a) Limitation, revocation, or suspension of the person's	1975
license to practice;	1976
(b) Acceptance of the person's license surrender;	1977
(c) Denial of a license to the person;	1978
(d) Refuse to renew or reinstate the person's license;	1979
(e) Imposition of probation on the person;	1980
(f) Issuance of an order of censure or other reprimand	1981
against the person;	1982
(g) Other negative action or finding against the person	1983
about which information is available to the public.	1984
(14) Offering or rendering psychological services after a	1985
license issued under this chapter has expired due to a failure	1986
to timely register under section 4732.14 of the Revised Code or	1987
complete continuing education requirements;	1988

(15) Offering or rendering psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code;	1989 1990 1991
(16) Unless the person is a school psychologist licensed by the state board of education:	1992 1993
(a) Offering or rendering school psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;	1994 1995 1996 1997
(b) Offering or rendering school psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code.	1998 1999 2000
(17) Violating any adjudication order or consent agreement adopted by the board;	2001 2002
(18) Failure to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, ordered by the board under division (E) of this section.	2003 2004 2005 2006
(B) Notwithstanding divisions (A) (11) and (12) of this section, sanctions shall not be imposed against any license holder who waives deductibles and copayments:	2007 2008 2009
(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copays shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Such consent shall be made available to the board upon request.	2010 2011 2012 2013 2014
(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this	2015 2016

chapter and the rules of the board.	2017
(C) For any of the reasons specified in division (A) of this section, the board may do one or more of the following:	2018 2019
(1) Refuse to issue a license to an applicant;	2020
(2) Issue a reprimand to a license holder;	2021
(3) Suspend the license of a license holder;	2022
(4) Revoke the license of a license holder;	2023
(5) Limit or restrict the areas of practice of an applicant or a license holder;	2024 2025
(6) Require mental, substance abuse, or physical evaluations, or any combination of these evaluations, of an applicant or a license holder;	2026 2027 2028
(7) Require remedial education and training of an applicant or a license holder.	2029 2030
(D) When it revokes the license of a license holder under division (C) (4) of this section, the board may specify that the revocation is permanent. An individual subject to permanent revocation is forever thereafter ineligible to hold a license, and the board shall not accept an application for reinstatement of the license or issuance of a new license.	2031 2032 2033 2034 2035 2036
(E) When the board issues a notice of opportunity for a hearing on the basis of division (A) (7) of this section, the supervising member of the board, with cause and upon consultation with the board's executive director and the board's legal counsel, may compel the applicant or license holder to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, by a person	2037 2038 2039 2040 2041 2042 2043

or persons selected by the board. Notice shall be given to the 2044
applicant or license holder in writing signed by the supervising 2045
member, the executive director, and the board's legal counsel. 2046
The applicant or license holder is deemed to have given consent 2047
to submit to these evaluations and to have waived all objections 2048
to the admissibility of testimony or evaluation reports that 2049
constitute a privileged communication. The expense of the 2050
evaluation or evaluations shall be the responsibility of the 2051
applicant or license holder who is evaluated. 2052

(F) Before the board may take action under this section, 2053
written charges shall be filed with the board by the secretary 2054
and a hearing shall be had thereon in accordance with Chapter 2055
119. of the Revised Code, except as follows: 2056

(1) On receipt of a complaint that any of the grounds 2057
listed in division (A) of this section exist, the state board of 2058
psychology may suspend a license issued under this chapter prior 2059
to holding a hearing in accordance with Chapter 119. of the 2060
Revised Code if it determines, based on the complaint, that 2061
there is an immediate threat to the public. A telephone 2062
conference call may be used to conduct an emergency meeting for 2063
review of the matter by a quorum of the board, taking the vote, 2064
and memorializing the action in the minutes of the meeting. 2065

After suspending a license pursuant to division (F) (1) of 2066
this section, the board shall notify the license holder of the 2067
suspension in accordance with section 119.07 of the Revised 2068
Code. If the individual whose license is suspended fails to make 2069
a timely request for an adjudication under Chapter 119. of the 2070
Revised Code, the board shall enter a final order permanently 2071
revoking the license. 2072

(2) Any holder of a license issued under this chapter who 2073

has pleaded guilty to or been convicted of aggravated murder, 2074
murder, voluntary manslaughter, felonious assault, kidnapping, 2075
rape, sexual battery, gross sexual imposition, aggravated arson, 2076
aggravated robbery, or aggravated burglary, or any substantially 2077
equivalent criminal offense in another jurisdiction, is 2078
automatically suspended from practice under this chapter in this 2079
state and any license issued to the holder under this chapter is 2080
automatically suspended, as of the date of the guilty plea or 2081
conviction, whether the proceedings are brought in this state or 2082
another jurisdiction. Continued practice by an individual after 2083
the suspension of the individual's license under this division 2084
shall be considered practicing without a license. The board 2085
shall notify the suspended individual of the suspension of the 2086
individual's license under this division by certified mail or in 2087
person in accordance with section 119.07 of the Revised Code. If 2088
an individual whose license is suspended under this division 2089
fails to make a timely request for an adjudicatory hearing, the 2090
board shall enter a final order permanently revoking the 2091
individual's license. 2092

(3) The board shall adopt rules establishing a case 2093
management schedule for pre-hearing procedures by the hearing 2094
examiner or presiding board member. The schedule shall include 2095
applicable deadlines related to the hearing process, including 2096
all of the following: 2097

