

I_135_0614-1

135th General Assembly
Regular Session
2023-2024

Sub. S. B. No. 109

A BILL

To amend sections 149.43, 2105.062, 2305.111, 1
2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2
2907.18, 2921.22, 2929.42, 2950.01, 2950.151, 3
2971.01, 3107.07, 3109.50, 3111.04, 4730.25, 4
4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 5
4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 6
4760.14, 4760.16, 4760.99, 4761.03, 4761.09, 7
4761.14, 4761.99, 4762.13, 4762.14, 4762.16, 8
4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 9
4778.14, 4778.18, and 4778.99 and to enact 10
sections 4731.2210, 4759.14, and 4778.171 of the 11
Revised Code regarding sex offenses and 12
individuals regulated by the State Medical Board 13
and to amend the version of section 2305.111 of 14
the Revised Code that is scheduled to take 15
effect October 12, 2028, to continue the change 16
on and after that date. 17

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

Section 1. That sections 149.43, 2105.062, 2305.111, 18



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2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 2921.22, 19
2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 3111.04, 20
4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 4731.99, 21
4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 4760.16, 4760.99, 22
4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 4762.16, 23
4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 4778.14, 4778.18, 24
and 4778.99 be amended and sections 4731.2210, 4759.14, and 25
4778.171 of the Revised Code be enacted to read as follows: 26

Sec. 149.43. (A) As used in this section: 27

(1) "Public record" means records kept by any public 28
office, including, but not limited to, state, county, city, 29
village, township, and school district units, and records 30
pertaining to the delivery of educational services by an 31
alternative school in this state kept by the nonprofit or for- 32
profit entity operating the alternative school pursuant to 33
section 3313.533 of the Revised Code. "Public record" does not 34
mean any of the following: 35

(a) Medical records; 36

(b) Records pertaining to probation and parole 37
proceedings, to proceedings related to the imposition of 38
community control sanctions and post-release control sanctions, 39
or to proceedings related to determinations under section 40
2967.271 of the Revised Code regarding the release or maintained 41
incarceration of an offender to whom that section applies; 42

(c) Records pertaining to actions under section 2151.85 43
and division (C) of section 2919.121 of the Revised Code and to 44
appeals of actions arising under those sections; 45

(d) Records pertaining to adoption proceedings, including 46
the contents of an adoption file maintained by the department of 47

health under sections 3705.12 to 3705.124 of the Revised Code;	48
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	49 50 51 52 53 54
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	55 56
(g) Trial preparation records;	57
(h) Confidential law enforcement investigatory records;	58
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	59 60
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	61 62
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	63 64 65 66
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	67 68 69 70
(m) Intellectual property records;	71
(n) Donor profile records;	72
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	73 74

(p) Designated public service worker residential and	75
familial information;	76
(q) In the case of a county hospital operated pursuant to	77
Chapter 339. of the Revised Code or a municipal hospital	78
operated pursuant to Chapter 749. of the Revised Code,	79
information that constitutes a trade secret, as defined in	80
section 1333.61 of the Revised Code;	81
(r) Information pertaining to the recreational activities	82
of a person under the age of eighteen;	83
(s) In the case of a child fatality review board acting	84
under sections 307.621 to 307.629 of the Revised Code or a	85
review conducted pursuant to guidelines established by the	86
director of health under section 3701.70 of the Revised Code,	87
records provided to the board or director, statements made by	88
board members during meetings of the board or by persons	89
participating in the director's review, and all work products of	90
the board or director, and in the case of a child fatality	91
review board, child fatality review data submitted by the board	92
to the department of health or a national child death review	93
database, other than the report prepared pursuant to division	94
(A) of section 307.626 of the Revised Code;	95
(t) Records provided to and statements made by the	96
executive director of a public children services agency or a	97
prosecuting attorney acting pursuant to section 5153.171 of the	98
Revised Code other than the information released under that	99
section;	100
(u) Test materials, examinations, or evaluation tools used	101
in an examination for licensure as a nursing home administrator	102
that the board of executives of long-term services and supports	103

administers under section 4751.15 of the Revised Code or	104
contracts under that section with a private or government entity	105
to administer;	106
(v) Records the release of which is prohibited by state or	107
federal law;	108
(w) Proprietary information of or relating to any person	109
that is submitted to or compiled by the Ohio venture capital	110
authority created under section 150.01 of the Revised Code;	111
(x) Financial statements and data any person submits for	112
any purpose to the Ohio housing finance agency or the	113
controlling board in connection with applying for, receiving, or	114
accounting for financial assistance from the agency, and	115
information that identifies any individual who benefits directly	116
or indirectly from financial assistance from the agency;	117
(y) Records listed in section 5101.29 of the Revised Code;	118
(z) Discharges recorded with a county recorder under	119
section 317.24 of the Revised Code, as specified in division (B)	120
(2) of that section;	121
(aa) Usage information including names and addresses of	122
specific residential and commercial customers of a municipally	123
owned or operated public utility;	124
(bb) Records described in division (C) of section 187.04	125
of the Revised Code that are not designated to be made available	126
to the public as provided in that division;	127
(cc) Information and records that are made confidential,	128
privileged, and not subject to disclosure under divisions (B)	129
and (C) of section 2949.221 of the Revised Code;	130
(dd) Personal information, as defined in section 149.45 of	131

the Revised Code; 132

(ee) The confidential name, address, and other personally 133
identifiable information of a program participant in the address 134
confidentiality program established under sections 111.41 to 135
111.47 of the Revised Code, including the contents of any 136
application for absent voter's ballots, absent voter's ballot 137
identification envelope statement of voter, or provisional 138
ballot affirmation completed by a program participant who has a 139
confidential voter registration record; records or portions of 140
records pertaining to that program that identify the number of 141
program participants that reside within a precinct, ward, 142
township, municipal corporation, county, or any other geographic 143
area smaller than the state; and any real property 144
confidentiality notice filed under section 111.431 of the 145
Revised Code and the information described in division (C) of 146
that section. As used in this division, "confidential address" 147
and "program participant" have the meaning defined in section 148
111.41 of the Revised Code. 149

(ff) Orders for active military service of an individual 150
serving or with previous service in the armed forces of the 151
United States, including a reserve component, or the Ohio 152
organized militia, except that, such order becomes a public 153
record on the day that is fifteen years after the published date 154
or effective date of the call to order; 155

(gg) The name, address, contact information, or other 156
personal information of an individual who is less than eighteen 157
years of age that is included in any record related to a traffic 158
accident involving a school vehicle in which the individual was 159
an occupant at the time of the accident; 160

(hh) Protected health information, as defined in 45 C.F.R. 161

160.103, that is in a claim for payment for a health care 162
product, service, or procedure, as well as any other health 163
claims data in another document that reveals the identity of an 164
individual who is the subject of the data or could be used to 165
reveal that individual's identity; 166