(a) The date of the hearing; 2098

(b) The date for the disclosure of witnesses and exhibits; 2099

(c) The date for the disclosure of the identity of expert 2100
witnesses and the exchange of written reports; 2101

(d) The deadline for submitting a request for the issuance 2102

of a subpoena for the hearing as provided under Chapter 119. of 2103
the Revised Code and division (F) ~~(4)~~ (5) of this section. 2104

~~(3)~~ (4) Either party to the hearing may submit a written 2105
request to the other party for a list of witnesses and copies of 2106
documents intended to be introduced at the hearing. The request 2107
shall be in writing and shall be served not less than thirty- 2108
seven days prior to the hearing, unless the hearing officer or 2109
presiding board member grants an extension of time to make the 2110
request. Not later than thirty days before the hearing, the 2111
responding party shall provide the requested list of witnesses, 2112
summary of their testimony, and copies of documents to the 2113
requesting party, unless the hearing officer or presiding board 2114
member grants an extension. Failure to timely provide a list or 2115
copies requested in accordance with this section may, at the 2116
discretion of the hearing officer or presiding board member, 2117
result in exclusion from the hearing of the witnesses, 2118
testimony, or documents. 2119

~~(4)~~ (5) In addition to subpoenas for the production of 2120
books, records, and papers requested under Chapter 119. of the 2121
Revised Code, either party may ask the board to issue a subpoena 2122
for the production of other tangible items. 2123

The person subject to a subpoena for the production of 2124
books, records, papers, or other tangible items shall respond to 2125
the subpoena at least twenty days prior to the date of the 2126
hearing. If a person fails to respond to a subpoena issued by 2127
the board, after providing reasonable notice to the person, the 2128
board, the hearing officer, or both may proceed with enforcement 2129
of the subpoena pursuant to section 119.09 of the Revised Code. 2130

Sec. 4732.171. (A) Except as provided in division (B) of 2131
this section and division (F) (2) of section 4732.17 of the 2132

Revised Code, if, at the conclusion of a hearing required by 2133
section 4732.17 of the Revised Code, the state board of 2134
psychology determines that a licensed psychologist or school 2135
psychologist licensed by the state board of psychology has 2136
engaged in sexual conduct or had sexual contact with the license 2137
holder's patient or client in violation of any prohibition 2138
contained in Chapter 2907. of the Revised Code, the board shall 2139
do one of the following: 2140

(1) Suspend the license holder's license; 2141

(2) Permanently revoke the license holder's license. 2142

(B) If it determines at the conclusion of the hearing that 2143
neither of the sanctions described in division (A) of this 2144
section is appropriate, the board shall impose another sanction 2145
it considers appropriate and issue a written finding setting 2146
forth the reasons for the sanction imposed and the reason that 2147
neither of the sanctions described in division (A) of this 2148
section is appropriate. 2149

Sec. 4753.102. Any holder of a license issued under this 2150
chapter who has pleaded guilty to or been convicted of 2151
aggravated murder, murder, voluntary manslaughter, felonious 2152
assault, kidnapping, rape, sexual battery, gross sexual 2153
imposition, aggravated arson, aggravated robbery, or aggravated 2154
burglary, or any substantially equivalent criminal offense in 2155
another jurisdiction, is automatically suspended from practice 2156
under this chapter in this state and any license issued to the 2157
holder under this chapter is automatically suspended, as of the 2158
date of the guilty plea or conviction, whether the proceedings 2159
are brought in this state or another jurisdiction. Continued 2160
practice by an individual after the suspension of the 2161
individual's license under this section shall be considered 2162

practicing without a license. The state speech and hearing 2163
professionals board shall notify the suspended individual of the 2164
suspension of the individual's license under this section by 2165
certified mail or in person in accordance with section 119.07 of 2166
the Revised Code. If an individual whose license is suspended 2167
under this section fails to make a timely request for an 2168
adjudicatory hearing, the board shall enter a final order 2169
permanently revoking the individual's license. 2170

Sec. 4755.11. (A) In accordance with Chapter 119. of the 2171
Revised Code, the occupational therapy section of the Ohio 2172
occupational therapy, physical therapy, and athletic trainers 2173
board may suspend, revoke, or refuse to issue or renew an 2174
occupational therapist license, occupational therapy assistant 2175
license, occupational therapist limited permit, occupational 2176
therapy assistant limited permit, or reprimand, fine, place a 2177
license or limited permit holder on probation, or require the 2178
license or limited permit holder to take corrective action 2179
courses, for any of the following: 2180

(1) Conviction of an offense involving moral turpitude or 2181
a felony, regardless of the state or country in which the 2182
conviction occurred; 2183

(2) Violation of any provision of sections 4755.04 to 2184
4755.13 of the Revised Code; 2185

(3) Violation of any lawful order or rule of the 2186
occupational therapy section; 2187

(4) Obtaining or attempting to obtain a license or limited 2188
permit issued by the occupational therapy section by fraud or 2189
deception, including the making of a false, fraudulent, 2190
deceptive, or misleading ~~statements~~ statement in relation to 2191

these activities;	2192
(5) Negligence, unprofessional conduct, or gross	2193
misconduct in the practice of the profession of occupational	2194
therapy;	2195
(6) Accepting commissions or rebates or other forms of	2196
remuneration for referring persons to other professionals;	2197
(7) Communicating, without authorization, information	2198
received in professional confidence;	2199
(8) Using controlled substances, habit forming drugs, or	2200
alcohol to an extent that it impairs the ability to perform the	2201
work of an occupational therapist, occupational therapy	2202
assistant, occupational therapist limited permit holder, or	2203
occupational therapy assistant limited permit holder;	2204
(9) Practicing in an area of occupational therapy for	2205
which the individual is untrained or incompetent;	2206
(10) Failing the licensing or Ohio jurisprudence	2207
examination;	2208
(11) Aiding, abetting, directing, or supervising the	2209
unlicensed practice of occupational therapy;	2210
(12) Denial, revocation, suspension, or restriction of	2211
authority to practice a health care occupation, including	2212
occupational therapy, for any reason other than a failure to	2213
renew, in Ohio or another state or jurisdiction;	2214
(13) Except as provided in division (B) of this section:	2215
(a) Waiving the payment of all or any part of a deductible	2216
or copayment that a patient, pursuant to a health insurance or	2217
health care policy, contract, or plan that covers occupational	2218

therapy, would otherwise be required to pay if the waiver is 2219
used as an enticement to a patient or group of patients to 2220
receive health care services from that provider; 2221

(b) Advertising that the individual will waive the payment 2222
of all or any part of a deductible or copayment that a patient, 2223
pursuant to a health insurance or health care policy, contract, 2224
or plan that covers occupational therapy, would otherwise be 2225
required to pay. 2226

(14) Working or representing oneself as an occupational 2227
therapist, occupational therapy assistant, occupational 2228
therapist limited permit holder, or occupational therapy 2229
assistant limited permit holder without a current and valid 2230
license or limited permit issued by the occupational therapy 2231
section; 2232

(15) Engaging in a deceptive trade practice, as defined in 2233
section 4165.02 of the Revised Code; 2234

(16) Violation of the standards of ethical conduct in the 2235
practice of occupational therapy as identified by the 2236
occupational therapy section; 2237

(17) A departure from, or the failure to conform to, 2238
minimal standards of care required of licensees or limited 2239
permit holders, whether or not actual injury to a patient is 2240
established; 2241

(18) An adjudication by a court that the applicant, 2242
licensee, or limited permit holder is incompetent for the 2243
purpose of holding a license or limited permit and has not 2244
thereafter been restored to legal capacity for that purpose; 2245

(19) (a) Except as provided in division (A) (19) (b) of this 2246
section, failure to cooperate with an investigation conducted by 2247

the occupational therapy section, including failure to comply 2248
with a subpoena or orders issued by the section or failure to 2249
answer truthfully a question presented by the section at a 2250
deposition or in written interrogatories. 2251

(b) Failure to cooperate with an investigation does not 2252
constitute grounds for discipline under this section if a court 2253
of competent jurisdiction issues an order that either quashes a 2254
subpoena or permits the individual to withhold the testimony or 2255
evidence at issue. 2256

(20) Conviction of a misdemeanor reasonably related to the 2257
practice of occupational therapy, regardless of the state or 2258
country in which the conviction occurred; 2259

(21) Inability to practice according to acceptable and 2260
prevailing standards of care because of mental or physical 2261
illness, including physical deterioration that adversely affects 2262
cognitive, motor, or perception skills; 2263

(22) Violation of conditions, limitations, or agreements 2264
placed by the occupational therapy section on a license or 2265
limited permit to practice; 2266

(23) Making a false, fraudulent, deceptive, or misleading 2267
statement in the solicitation of or advertising for patients in 2268
relation to the practice of occupational therapy; 2269

(24) Failure to complete continuing education requirements 2270
as prescribed in rules adopted by the occupational therapy 2271
section under section 4755.06 of the Revised Code. 2272

(B) Sanctions shall not be imposed under division (A) (13) 2273
of this section against any individual who waives deductibles 2274
and copayments as follows: 2275

(1) In compliance with the health benefit plan that 2276
expressly allows such a practice. Waiver of the deductibles or 2277
copayments shall be made only with the full knowledge and 2278
consent of the plan purchaser, payer, and third-party 2279
administrator. Documentation of the consent shall be made 2280
available to the section upon request. 2281

(2) For professional services rendered to any other person 2282
licensed pursuant to sections 4755.04 to 4755.13 of the Revised 2283
Code to the extent allowed by those sections and the rules of 2284
the occupational therapy section. 2285

(C) Except as provided in division (D) or (F) of this 2286
section, the suspension or revocation of a license or limited 2287
permit under this section is not effective until either the 2288
order for suspension or revocation has been affirmed following 2289
an adjudication hearing, or the time for requesting a hearing 2290
has elapsed. 2291

When a license or limited permit is revoked under this 2292
section, application for reinstatement may not be made sooner 2293
than one year after the date of revocation. The occupational 2294
therapy section may accept or refuse an application for 2295
reinstatement and may require that the applicant pass an 2296
examination as a condition of reinstatement. 2297

When a license or limited permit holder is placed on 2298
probation under this section, the occupational therapy section's 2299
probation order shall be accompanied by a statement of the 2300
conditions under which the individual may be removed from 2301
probation and restored to unrestricted practice. 2302