(ii) Any depiction by photograph, film, videotape, or 167
printed or digital image under either of the following 168
circumstances: 169

(i) The depiction is that of a victim of an offense the 170
release of which would be, to a reasonable person of ordinary 171
sensibilities, an offensive and objectionable intrusion into the 172
victim's expectation of bodily privacy and integrity. 173

(ii) The depiction captures or depicts the victim of a 174
sexually oriented offense, as defined in section 2950.01 of the 175
Revised Code, at the actual occurrence of that offense. 176

(jj) Restricted portions of a body-worn camera or 177
dashboard camera recording; 178

(kk) In the case of a fetal-infant mortality review board 179
acting under sections 3707.70 to 3707.77 of the Revised Code, 180
records, documents, reports, or other information presented to 181
the board or a person abstracting such materials on the board's 182
behalf, statements made by review board members during board 183
meetings, all work products of the board, and data submitted by 184
the board to the department of health or a national infant death 185
review database, other than the report prepared pursuant to 186
section 3707.77 of the Revised Code. 187

(ll) Records, documents, reports, or other information 188
presented to the pregnancy-associated mortality review board 189
established under section 3738.01 of the Revised Code, 190

statements made by board members during board meetings, all work 191
products of the board, and data submitted by the board to the 192
department of health, other than the biennial reports prepared 193
under section 3738.08 of the Revised Code; 194

(mm) Except as otherwise provided in division (A) (1) (oo) 195
of this section, telephone numbers for a victim, as defined in 196
section 2930.01 of the Revised Code or a witness to a crime that 197
are listed on any law enforcement record or report. 198

(nn) A preneed funeral contract, as defined in section 199
4717.01 of the Revised Code, and contract terms and personally 200
identifying information of a preneed funeral contract, that is 201
contained in a report submitted by or for a funeral home to the 202
board of embalmers and funeral directors under division (C) of 203
section 4717.13, division (J) of section 4717.31, or section 204
4717.41 of the Revised Code. 205

(oo) Telephone numbers for a party to a motor vehicle 206
accident subject to the requirements of section 5502.11 of the 207
Revised Code that are listed on any law enforcement record or 208
report, except that the telephone numbers described in this 209
division are not excluded from the definition of "public record" 210
under this division on and after the thirtieth day after the 211
occurrence of the motor vehicle accident. 212

(pp) Records pertaining to individuals who complete 213
training under section 5502.703 of the Revised Code to be 214
permitted by a school district board of education or governing 215
body of a community school established under Chapter 3314. of 216
the Revised Code, a STEM school established under Chapter 3326. 217
of the Revised Code, or a chartered nonpublic school to convey 218
deadly weapons or dangerous ordnance into a school safety zone; 219

(qq) Records, documents, reports, or other information 220
presented to a domestic violence fatality review board 221
established under section 307.651 of the Revised Code, 222
statements made by board members during board meetings, all work 223
products of the board, and data submitted by the board to the 224
department of health, other than a report prepared pursuant to 225
section 307.656 of the Revised Code; 226

(rr) Records, documents, and information the release of 227
which is prohibited under sections 2930.04 and 2930.07 of the 228
Revised Code; 229

(ss) Records of an existing qualified nonprofit 230
corporation that creates a special improvement district under 231
Chapter 1710. of the Revised Code that do not pertain to a 232
purpose for which the district is created; 233

(tt) License or certificate application or renewal 234
responses and supporting documentation submitted to the state 235
medical board regarding an applicant's, or a license or 236
certificate holder's, inability to practice according to 237
acceptable and prevailing standards of care by reason of a 238
medical condition. 239

A record that is not a public record under division (A) (1) 240
of this section and that, under law, is permanently retained 241
becomes a public record on the day that is seventy-five years 242
after the day on which the record was created, except for any 243
record protected by the attorney-client privilege, a trial 244
preparation record as defined in this section, a statement 245
prohibiting the release of identifying information signed under 246
section 3107.083 of the Revised Code, a denial of release form 247
filed pursuant to section 3107.46 of the Revised Code, or any 248
record that is exempt from release or disclosure under section 249

149.433 of the Revised Code. If the record is a birth 250
certificate and a biological parent's name redaction request 251
form has been accepted under section 3107.391 of the Revised 252
Code, the name of that parent shall be redacted from the birth 253
certificate before it is released under this paragraph. If any 254
other section of the Revised Code establishes a time period for 255
disclosure of a record that conflicts with the time period 256
specified in this section, the time period in the other section 257
prevails. 258

(2) "Confidential law enforcement investigatory record" 259
means any record that pertains to a law enforcement matter of a 260
criminal, quasi-criminal, civil, or administrative nature, but 261
only to the extent that the release of the record would create a 262
high probability of disclosure of any of the following: 263

(a) The identity of a suspect who has not been charged 264
with the offense to which the record pertains, or of an 265
information source or witness to whom confidentiality has been 266
reasonably promised; 267

(b) Information provided by an information source or 268
witness to whom confidentiality has been reasonably promised, 269
which information would reasonably tend to disclose the source's 270
or witness's identity; 271

(c) Specific confidential investigatory techniques or 272
procedures or specific investigatory work product; 273

(d) Information that would endanger the life or physical 274
safety of law enforcement personnel, a crime victim, a witness, 275
or a confidential information source. 276

(3) "Medical record" means any document or combination of 277
documents, except births, deaths, and the fact of admission to 278

or discharge from a hospital, that pertains to the medical 279
history, diagnosis, prognosis, or medical condition of a patient 280
and that is generated and maintained in the process of medical 281
treatment. 282

(4) "Trial preparation record" means any record that 283
contains information that is specifically compiled in reasonable 284
anticipation of, or in defense of, a civil or criminal action or 285
proceeding, including the independent thought processes and 286
personal trial preparation of an attorney. 287

(5) "Intellectual property record" means a record, other 288
than a financial or administrative record, that is produced or 289
collected by or for faculty or staff of a state institution of 290
higher learning in the conduct of or as a result of study or 291
research on an educational, commercial, scientific, artistic, 292
technical, or scholarly issue, regardless of whether the study 293
or research was sponsored by the institution alone or in 294
conjunction with a governmental body or private concern, and 295
that has not been publicly released, published, or patented. 296

(6) "Donor profile record" means all records about donors 297
or potential donors to a public institution of higher education 298
except the names and reported addresses of the actual donors and 299
the date, amount, and conditions of the actual donation. 300

(7) "Designated public service worker" means a peace 301
officer, parole officer, probation officer, bailiff, prosecuting 302
attorney, assistant prosecuting attorney, correctional employee, 303
county or multicounty corrections officer, community-based 304
correctional facility employee, designated Ohio national guard 305
member, protective services worker, youth services employee, 306
firefighter, EMT, medical director or member of a cooperating 307
physician advisory board of an emergency medical service 308

organization, state board of pharmacy employee, investigator of 309
the bureau of criminal identification and investigation, 310
emergency service telecommunicator, forensic mental health 311
provider, mental health evaluation provider, regional 312
psychiatric hospital employee, judge, magistrate, or federal law 313
enforcement officer. 314

(8) "Designated public service worker residential and 315
familial information" means any information that discloses any 316
of the following about a designated public service worker: 317

(a) The address of the actual personal residence of a 318
designated public service worker, except for the following 319
information: 320

(i) The address of the actual personal residence of a 321
prosecuting attorney or judge; and 322

(ii) The state or political subdivision in which a 323
designated public service worker resides. 324

(b) Information compiled from referral to or participation 325
in an employee assistance program; 326

(c) The social security number, the residential telephone 327
number, any bank account, debit card, charge card, or credit 328
card number, or the emergency telephone number of, or any 329
medical information pertaining to, a designated public service 330
worker; 331

(d) The name of any beneficiary of employment benefits, 332
including, but not limited to, life insurance benefits, provided 333
to a designated public service worker by the designated public 334
service worker's employer; 335

(e) The identity and amount of any charitable or 336

employment benefit deduction made by the designated public 337
service worker's employer from the designated public service 338
worker's compensation, unless the amount of the deduction is 339
required by state or federal law; 340

(f) The name, the residential address, the name of the 341
employer, the address of the employer, the social security 342
number, the residential telephone number, any bank account, 343
debit card, charge card, or credit card number, or the emergency 344
telephone number of the spouse, a former spouse, or any child of 345
a designated public service worker; 346

(g) A photograph of a peace officer who holds a position 347
or has an assignment that may include undercover or plain 348
clothes positions or assignments as determined by the peace 349
officer's appointing authority. 350

(9) As used in divisions (A) (7) and (15) to (17) of this 351
section: 352

"Peace officer" has the meaning defined in section 109.71 353
of the Revised Code and also includes the superintendent and 354
troopers of the state highway patrol; it does not include the 355
sheriff of a county or a supervisory employee who, in the 356
absence of the sheriff, is authorized to stand in for, exercise 357
the authority of, and perform the duties of the sheriff. 358

"Correctional employee" means any employee of the 359
department of rehabilitation and correction who in the course of 360
performing the employee's job duties has or has had contact with 361
inmates and persons under supervision. 362

"County or multicounty corrections officer" means any 363
corrections officer employed by any county or multicounty 364
correctional facility. 365

"Designated Ohio national guard member" means a member of 366
the Ohio national guard who is participating in duties related 367
to remotely piloted aircraft, including, but not limited to, 368
pilots, sensor operators, and mission intelligence personnel, 369
duties related to special forces operations, or duties related 370
to cybersecurity, and is designated by the adjutant general as a 371
designated public service worker for those purposes. 372

"Protective services worker" means any employee of a 373
county agency who is responsible for child protective services, 374
child support services, or adult protective services. 375

"Youth services employee" means any employee of the 376
department of youth services who in the course of performing the 377
employee's job duties has or has had contact with children 378
committed to the custody of the department of youth services. 379

"Firefighter" means any regular, paid or volunteer, member 380
of a lawfully constituted fire department of a municipal 381
corporation, township, fire district, or village. 382

"EMT" means EMTs-basic, EMTs-I, and paramedics that 383
provide emergency medical services for a public emergency 384
medical service organization. "Emergency medical service 385
organization," "EMT-basic," "EMT-I," and "paramedic" have the 386
meanings defined in section 4765.01 of the Revised Code. 387

"Investigator of the bureau of criminal identification and 388
investigation" has the meaning defined in section 2903.11 of the 389
Revised Code. 390

"Emergency service telecommunicator" means an individual 391
employed by an emergency service provider as defined under 392
section 128.01 of the Revised Code, whose primary responsibility 393
is to be an operator for the receipt or processing of calls for 394

emergency services made by telephone, radio, or other electronic means. 395
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"Forensic mental health provider" means any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code. 397
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"Mental health evaluation provider" means an individual who, under Chapter 5122. of the Revised Code, examines a respondent who is alleged to be a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code, and reports to the probate court the respondent's mental condition. 404
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"Regional psychiatric hospital employee" means any employee of the department of mental health and addiction services who, in the course of performing the employee's duties, has contact with patients committed to the department of mental health and addiction services by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code. 410
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"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code. 417
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(10) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any 419
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of the following:	424
(a) The address or telephone number of a person under the	425
age of eighteen or the address or telephone number of that	426
person's parent, guardian, custodian, or emergency contact	427
person;	428
(b) The social security number, birth date, or	429
photographic image of a person under the age of eighteen;	430
(c) Any medical record, history, or information pertaining	431
to a person under the age of eighteen;	432
(d) Any additional information sought or required about a	433
person under the age of eighteen for the purpose of allowing	434
that person to participate in any recreational activity	435
conducted or sponsored by a public office or to use or obtain	436
admission privileges to any recreational facility owned or	437
operated by a public office.	438
(11) "Community control sanction" has the meaning defined	439
in section 2929.01 of the Revised Code.	440
(12) "Post-release control sanction" has the meaning	441
defined in section 2967.01 of the Revised Code.	442
(13) "Redaction" means obscuring or deleting any	443
information that is exempt from the duty to permit public	444
inspection or copying from an item that otherwise meets the	445
definition of a "record" in section 149.011 of the Revised Code.	446
(14) "Designee," "elected official," and "future official"	447
have the meanings defined in section 109.43 of the Revised Code.	448
(15) "Body-worn camera" means a visual and audio recording	449
device worn on the person of a correctional employee, youth	450
services employee, or peace officer while the correctional	451

employee, youth services employee, or peace officer is engaged 452
in the performance of official duties. 453

(16) "Dashboard camera" means a visual and audio recording 454
device mounted on a peace officer's vehicle or vessel that is 455
used while the peace officer is engaged in the performance of 456
the peace officer's duties. 457

(17) "Restricted portions of a body-worn camera or 458
dashboard camera recording" means any visual or audio portion of 459
a body-worn camera or dashboard camera recording that shows, 460
communicates, or discloses any of the following: 461

(a) The image or identity of a child or information that 462
could lead to the identification of a child who is a primary 463
subject of the recording when the department of rehabilitation 464
and correction, department of youth services, or the law 465
enforcement agency knows or has reason to know the person is a 466
child based on the department's or law enforcement agency's 467
records or the content of the recording; 468