(D) On receipt of a complaint that a person who holds a 2303
license or limited permit issued by the occupational therapy 2304

section has committed any of the prohibited actions listed in 2305
division (A) of this section, the section may immediately 2306
suspend the license or limited permit prior to holding a hearing 2307
in accordance with Chapter 119. of the Revised Code if it 2308
determines, based on the complaint, that the licensee or limited 2309
permit holder poses an immediate threat to the public. The 2310
section may review the allegations and vote on the suspension by 2311
telephone conference call. If the section votes to suspend a 2312
license or limited permit under this division, the section shall 2313
issue a written order of summary suspension to the licensee or 2314
limited permit holder in accordance with section 119.07 of the 2315
Revised Code. If the individual whose license or limited permit 2316
is suspended fails to make a timely request for an adjudication 2317
under Chapter 119. of the Revised Code, the section shall enter 2318
a final order permanently revoking the individual's license or 2319
limited permit. Notwithstanding section 119.12 of the Revised 2320
Code, a court of common pleas shall not grant a suspension of 2321
the section's order of summary suspension pending the 2322
determination of an appeal filed under that section. Any order 2323
of summary suspension issued under this division shall remain in 2324
effect, unless reversed on appeal, until a final adjudication 2325
order issued by the section pursuant to division (A) of this 2326
section becomes effective. The section shall issue its final 2327
adjudication order regarding an order of summary suspension 2328
issued under this division not later than ninety days after 2329
completion of its hearing. Failure to issue the order within 2330
ninety days shall result in immediate dissolution of the 2331
suspension order, but shall not invalidate any subsequent, final 2332
adjudication order. 2333

(E) If any person other than a person who holds a license 2334
or limited permit issued under section 4755.08 of the Revised 2335

Code has engaged in any practice that is prohibited under 2336
sections 4755.04 to 4755.13 of the Revised Code or the rules of 2337
the occupational therapy section, the section may apply to the 2338
court of common pleas of the county in which the violation 2339
occurred, for an injunction or other appropriate order 2340
restraining this conduct, and the court shall issue this order. 2341

(F) Any holder of a license or limited permit issued under 2342
this chapter who has pleaded guilty to or been convicted of 2343
aggravated murder, murder, voluntary manslaughter, felonious 2344
assault, kidnapping, rape, sexual battery, gross sexual 2345
imposition, aggravated arson, aggravated robbery, or aggravated 2346
burglary, or any substantially equivalent criminal offense in 2347
another jurisdiction, is automatically suspended from practice 2348
under this chapter in this state, and any license or limited 2349
permit issued to the holder under this chapter is automatically 2350
suspended, as of the date of the guilty plea or conviction, 2351
whether the proceedings are brought in this state or another 2352
jurisdiction. Continued practice by an individual after the 2353
suspension of the individual's license or limited permit under 2354
this division shall be considered practicing without a license 2355
or limited permit. The occupational therapy section shall notify 2356
the suspended individual of the suspension of the individual's 2357
license or limited permit under this division by certified mail 2358
or in person in accordance with section 119.07 of the Revised 2359
Code. If an individual whose license or limited permit is 2360
suspended under this division fails to make a timely request for 2361
an adjudicatory hearing, the occupational therapy section shall 2362
enter a final order permanently revoking the individual's 2363
license or limited permit. 2364

Sec. 4755.47. (A) In accordance with Chapter 119. of the 2365
Revised Code, the physical therapy section of the Ohio 2366

occupational therapy, physical therapy, and athletic trainers 2367
board may refuse to grant a license to an applicant for an 2368
initial or renewed license as a physical therapist or physical 2369
therapist assistant or, by an affirmative vote of not less than 2370
five members, may limit, suspend, or revoke the license of a 2371
physical therapist or physical therapist assistant or reprimand, 2372
fine, place a license holder on probation, or require the 2373
license holder to take corrective action courses, on any of the 2374
following grounds: 2375

(1) Habitual indulgence in the use of controlled 2376
substances, other habit-forming drugs, or alcohol to an extent 2377
that affects the individual's professional competency; 2378

(2) Conviction of a felony or a crime involving moral 2379
turpitude, regardless of the state or country in which the 2380
conviction occurred; 2381

(3) Obtaining or attempting to obtain a license issued by 2382
the physical therapy section by fraud or deception, including 2383
the making of a false, fraudulent, deceptive, or misleading 2384
statement; 2385

(4) An adjudication by a court, as provided in section 2386
5122.301 of the Revised Code, that the applicant or licensee is 2387
incompetent for the purpose of holding the license and has not 2388
thereafter been restored to legal capacity for that purpose; 2389

(5) Subject to section 4755.471 of the Revised Code, 2390
violation of the code of ethics adopted by the physical therapy 2391
section; 2392

(6) Violating or attempting to violate, directly or 2393
indirectly, or assisting in or abetting the violation of or 2394
conspiring to violate sections 4755.40 to 4755.56 of the Revised 2395

Code or any order issued or rule adopted under those sections;	2396
(7) Failure of one or both of the examinations required	2397
under section 4755.43 or 4755.431 of the Revised Code;	2398
(8) Permitting the use of one's name or license by a	2399
person, group, or corporation when the one permitting the use is	2400
not directing the treatment given;	2401
(9) Denial, revocation, suspension, or restriction of	2402
authority to practice a health care occupation, including	2403
physical therapy, for any reason other than a failure to renew,	2404
in Ohio or another state or jurisdiction;	2405
(10) Failure to maintain minimal standards of practice in	2406
the administration or handling of drugs, as defined in section	2407
4729.01 of the Revised Code, or failure to employ acceptable	2408
scientific methods in the selection of drugs, as defined in	2409
section 4729.01 of the Revised Code, or other modalities for	2410
treatment;	2411
(11) Willful betrayal of a professional confidence;	2412
(12) Making a false, fraudulent, deceptive, or misleading	2413
statement in the solicitation of or advertising for patients in	2414
relation to the practice of physical therapy;	2415
(13) A departure from, or the failure to conform to,	2416
minimal standards of care required of licensees when under the	2417
same or similar circumstances, whether or not actual injury to a	2418
patient is established;	2419
(14) Obtaining, or attempting to obtain, money or anything	2420
of value by fraudulent misrepresentations in the course of	2421
practice;	2422
(15) Violation of the conditions of limitation or	2423