(b) The death of a person or a deceased person's body, 469
unless the death was caused by a correctional employee, youth 470
services employee, or peace officer or, subject to division (H) 471
(1) of this section, the consent of the decedent's executor or 472
administrator has been obtained; 473

(c) The death of a correctional employee, youth services 474
employee, peace officer, firefighter, paramedic, or other first 475
responder, occurring while the decedent was engaged in the 476
performance of official duties, unless, subject to division (H) 477
(1) of this section, the consent of the decedent's executor or 478
administrator has been obtained; 479

(d) Grievous bodily harm, unless the injury was effected 480

by a correctional employee, youth services employee, or peace officer or, subject to division (H) (1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H) (1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(f) Grievous bodily harm to a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H) (1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(g) An act of severe violence resulting in serious physical harm against a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H) (1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(h) A person's nude body, unless, subject to division (H) (1) of this section, the person's consent has been obtained;

(i) Protected health information, the identity of a person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could

identify a person who is not the subject of a correctional, 510
youth services, or law enforcement encounter; 511

(j) Information that could identify the alleged victim of 512
a sex offense, menacing by stalking, or domestic violence; 513

(k) Information, that does not constitute a confidential 514
law enforcement investigatory record, that could identify a 515
person who provides sensitive or confidential information to the 516
department of rehabilitation and correction, the department of 517
youth services, or a law enforcement agency when the disclosure 518
of the person's identity or the information provided could 519
reasonably be expected to threaten or endanger the safety or 520
property of the person or another person; 521

(l) Personal information of a person who is not arrested, 522
cited, charged, or issued a written warning by a peace officer; 523

(m) Proprietary correctional, youth services, or police 524
contingency plans or tactics that are intended to prevent crime 525
and maintain public order and safety; 526

(n) A personal conversation unrelated to work between 527
correctional employees, youth services employees, or peace 528
officers or between a correctional employee, youth services 529
employee, or peace officer and an employee of a law enforcement 530
agency; 531

(o) A conversation between a correctional employee, youth 532
services employee, or peace officer and a member of the public 533
that does not concern correctional, youth services, or law 534
enforcement activities; 535

(p) The interior of a residence, unless the interior of a 536
residence is the location of an adversarial encounter with, or a 537
use of force by, a correctional employee, youth services 538

employee, or peace officer;	539
(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location.	540 541 542 543
As used in division (A) (17) of this section:	544
"Grievous bodily harm" has the same meaning as in section 5924.120 of the Revised Code.	545 546
"Health care facility" has the same meaning as in section 1337.11 of the Revised Code.	547 548
"Protected health information" has the same meaning as in 45 C.F.R. 160.103.	549 550
"Law enforcement agency" means a government entity that employs peace officers to perform law enforcement duties.	551 552
"Personal information" means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases.	553 554 555 556
"Sex offense" has the same meaning as in section 2907.10 of the Revised Code.	557 558
"Firefighter," "paramedic," and "first responder" have the same meanings as in section 4765.01 of the Revised Code.	559 560
(B) (1) Upon request by any person and subject to division (B) (8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours. Subject to division (B) (8) of this	561 562 563 564 565

section, upon request by any person, a public office or person 566
responsible for public records shall make copies of the 567
requested public record available to the requester at cost and 568
within a reasonable period of time. If a public record contains 569
information that is exempt from the duty to permit public 570
inspection or to copy the public record, the public office or 571
the person responsible for the public record shall make 572
available all of the information within the public record that 573
is not exempt. When making that public record available for 574
public inspection or copying that public record, the public 575
office or the person responsible for the public record shall 576
notify the requester of any redaction or make the redaction 577
plainly visible. A redaction shall be deemed a denial of a 578
request to inspect or copy the redacted information, except if 579
federal or state law authorizes or requires a public office to 580
make the redaction. When the auditor of state receives a request 581
to inspect or to make a copy of a record that was provided to 582
the auditor of state for purposes of an audit, but the original 583
public office has asserted to the auditor of state that the 584
record is not a public record, the auditor of state may handle 585
the requests by directing the requestor to the original public 586
office that provided the record to the auditor of state. 587

(2) To facilitate broader access to public records, a 588
public office or the person responsible for public records shall 589
organize and maintain public records in a manner that they can 590
be made available for inspection or copying in accordance with 591
division (B) of this section. A public office also shall have 592
available a copy of its current records retention schedule at a 593
location readily available to the public. If a requester makes 594
an ambiguous or overly broad request or has difficulty in making 595
a request for copies or inspection of public records under this 596

section such that the public office or the person responsible 597
for the requested public record cannot reasonably identify what 598
public records are being requested, the public office or the 599
person responsible for the requested public record may deny the 600
request but shall provide the requester with an opportunity to 601
revise the request by informing the requester of the manner in 602
which records are maintained by the public office and accessed 603
in the ordinary course of the public office's or person's 604
duties. 605

(3) If a request is ultimately denied, in part or in 606
whole, the public office or the person responsible for the 607
requested public record shall provide the requester with an 608
explanation, including legal authority, setting forth why the 609
request was denied. If the initial request was provided in 610
writing, the explanation also shall be provided to the requester 611
in writing. The explanation shall not preclude the public office 612
or the person responsible for the requested public record from 613
relying upon additional reasons or legal authority in defending 614
an action commenced under division (C) of this section. 615

(4) Unless specifically required or authorized by state or 616
federal law or in accordance with division (B) of this section, 617
no public office or person responsible for public records may 618
limit or condition the availability of public records by 619
requiring disclosure of the requester's identity or the intended 620
use of the requested public record. Any requirement that the 621
requester disclose the requester's identity or the intended use 622
of the requested public record constitutes a denial of the 623
request. 624

(5) A public office or person responsible for public 625
records may ask a requester to make the request in writing, may 626

ask for the requester's identity, and may inquire about the 627
intended use of the information requested, but may do so only 628
after disclosing to the requester that a written request is not 629
mandatory, that the requester may decline to reveal the 630
requester's identity or the intended use, and when a written 631
request or disclosure of the identity or intended use would 632
benefit the requester by enhancing the ability of the public 633
office or person responsible for public records to identify, 634
locate, or deliver the public records sought by the requester. 635

(6) If any person requests a copy of a public record in 636
accordance with division (B) of this section, the public office 637
or person responsible for the public record may require the 638
requester to pay in advance the cost involved in providing the 639
copy of the public record in accordance with the choice made by 640
the requester under this division. The public office or the 641
person responsible for the public record shall permit the 642
requester to choose to have the public record duplicated upon 643
paper, upon the same medium upon which the public office or 644
person responsible for the public record keeps it, or upon any 645
other medium upon which the public office or person responsible 646
for the public record determines that it reasonably can be 647
duplicated as an integral part of the normal operations of the 648
public office or person responsible for the public record. When 649
the requester makes a choice under this division, the public 650
office or person responsible for the public record shall provide 651
a copy of it in accordance with the choice made by the 652
requester. Nothing in this section requires a public office or 653
person responsible for the public record to allow the requester 654
of a copy of the public record to make the copies of the public 655
record. 656

(7) (a) Upon a request made in accordance with division (B) 657

of this section and subject to division (B) (6) of this section, 658
a public office or person responsible for public records shall 659
transmit a copy of a public record to any person by United 660
States mail or by any other means of delivery or transmission 661
within a reasonable period of time after receiving the request 662
for the copy. The public office or person responsible for the 663
public record may require the person making the request to pay 664
in advance the cost of postage if the copy is transmitted by 665
United States mail or the cost of delivery if the copy is 666
transmitted other than by United States mail, and to pay in 667
advance the costs incurred for other supplies used in the 668
mailing, delivery, or transmission. 669

(b) Any public office may adopt a policy and procedures 670
that it will follow in transmitting, within a reasonable period 671
of time after receiving a request, copies of public records by 672
United States mail or by any other means of delivery or 673
transmission pursuant to division (B) (7) of this section. A 674
public office that adopts a policy and procedures under division 675
(B) (7) of this section shall comply with them in performing its 676
duties under that division. 677

(c) In any policy and procedures adopted under division 678
(B) (7) of this section: 679

(i) A public office may limit the number of records 680
requested by a person that the office will physically deliver by 681
United States mail or by another delivery service to ten per 682
month, unless the person certifies to the office in writing that 683
the person does not intend to use or forward the requested 684
records, or the information contained in them, for commercial 685
purposes; 686

(ii) A public office that chooses to provide some or all 687

of its public records on a web site that is fully accessible to 688
and searchable by members of the public at all times, other than 689
during acts of God outside the public office's control or 690
maintenance, and that charges no fee to search, access, 691
download, or otherwise receive records provided on the web site, 692
may limit to ten per month the number of records requested by a 693
person that the office will deliver in a digital format, unless 694
the requested records are not provided on the web site and 695
unless the person certifies to the office in writing that the 696
person does not intend to use or forward the requested records, 697
or the information contained in them, for commercial purposes. 698

(iii) For purposes of division (B) (7) of this section, 699
"commercial" shall be narrowly construed and does not include 700
reporting or gathering news, reporting or gathering information 701
to assist citizen oversight or understanding of the operation or 702
activities of government, or nonprofit educational research. 703

(8) A public office or person responsible for public 704
records is not required to permit a person who is incarcerated 705
pursuant to a criminal conviction or a juvenile adjudication to 706
inspect or to obtain a copy of any public record concerning a 707
criminal investigation or prosecution or concerning what would 708
be a criminal investigation or prosecution if the subject of the 709
investigation or prosecution were an adult, unless the request 710
to inspect or to obtain a copy of the record is for the purpose 711
of acquiring information that is subject to release as a public 712
record under this section and the judge who imposed the sentence 713
or made the adjudication with respect to the person, or the 714
judge's successor in office, finds that the information sought 715
in the public record is necessary to support what appears to be 716
a justiciable claim of the person. 717

(9) (a) Upon written request made and signed by a 718
journalist, a public office, or person responsible for public 719
records, having custody of the records of the agency employing a 720
specified designated public service worker shall disclose to the 721
journalist the address of the actual personal residence of the 722
designated public service worker and, if the designated public 723
service worker's spouse, former spouse, or child is employed by 724
a public office, the name and address of the employer of the 725
designated public service worker's spouse, former spouse, or 726
child. The request shall include the journalist's name and title 727
and the name and address of the journalist's employer and shall 728
state that disclosure of the information sought would be in the 729
public interest. 730

(b) Division (B) (9) (a) of this section also applies to 731
journalist requests for: 732

(i) Customer information maintained by a municipally owned 733
or operated public utility, other than social security numbers 734
and any private financial information such as credit reports, 735
payment methods, credit card numbers, and bank account 736
information; 737

(ii) Information about minors involved in a school vehicle 738
accident as provided in division (A) (1) (gg) of this section, 739
other than personal information as defined in section 149.45 of 740
the Revised Code. 741

(c) As used in division (B) (9) of this section, 742
"journalist" means a person engaged in, connected with, or 743
employed by any news medium, including a newspaper, magazine, 744
press association, news agency, or wire service, a radio or 745
television station, or a similar medium, for the purpose of 746
gathering, processing, transmitting, compiling, editing, or 747

disseminating information for the general public. 748

(10) Upon a request made by a victim, victim's attorney, 749
or victim's representative, as that term is used in section 750
2930.02 of the Revised Code, a public office or person 751
responsible for public records shall transmit a copy of a 752
depiction of the victim as described in division (A) (1) (ii) of 753
this section to the victim, victim's attorney, or victim's 754
representative. 755

(C) (1) If a person allegedly is aggrieved by the failure 756
of a public office or the person responsible for public records 757
to promptly prepare a public record and to make it available to 758
the person for inspection in accordance with division (B) of 759
this section or by any other failure of a public office or the 760
person responsible for public records to comply with an 761
obligation in accordance with division (B) of this section, the 762
person allegedly aggrieved may do only one of the following, and 763
not both: 764

(a) File a complaint with the clerk of the court of claims 765
or the clerk of the court of common pleas under section 2743.75 766
of the Revised Code; 767

(b) Commence a mandamus action to obtain a judgment that 768
orders the public office or the person responsible for the 769
public record to comply with division (B) of this section, that 770
awards court costs and reasonable attorney's fees to the person 771
that instituted the mandamus action, and, if applicable, that 772
includes an order fixing statutory damages under division (C) (2) 773
of this section. The mandamus action may be commenced in the 774
court of common pleas of the county in which division (B) of 775
this section allegedly was not complied with, in the supreme 776
court pursuant to its original jurisdiction under Section 2 of 777

Article IV, Ohio Constitution, or in the court of appeals for 778
the appellate district in which division (B) of this section 779
allegedly was not complied with pursuant to its original 780
jurisdiction under Section 3 of Article IV, Ohio Constitution. 781

(2) If a requester transmits a written request by hand 782
delivery, electronic submission, or certified mail to inspect or 783
receive copies of any public record in a manner that fairly 784
describes the public record or class of public records to the 785
public office or person responsible for the requested public 786
records, except as otherwise provided in this section, the 787
requester shall be entitled to recover the amount of statutory 788
damages set forth in this division if a court determines that 789
the public office or the person responsible for public records 790
failed to comply with an obligation in accordance with division 791
(B) of this section. 792