agreements placed by the physical therapy section on a license	2424
to practice;	2425
(16) Failure to renew a license in accordance with section	2426
4755.46 of the Revised Code;	2427
(17) Except as provided in section 4755.471 of the Revised	2428
Code, engaging in the division of fees for referral of patients	2429
or receiving anything of value in return for a specific referral	2430
of a patient to utilize a particular service or business;	2431
(18) Inability to practice according to acceptable and	2432
prevailing standards of care because of mental illness or	2433
physical illness, including physical deterioration that	2434
adversely affects cognitive, motor, or perception skills;	2435
(19) The revocation, suspension, restriction, or	2436
termination of clinical privileges by the United States	2437
department of defense or department of veterans affairs;	2438
(20) Termination or suspension from participation in the	2439
medicare or medicaid program established under Title XVIII and	2440
Title XIX, respectively, of the "Social Security Act," 49 Stat.	2441
620 (1935), 42 U.S.C. 301, as amended, for an act or acts that	2442
constitute a violation of sections 4755.40 to 4755.56 of the	2443
Revised Code;	2444
(21) Failure of a physical therapist to maintain	2445
supervision of a student, physical therapist assistant,	2446
unlicensed support personnel, other assistant personnel, or a	2447
license applicant in accordance with the requirements of	2448
sections 4755.40 to 4755.56 of the Revised Code and rules	2449
adopted under those sections;	2450
(22) Failure to complete continuing education requirements	2451
as prescribed in section 4755.51 or 4755.511 of the Revised Code	2452

or to satisfy any rules applicable to continuing education	2453
requirements that are adopted by the physical therapy section;	2454
(23) Conviction of a misdemeanor when the act that	2455
constitutes the misdemeanor occurs during the practice of	2456
physical therapy;	2457
(24) (a) Except as provided in division (A) (24) (b) of this	2458
section, failure to cooperate with an investigation conducted by	2459
the physical therapy section, including failure to comply with a	2460
subpoena or orders issued by the section or failure to answer	2461
truthfully a question presented by the section at a deposition	2462
or in written interrogatories.	2463
(b) Failure to cooperate with an investigation does not	2464
constitute grounds for discipline under this section if a court	2465
of competent jurisdiction issues an order that either quashes a	2466
subpoena or permits the individual to withhold the testimony or	2467
evidence at issue.	2468
(25) Regardless of whether the contact or verbal behavior	2469
is consensual, engaging with a patient other than the spouse of	2470
the physical therapist or physical therapist assistant, in any	2471
of the following:	2472
(a) Sexual contact, as defined in section 2907.01 of the	2473
Revised Code;	2474
(b) Verbal behavior that is sexually demeaning to the	2475
patient or may be reasonably interpreted by the patient as	2476
sexually demeaning.	2477
(26) Failure to notify the physical therapy section of a	2478
change in name, business address, or home address within thirty	2479
days after the date of change;	2480

(27) Except as provided in division (B) of this section:	2481
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers physical therapy, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	2482 2483 2484 2485 2486 2487
(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers physical therapy, would otherwise be required to pay.	2488 2489 2490 2491 2492
(28) Violation of any section of this chapter or rule adopted under it.	2493 2494
(B) Sanctions shall not be imposed under division (A) (27) of this section against any individual who waives deductibles and copayments as follows:	2495 2496 2497
(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the physical therapy section upon request.	2498 2499 2500 2501 2502 2503
(2) For professional services rendered to any other person licensed pursuant to sections 4755.40 to 4755.56 of the Revised Code to the extent allowed by those sections and the rules of the physical therapy section.	2504 2505 2506 2507
(C) When <u>Except as provided in division (E) or (F) of this section, when</u> a license is revoked under this section,	2508 2509

application for reinstatement may not be made sooner than one 2510
year after the date of revocation. The physical therapy section 2511
may accept or refuse an application for reinstatement and may 2512
require that the applicant pass an examination as a condition 2513
for reinstatement. 2514

When a license holder is placed on probation under this 2515
section, the physical therapy section's order for placement on 2516
probation shall be accompanied by a statement of the conditions 2517
under which the individual may be removed from probation and 2518
restored to unrestricted practice. 2519

(D) When an application for an initial or renewed license 2520
is refused under this section, the physical therapy section 2521
shall notify the applicant in writing of the section's decision 2522
to refuse issuance of a license and the reason for its decision. 2523

(E) On receipt of a complaint that a person licensed by 2524
the physical therapy section has committed any of the actions 2525
listed in division (A) of this section, the physical therapy 2526
section may immediately suspend the license of the physical 2527
therapist or physical therapist assistant prior to holding a 2528
hearing in accordance with Chapter 119. of the Revised Code if 2529
it determines, based on the complaint, that the person poses an 2530
immediate threat to the public. The physical therapy section may 2531
review the allegations and vote on the suspension by telephone 2532
conference call. If the physical therapy section votes to 2533
suspend a license under this division, the physical therapy 2534
section shall issue a written order of summary suspension to the 2535
person in accordance with section 119.07 of the Revised Code. If 2536
the person fails to make a timely request for an adjudication 2537
under Chapter 119. of the Revised Code, the physical therapy 2538
section shall enter a final order permanently revoking the 2539

person's license. Notwithstanding section 119.12 of the Revised 2540
Code, a court of common pleas shall not grant a suspension of 2541
the physical therapy section's order of summary suspension 2542
pending the determination of an appeal filed under that section. 2543
Any order of summary suspension issued under this division shall 2544
remain in effect, unless reversed on appeal, until a final 2545
adjudication order issued by the physical therapy section 2546
pursuant to division (A) of this section becomes effective. The 2547
physical therapy section shall issue its final adjudication 2548
order regarding an order of summary suspension issued under this 2549
division not later than ninety days after completion of its 2550
hearing. Failure to issue the order within ninety days shall 2551
result in immediate dissolution of the suspension order, but 2552
shall not invalidate any subsequent, final adjudication order. 2553