The amount of statutory damages shall be fixed at one 793
hundred dollars for each business day during which the public 794
office or person responsible for the requested public records 795
failed to comply with an obligation in accordance with division 796
(B) of this section, beginning with the day on which the 797
requester files a mandamus action to recover statutory damages, 798
up to a maximum of one thousand dollars. The award of statutory 799
damages shall not be construed as a penalty, but as compensation 800
for injury arising from lost use of the requested information. 801
The existence of this injury shall be conclusively presumed. The 802
award of statutory damages shall be in addition to all other 803
remedies authorized by this section. 804

The court may reduce an award of statutory damages or not 805
award statutory damages if the court determines both of the 806
following: 807

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(3) In a mandamus action filed under division (C) (1) of this section, the following apply:

(a) (i) If the court orders the public office or the person responsible for the public record to comply with division (B) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(ii) If the court makes a determination described in division (C) (3) (b) (iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section or if the court determines any of the following, the court may award reasonable attorney's fees to the relator, subject to division (C) (4) of this section:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(iii) The public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order concluding whether or not the public office or person was required to comply with division (B) of this section. No discovery may be conducted on the issue of the alleged bad faith of the public office or person responsible for the public records. This division shall not be construed as creating a presumption that the public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order described in this division.

(c) The court shall not award attorney's fees to the

relator if the court determines both of the following: 867

(i) That, based on the ordinary application of statutory 868
law and case law as it existed at the time of the conduct or 869
threatened conduct of the public office or person responsible 870
for the requested public records that allegedly constitutes a 871
failure to comply with an obligation in accordance with division 872
(B) of this section and that was the basis of the mandamus 873
action, a well-informed public office or person responsible for 874
the requested public records reasonably would believe that the 875
conduct or threatened conduct of the public office or person 876
responsible for the requested public records did not constitute 877
a failure to comply with an obligation in accordance with 878
division (B) of this section; 879

(ii) That a well-informed public office or person 880
responsible for the requested public records reasonably would 881
believe that the conduct or threatened conduct of the public 882
office or person responsible for the requested public records 883
would serve the public policy that underlies the authority that 884
is asserted as permitting that conduct or threatened conduct. 885

(4) All of the following apply to any award of reasonable 886
attorney's fees awarded under division (C) (3) (b) of this 887
section: 888

(a) The fees shall be construed as remedial and not 889
punitive. 890

(b) The fees awarded shall not exceed the total of the 891
reasonable attorney's fees incurred before the public record was 892
made available to the relator and the fees described in division 893
(C) (4) (c) of this section. 894

(c) Reasonable attorney's fees shall include reasonable 895

fees incurred to produce proof of the reasonableness and amount 896
of the fees and to otherwise litigate entitlement to the fees. 897

(d) The court may reduce the amount of fees awarded if the 898
court determines that, given the factual circumstances involved 899
with the specific public records request, an alternative means 900
should have been pursued to more effectively and efficiently 901
resolve the dispute that was subject to the mandamus action 902
filed under division (C)(1) of this section. 903

(5) If the court does not issue a writ of mandamus under 904
division (C) of this section and the court determines at that 905
time that the bringing of the mandamus action was frivolous 906
conduct as defined in division (A) of section 2323.51 of the 907
Revised Code, the court may award to the public office all court 908
costs, expenses, and reasonable attorney's fees, as determined 909
by the court. 910

(D) Chapter 1347. of the Revised Code does not limit the 911
provisions of this section. 912

(E) (1) To ensure that all employees of public offices are 913
appropriately educated about a public office's obligations under 914
division (B) of this section, all elected officials or their 915
appropriate designees shall attend training approved by the 916
attorney general as provided in section 109.43 of the Revised 917
Code. A future official may satisfy the requirements of this 918
division by attending the training before taking office, 919
provided that the future official may not send a designee in the 920
future official's place. 921

(2) All public offices shall adopt a public records policy 922
in compliance with this section for responding to public records 923
requests. In adopting a public records policy under this 924

division, a public office may obtain guidance from the model 925
public records policy developed and provided to the public 926
office by the attorney general under section 109.43 of the 927
Revised Code. Except as otherwise provided in this section, the 928
policy may not limit the number of public records that the 929
public office will make available to a single person, may not 930
limit the number of public records that it will make available 931
during a fixed period of time, and may not establish a fixed 932
period of time before it will respond to a request for 933
inspection or copying of public records, unless that period is 934
less than eight hours. 935

The public office shall distribute the public records 936
policy adopted by the public office under this division to the 937
employee of the public office who is the records custodian or 938
records manager or otherwise has custody of the records of that 939
office. The public office shall require that employee to 940
acknowledge receipt of the copy of the public records policy. 941
The public office shall create a poster that describes its 942
public records policy and shall post the poster in a conspicuous 943
place in the public office and in all locations where the public 944
office has branch offices. The public office may post its public 945
records policy on the internet web site of the public office if 946
the public office maintains an internet web site. A public 947
office that has established a manual or handbook of its general 948
policies and procedures for all employees of the public office 949
shall include the public records policy of the public office in 950
the manual or handbook. 951

(F) (1) The bureau of motor vehicles may adopt rules 952
pursuant to Chapter 119. of the Revised Code to reasonably limit 953
the number of bulk commercial special extraction requests made 954
by a person for the same records or for updated records during a 955

calendar year. The rules may include provisions for charges to 956
be made for bulk commercial special extraction requests for the 957
actual cost of the bureau, plus special extraction costs, plus 958
ten per cent. The bureau may charge for expenses for redacting 959
information, the release of which is prohibited by law. 960

(2) As used in division (F) (1) of this section: 961

(a) "Actual cost" means the cost of depleted supplies, 962
records storage media costs, actual mailing and alternative 963
delivery costs, or other transmitting costs, and any direct 964
equipment operating and maintenance costs, including actual 965
costs paid to private contractors for copying services. 966

(b) "Bulk commercial special extraction request" means a 967
request for copies of a record for information in a format other 968
than the format already available, or information that cannot be 969
extracted without examination of all items in a records series, 970
class of records, or database by a person who intends to use or 971
forward the copies for surveys, marketing, solicitation, or 972
resale for commercial purposes. "Bulk commercial special 973
extraction request" does not include a request by a person who 974
gives assurance to the bureau that the person making the request 975
does not intend to use or forward the requested copies for 976
surveys, marketing, solicitation, or resale for commercial 977
purposes. 978

(c) "Commercial" means profit-seeking production, buying, 979
or selling of any good, service, or other product. 980

(d) "Special extraction costs" means the cost of the time 981
spent by the lowest paid employee competent to perform the task, 982
the actual amount paid to outside private contractors employed 983
by the bureau, or the actual cost incurred to create computer 984

programs to make the special extraction. "Special extraction 985
costs" include any charges paid to a public agency for computer 986
or records services. 987