(F) Any holder of a license issued under this chapter who 2554
has pleaded guilty to or been convicted of aggravated murder, 2555
murder, voluntary manslaughter, felonious assault, kidnapping, 2556
rape, sexual battery, gross sexual imposition, aggravated arson, 2557
aggravated robbery, or aggravated burglary, or any substantially 2558
equivalent criminal offense in another jurisdiction, is 2559
automatically suspended from practice under this chapter in this 2560
state and any license issued to the holder under this chapter is 2561
automatically suspended, as of the date of the guilty plea or 2562
conviction, whether the proceedings are brought in this state or 2563
another jurisdiction. Continued practice by an individual after 2564
the suspension of the individual's license under this division 2565
shall be considered practicing without a license. The physical 2566
therapy section shall notify the suspended individual of the 2567
suspension of the individual's license under this division by 2568
certified mail or in person in accordance with section 119.07 of 2569
the Revised Code. If an individual whose license is suspended 2570

under this division fails to make a timely request for an 2571
adjudicatory hearing, the physical therapy section shall enter a 2572
final order permanently revoking the individual's license. 2573

Sec. 4755.64. (A) In accordance with Chapter 119. of the 2574
Revised Code, the athletic trainers section of the Ohio 2575
occupational therapy, physical therapy, and athletic trainers 2576
board may suspend, revoke, or refuse to issue or renew an 2577
athletic trainers license, or reprimand, fine, or place a 2578
licensee on probation, for any of the following: 2579

(1) Conviction of a felony or offense involving moral 2580
turpitude, regardless of the state or country in which the 2581
conviction occurred; 2582

(2) Violation of sections 4755.61 to 4755.65 of the 2583
Revised Code or any order issued or rule adopted thereunder; 2584

(3) Obtaining a license through fraud, false or misleading 2585
representation, or concealment of material facts; 2586

(4) Negligence or gross misconduct in the practice of 2587
athletic training; 2588

(5) Violating the standards of ethical conduct in the 2589
practice of athletic training as adopted by the athletic 2590
trainers section under section 4755.61 of the Revised Code; 2591

(6) Using any controlled substance or alcohol to the 2592
extent that the ability to practice athletic training at a level 2593
of competency is impaired; 2594

(7) Practicing in an area of athletic training for which 2595
the individual is untrained, incompetent, or practicing without 2596
the referral of a practitioner licensed under Chapter 4731. of 2597
the Revised Code, a dentist licensed under Chapter 4715. of the 2598

Revised Code, a chiropractor licensed under Chapter 4734. of the	2599
Revised Code, or a physical therapist licensed under this	2600
chapter;	2601
(8) Employing, directing, or supervising a person in the	2602
performance of athletic training procedures who is not	2603
authorized to practice as a licensed athletic trainer under this	2604
chapter;	2605
(9) Misrepresenting educational attainments or the	2606
functions the individual is authorized to perform for the	2607
purpose of obtaining some benefit related to the individual's	2608
athletic training practice;	2609
(10) Failing the licensing examination;	2610
(11) Aiding or abetting the unlicensed practice of	2611
athletic training;	2612
(12) Denial, revocation, suspension, or restriction of	2613
authority to practice a health care occupation, including	2614
athletic training, for any reason other than a failure to renew,	2615
in Ohio or another state or jurisdiction.	2616
(B) If the athletic trainers section places a licensee on	2617
probation under division (A) of this section, the section's	2618
order for placement on probation shall be accompanied by a	2619
written statement of the conditions under which the person may	2620
be removed from probation and restored to unrestricted practice.	2621
(C) <u>A-Except as provided in division (D) or (E) of this</u>	2622
<u>section, a licensee whose license has been revoked under</u>	2623
division (A) of this section may apply to the athletic trainers	2624
section for reinstatement of the license one year following the	2625
date of revocation. The athletic trainers section may accept or	2626
deny the application for reinstatement and may require that the	2627

applicant pass an examination as a condition for reinstatement. 2628

(D) On receipt of a complaint that a person licensed by 2629
the athletic trainers section has committed any of the 2630
prohibited actions listed in division (A) of this section, the 2631
section may immediately suspend the license of a licensed 2632
athletic trainer prior to holding a hearing in accordance with 2633
Chapter 119. of the Revised Code if it determines, based on the 2634
complaint, that the licensee poses an immediate threat to the 2635
public. The section may review the allegations and vote on the 2636
suspension by telephone conference call. If the section votes to 2637
suspend a license under this division, the section shall issue a 2638
written order of summary suspension to the licensed athletic 2639
trainer in accordance with section 119.07 of the Revised Code. 2640
If the individual whose license is suspended fails to make a 2641
timely request for an adjudication under Chapter 119. of the 2642
Revised Code, the section shall enter a final order permanently 2643
revoking the individual's license. Notwithstanding section 2644
119.12 of the Revised Code, a court of common pleas shall not 2645
grant a suspension of the section's order of summary suspension 2646
pending the determination of an appeal filed under that section. 2647
Any order of summary suspension issued under this division shall 2648
remain in effect, unless reversed on appeal, until a final 2649
adjudication order issued by the section pursuant to division 2650
(A) of this section becomes effective. The section shall issue 2651
its final adjudication order regarding an order of summary 2652
suspension issued under this division not later than ninety days 2653
after completion of its hearing. Failure to issue the order 2654
within ninety days shall result in immediate dissolution of the 2655
suspension order, but shall not invalidate any subsequent, final 2656
adjudication order. 2657

(E) Any holder of a license issued under this chapter who 2658

has pleaded guilty to or been convicted of aggravated murder, 2659
murder, voluntary manslaughter, felonious assault, kidnapping, 2660
rape, sexual battery, gross sexual imposition, aggravated arson, 2661
aggravated robbery, or aggravated burglary, or any substantially 2662
equivalent criminal offense in another jurisdiction, is 2663
automatically suspended from practice under this chapter in this 2664
state and any license issued to the holder under this chapter is 2665
automatically suspended, as of the date of the guilty plea or 2666
conviction, whether the proceedings are brought in this state or 2667
another jurisdiction. Continued practice by an individual after 2668
the suspension of the individual's license under this division 2669
shall be considered practicing without a license or limited 2670
permit. The athletic trainers section shall notify the suspended 2671
individual of the suspension of the individual's license under 2672
this division by certified mail or in person in accordance with 2673
section 119.07 of the Revised Code. If an individual whose 2674
license is suspended under this division fails to make a timely 2675
request for an adjudicatory hearing, the athletic trainers 2676
section shall enter a final order permanently revoking the 2677
individual's license. 2678

Section 2. That existing sections 2907.01, 2907.05, 2679
2907.17, 2907.18, 2907.24, 4715.30, 4729.16, 4730.25, 4731.22, 2680
4732.17, 4732.171, 4755.11, 4755.47, and 4755.64 of the Revised 2681
Code are hereby repealed. 2682

Section 3. That the version of section 2907.05 of the 2683
Revised Code that is scheduled to take effect March 22, 2020, be 2684
amended to read as follows: 2685

Sec. 2907.05. (A) No person shall have sexual contact with 2686
another, not the spouse of the offender; cause another, not the 2687
spouse of the offender, to have sexual contact with the 2688

offender; or cause two or more other persons to have sexual 2689
contact when any of the following applies: 2690

(1) The offender purposely compels the other person, or 2691
one of the other persons, to submit by force or threat of force. 2692

(2) For the purpose of preventing resistance, the offender 2693
substantially impairs the judgment or control of the other 2694
person or of one of the other persons by administering any drug, 2695
intoxicant, or controlled substance to the other person 2696
surreptitiously or by force, threat of force, or deception. 2697

(3) The offender knows that the judgment or control of the 2698
other person or of one of the other persons is substantially 2699
impaired as a result of the influence of any drug or intoxicant 2700
administered to the other person with the other person's consent 2701
for the purpose of any kind of medical or dental examination, 2702
treatment, or surgery. 2703

(4) The other person, or one of the other persons, is less 2704
than thirteen years of age, whether or not the offender knows 2705
the age of that person. 2706

(5) The ability of the other person to resist or consent 2707
or the ability of one of the other persons to resist or consent 2708
is substantially impaired because of a mental or physical 2709
condition or because of advanced age, and the offender knows or 2710
has reasonable cause to believe that the ability to resist or 2711
consent of the other person or of one of the other persons is 2712
substantially impaired because of a mental or physical condition 2713
or because of advanced age. 2714

(6) The offender is a licensed health care professional 2715
and has sexual contact with another person who is a patient 2716
under the offender's care or supervision and one of the 2717

<u>following applies:</u>	2718
<u>(a) The offender knows that the sexual contact is</u>	2719
<u>offensive to the patient, or is reckless in that regard;</u>	2720
<u>(b) The patient is less than sixteen years of age, whether</u>	2721
<u>or not the offender knows the age of the patient;</u>	2722
<u>(c) The patient is a person with a developmental</u>	2723
<u>disability, whether or not the offender knows that the patient</u>	2724
<u>is a person with a developmental disability.</u>	2725
(B) No person shall knowingly touch the genitalia of	2726
another, when the touching is not through clothing, the other	2727
person is less than twelve years of age, whether or not the	2728
offender knows the age of that person, and the touching is done	2729
with an intent to abuse, humiliate, harass, degrade, or arouse	2730
or gratify the sexual desire of any person.	2731
(C) Whoever violates this section is guilty of gross	2732
sexual imposition.	2733
(1) Except as otherwise provided in this section, gross	2734
sexual imposition committed in violation of division (A) (1),	2735
(2), (3), or (5) of this section is a felony of the fourth	2736
degree. If the offender under division (A) (2) of this section	2737
substantially impairs the judgment or control of the other	2738
person or one of the other persons by administering any	2739
controlled substance, as defined in section 3719.01 of the	2740
Revised Code, to the person surreptitiously or by force, threat	2741
of force, or deception, gross sexual imposition committed in	2742
violation of division (A) (2) of this section is a felony of the	2743
third degree.	2744
(2) Gross sexual imposition committed in violation of	2745
division (A) (4) or (B) of this section is a felony of the third	2746

degree. Except as otherwise provided in this division, for gross 2747
sexual imposition committed in violation of division (A) (4) or 2748
(B) of this section there is a presumption that a prison term 2749
shall be imposed for the offense. The court shall impose on an 2750
offender convicted of gross sexual imposition in violation of 2751
division (A) (4) or (B) of this section a mandatory prison term, 2752
as described in division (C) (3) of this section, for a felony of 2753
the third degree if either of the following applies: 2754