(3) For purposes of divisions (F) (1) and (2) of this 988
section, "surveys, marketing, solicitation, or resale for 989
commercial purposes" shall be narrowly construed and does not 990
include reporting or gathering news, reporting or gathering 991
information to assist citizen oversight or understanding of the 992
operation or activities of government, or nonprofit educational 993
research. 994

(G) A request by a defendant, counsel of a defendant, or 995
any agent of a defendant in a criminal action that public 996
records related to that action be made available under this 997
section shall be considered a demand for discovery pursuant to 998
the Criminal Rules, except to the extent that the Criminal Rules 999
plainly indicate a contrary intent. The defendant, counsel of 1000
the defendant, or agent of the defendant making a request under 1001
this division shall serve a copy of the request on the 1002
prosecuting attorney, director of law, or other chief legal 1003
officer responsible for prosecuting the action. 1004

(H) (1) Any portion of a body-worn camera or dashboard 1005
camera recording described in divisions (A) (17) (b) to (h) of 1006
this section may be released by consent of the subject of the 1007
recording or a representative of that person, as specified in 1008
those divisions, only if either of the following applies: 1009

(a) The recording will not be used in connection with any 1010
probable or pending criminal proceedings; 1011

(b) The recording has been used in connection with a 1012
criminal proceeding that was dismissed or for which a judgment 1013

has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.

(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A)(17) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to section 2743.75 of the Revised Code, requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.

Sec. 2105.062. As used in this section, "relative" includes a parent, grandparent, great-grandparent, stepparent, child, grandchild, aunt, uncle, cousin, sibling, and half sibling.

The parent, or a relative of the parent, of a child who was conceived as the result of the parent's violation of section 2907.02 of the Revised Code, or violation of section 2907.03 of the Revised Code if the sexual activity involved is sexual conduct, shall not inherit the real property, personal property, or inheritance of the child or the child's lineal descendants as provided under section 2105.06 of the Revised Code.

Sec. 2305.111. (A) As used in this section:

(1) "Childhood sexual abuse" means any conduct that constitutes any of the violations identified in division (A)(1)

(a) or (b) of this section and would constitute a criminal 1043
offense under the specified section ~~or division~~ of the Revised 1044
Code, if the victim of the violation is at the time of the 1045
violation a child under eighteen years of age or a child with a 1046
developmental disability or physical impairment under twenty-one 1047
years of age. The court need not find that any person has been 1048
convicted of or pleaded guilty to the offense under the 1049
specified section ~~or division~~ of the Revised Code in order for 1050
the conduct that is the violation constituting the offense to be 1051
childhood sexual abuse for purposes of this division. This 1052
division applies to any of the following violations committed in 1053
the following specified circumstances: 1054

(a) A violation of section 2907.02 or ~~of division (A) (1),~~ 1055
~~(5), (6), (7), (8), (9), (10), (11), or (12)~~ of section 2907.03 1056
of the Revised Code; 1057

(b) A violation of section 2907.05 or 2907.06 of the 1058
Revised Code if, at the time of the violation, any of the 1059
following apply: 1060

(i) The actor is the victim's natural parent, adoptive 1061
parent, or stepparent or the guardian, custodian, or person in 1062
loco parentis of the victim. 1063

(ii) The victim is in custody of law or a patient in a 1064
hospital or other institution, and the actor has supervisory or 1065
disciplinary authority over the victim. 1066

(iii) The actor is a teacher, administrator, coach, or 1067
other person in authority employed by or serving in a school for 1068
which the director of education and workforce prescribes minimum 1069
standards pursuant to division (D) of section 3301.07 of the 1070
Revised Code, the victim is enrolled in or attends that school, 1071

and the actor is not enrolled in and does not attend that 1072
school. 1073

(iv) The actor is a teacher, administrator, coach, or 1074
other person in authority employed by or serving in an 1075
institution of higher education, and the victim is enrolled in 1076
or attends that institution. 1077

(v) The actor is the victim's athletic or other type of 1078
coach, is the victim's instructor, is the leader of a scouting 1079
troop of which the victim is a member, or is a person with 1080
temporary or occasional disciplinary control over the victim. 1081

(vi) The actor is a mental health professional, the victim 1082
is a mental health client or patient of the actor, and the actor 1083
induces the victim to submit by falsely representing to the 1084
victim that the sexual contact involved in the violation is 1085
necessary for mental health treatment purposes. 1086

(vii) The actor is a licensed medical professional, the 1087
victim is a patient of the actor, and the sexual contact occurs 1088
in the course of medical treatment. 1089

(viii) The victim is confined in a detention facility, and 1090
the actor is an employee of that detention facility. 1091

~~(viii)~~ (ix) The actor is a cleric, and the victim is a 1092
member of, or attends, the church or congregation served by the 1093
cleric. 1094

(2) "Cleric" has the same meaning as in section 2317.02 of 1095
the Revised Code. 1096

(3) "Licensed medical professional" has the same meaning 1097
as in section 2907.01 of the Revised Code. 1098

(4) "Mental health client or patient" has the same meaning 1099

as in section 2305.51 of the Revised Code. 1100

~~(4)~~ (5) "Mental health professional" has the same meaning 1101
as in section 2305.115 of the Revised Code. 1102

~~(5)~~ (6) "Sexual contact" has the same meaning as in 1103
section 2907.01 of the Revised Code. 1104

~~(6)~~ (7) "Victim" means, except as provided in division (B) 1105
of this section, a victim of childhood sexual abuse. 1106

(B) Except as provided in section 2305.115 of the Revised 1107
Code and subject to division (C) of this section, an action for 1108
assault or battery shall be brought within one year after the 1109
cause of the action accrues. For purposes of this section, a 1110
cause of action for assault or battery accrues upon the later of 1111
the following: 1112

(1) The date on which the alleged assault or battery 1113
occurred; 1114

(2) If the plaintiff did not know the identity of the 1115
person who allegedly committed the assault or battery on the 1116
date on which it allegedly occurred, the earlier of the 1117
following dates: 1118

(a) The date on which the plaintiff learns the identity of 1119
that person; 1120

(b) The date on which, by the exercise of reasonable 1121
diligence, the plaintiff should have learned the identity of 1122
that person. 1123