(a) Evidence other than the testimony of the victim was 2755
admitted in the case corroborating the violation; 2756

(b) The offender previously was convicted of or pleaded 2757
guilty to a violation of this section, rape, the former offense 2758
of felonious sexual penetration, or sexual battery, and the 2759
victim of the previous offense was less than thirteen years of 2760
age. 2761

(3) A mandatory prison term required under division (C) (2) 2762
of this section shall be a definite term from the range of 2763
prison terms provided in division (A) (3) (a) of section 2929.14 2764
of the Revised Code for a felony of the third degree. 2765

(4) Except as otherwise provided in this division, gross 2766
sexual imposition committed in violation of division (A) (6) of 2767
this section is a felony of the fifth degree. If the patient was 2768
thirteen years of age or older but less than eighteen years of 2769
age or if the patient was a person with a developmental 2770
disability, a violation of division (A) (6) of this section is a 2771
felony of the third degree and there is a presumption that a 2772
prison term shall be imposed for the offense. If the patient was 2773
less than thirteen years of age, a violation of division (A) (6) 2774
of this section is a felony of the second degree, and the court 2775
shall impose as the minimum prison term for the offense a 2776

mandatory prison term that is one of the minimum terms 2777
prescribed in division (A) (2) (a) of section 2929.14 of the 2778
Revised Code for a felony of the second degree. 2779

(D) A victim need not prove physical resistance to the 2780
offender in prosecutions under this section. 2781

(E) Evidence of specific instances of the victim's sexual 2782
activity, opinion evidence of the victim's sexual activity, and 2783
reputation evidence of the victim's sexual activity shall not be 2784
admitted under this section unless it involves evidence of the 2785
origin of semen, pregnancy, or disease, or the victim's past 2786
sexual activity with the offender, and only to the extent that 2787
the court finds that the evidence is material to a fact at issue 2788
in the case and that its inflammatory or prejudicial nature does 2789
not outweigh its probative value. 2790

Evidence of specific instances of the defendant's sexual 2791
activity, opinion evidence of the defendant's sexual activity, 2792
and reputation evidence of the defendant's sexual activity shall 2793
not be admitted under this section unless it involves evidence 2794
of the origin of semen, pregnancy, or disease, the defendant's 2795
past sexual activity with the victim, or is admissible against 2796
the defendant under section 2945.59 of the Revised Code, and 2797
only to the extent that the court finds that the evidence is 2798
material to a fact at issue in the case and that its 2799
inflammatory or prejudicial nature does not outweigh its 2800
probative value. 2801

(F) Prior to taking testimony or receiving evidence of any 2802
sexual activity of the victim or the defendant in a proceeding 2803
under this section, the court shall resolve the admissibility of 2804
the proposed evidence in a hearing in chambers, which shall be 2805
held at or before preliminary hearing and not less than three 2806

days before trial, or for good cause shown during the trial. 2807

(G) Upon approval by the court, the victim may be 2808
represented by counsel in any hearing in chambers or other 2809
proceeding to resolve the admissibility of evidence. If the 2810
victim is indigent or otherwise is unable to obtain the services 2811
of counsel, the court, upon request, may appoint counsel to 2812
represent the victim without cost to the victim. 2813

Section 4. That the existing version of section 2907.05 of 2814
the Revised Code that is scheduled to take effect March 22, 2815
2020, is hereby repealed. 2816

Section 5. The version of section 2907.05 of the Revised 2817
Code that is scheduled to take effect March 22, 2020, is 2818
presented in this act as a composite of the section as amended 2819
by both Am. Sub. S.B. 201 and Sub. S.B. 229 of the 132nd General 2820
Assembly. The General Assembly, applying the principle stated in 2821
division (B) of section 1.52 of the Revised Code that amendments 2822
are to be harmonized if reasonably capable of simultaneous 2823
operation, finds that the composite is the resulting version of 2824
the section in effect prior to the effective date of the section 2825
as presented in this act. 2826

Section 4730.25 of the Revised Code is presented in this 2827
act as a composite of the section as amended by Am. Sub. H.B. 64 2828
and Sub. S.B. 110 of the 131st General Assembly and Am. Sub. 2829
H.B. 394 and Am. Sub. S.B. 276 of the 130th General Assembly. 2830
The General Assembly, applying the principle stated in division 2831
(B) of section 1.52 of the Revised Code that amendments are to 2832
be harmonized if reasonably capable of simultaneous operation, 2833
finds that the composite is the resulting version of the section 2834
in effect prior to the effective date of the section as 2835
presented in this act. 2836

Section 4731.22 of the Revised Code is presented in this	2837
act as a composite of the section as amended by both Am. Sub.	2838
H.B. 111 and Sub. H.B. 156 of the 132nd General Assembly. The	2839
General Assembly, applying the principle stated in division (B)	2840
of section 1.52 of the Revised Code that amendments are to be	2841
harmonized if reasonably capable of simultaneous operation,	2842
finds that the composite is the resulting version of the section	2843
in effect prior to the effective date of the section as	2844
presented in this act.	2845