(C) (1) Except as provided in division (C) (2) of this 1124
section, an action for assault or battery brought by a victim of 1125
childhood sexual abuse based on childhood sexual abuse, or an 1126
action brought by a victim of childhood sexual abuse asserting 1127

any claim resulting from childhood sexual abuse, shall be 1128
brought within twelve years after the cause of action accrues. 1129
If the defendant in an action brought by a victim of childhood 1130
sexual abuse asserting a claim resulting from childhood sexual 1131
abuse that occurs on or after August 3, 2006, has fraudulently 1132
concealed from the plaintiff facts that form the basis of the 1133
claim, the running of the limitations period with regard to that 1134
claim is tolled until the time when the plaintiff discovers or 1135
in the exercise of due diligence should have discovered those 1136
facts. 1137

(2) Only for purposes of making claims against a 1138
bankruptcy estate of an organization chartered under part B of 1139
subtitle II of Title 36 of the United States Code, an action for 1140
assault or battery brought by a victim of childhood sexual abuse 1141
based on childhood sexual abuse, or an action brought by a 1142
victim of childhood sexual abuse asserting any claim resulting 1143
from childhood sexual abuse, may be brought at any time after 1144
the cause of action accrues. 1145

(3) For purposes of this section, a cause of action for 1146
assault or battery based on childhood sexual abuse, or a cause 1147
of action for a claim resulting from childhood sexual abuse, 1148
accrues upon the date on which the victim reaches the age of 1149
majority. 1150

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and 1151
2917.211 of the Revised Code: 1152

(A) "Sexual conduct" means vaginal intercourse between a 1153
male and female; anal intercourse, fellatio, and cunnilingus 1154
between persons regardless of sex; and, without privilege to do 1155
so, the insertion, however slight, of any part of the body or 1156
any instrument, apparatus, or other object into the vaginal or 1157

anal opening of another. Penetration, however slight, is 1158
sufficient to complete vaginal or anal intercourse. 1159

(B) "Sexual contact" means any touching of an erogenous 1160
zone of another, including without limitation the thigh, 1161
genitals, buttock, pubic region, or, if the person is a female, 1162
a breast, for the purpose of sexually arousing or gratifying 1163
either person. 1164

(C) "Sexual activity" means sexual conduct or sexual 1165
contact, or both. 1166

(D) "Prostitute" means a male or female who promiscuously 1167
engages in sexual activity for hire, regardless of whether the 1168
hire is paid to the prostitute or to another. 1169

(E) "Harmful to juveniles" means that quality of any 1170
material or performance describing or representing nudity, 1171
sexual conduct, sexual excitement, or sado-masochistic abuse in 1172
any form to which all of the following apply: 1173

(1) The material or performance, when considered as a 1174
whole, appeals to the prurient interest of juveniles in sex. 1175

(2) The material or performance is patently offensive to 1176
prevailing standards in the adult community as a whole with 1177
respect to what is suitable for juveniles. 1178

(3) The material or performance, when considered as a 1179
whole, lacks serious literary, artistic, political, and 1180
scientific value for juveniles. 1181

(F) When considered as a whole, and judged with reference 1182
to ordinary adults or, if it is designed for sexual deviates or 1183
other specially susceptible group, judged with reference to that 1184
group, any material or performance is "obscene" if any of the 1185

following apply: 1186

(1) Its dominant appeal is to prurient interest; 1187

(2) Its dominant tendency is to arouse lust by displaying 1188
or depicting sexual activity, masturbation, sexual excitement, 1189
or nudity in a way that tends to represent human beings as mere 1190
objects of sexual appetite; 1191

(3) Its dominant tendency is to arouse lust by displaying 1192
or depicting bestiality or extreme or bizarre violence, cruelty, 1193
or brutality; 1194

(4) Its dominant tendency is to appeal to scatological 1195
interest by displaying or depicting human bodily functions of 1196
elimination in a way that inspires disgust or revulsion in 1197
persons with ordinary sensibilities, without serving any genuine 1198
scientific, educational, sociological, moral, or artistic 1199
purpose; 1200

(5) It contains a series of displays or descriptions of 1201
sexual activity, masturbation, sexual excitement, nudity, 1202
bestiality, extreme or bizarre violence, cruelty, or brutality, 1203
or human bodily functions of elimination, the cumulative effect 1204
of which is a dominant tendency to appeal to prurient or 1205
scatological interest, when the appeal to such an interest is 1206
primarily for its own sake or for commercial exploitation, 1207
rather than primarily for a genuine scientific, educational, 1208
sociological, moral, or artistic purpose. 1209

(G) "Sexual excitement" means the condition of human male 1210
or female genitals when in a state of sexual stimulation or 1211
arousal. 1212

(H) "Nudity" means the showing, representation, or 1213
depiction of human male or female genitals, pubic area, or 1214

buttocks with less than a full, opaque covering, or of a female 1215
breast with less than a full, opaque covering of any portion 1216
thereof below the top of the nipple, or of covered male genitals 1217
in a discernibly turgid state. 1218

(I) "Juvenile" means an unmarried person under the age of 1219
eighteen. 1220

(J) "Material" means any book, magazine, newspaper, 1221
pamphlet, poster, print, picture, figure, image, description, 1222
motion picture film, phonographic record, or tape, or other 1223
tangible thing capable of arousing interest through sight, 1224
sound, or touch and includes an image or text appearing on a 1225
computer monitor, television screen, liquid crystal display, or 1226
similar display device or an image or text recorded on a 1227
computer hard disk, computer floppy disk, compact disk, magnetic 1228
tape, or similar data storage device. 1229

(K) "Performance" means any motion picture, preview, 1230
trailer, play, show, skit, dance, or other exhibition performed 1231
before an audience. 1232

(L) "Spouse" means a person married to an offender at the 1233
time of an alleged offense, except that such person shall not be 1234
considered the spouse when any of the following apply: 1235

(1) When the parties have entered into a written 1236
separation agreement authorized by section 3103.06 of the 1237
Revised Code; 1238

(2) During the pendency of an action between the parties 1239
for annulment, divorce, dissolution of marriage, or legal 1240
separation; 1241

(3) In the case of an action for legal separation, after 1242
the effective date of the judgment for legal separation. 1243

(M) "Minor" means a person under the age of eighteen.	1244
(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.	1245 1246
(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.	1247 1248
(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.	1249 1250 1251
(Q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.	1252 1253 1254
(R) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.	1255 1256 1257
<u>(S) "Licensed medical professional" means any of the following medical professionals:</u>	1258 1259
<u>(1) A physician assistant licensed under Chapter 4730. of the Revised Code;</u>	1260 1261
<u>(2) 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>	1262 1263 1264
<u>(3) A massage therapist licensed under Chapter 4731. of the Revised Code.</u>	1265 1266
Sec. 2907.02. (A) (1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:	1267 1268 1269 1270

(a) For the purpose of preventing resistance, the offender 1271
substantially impairs the other person's judgment or control by 1272
administering any drug, intoxicant, or controlled substance to 1273
the other person surreptitiously or by force, threat of force, 1274
or deception. 1275

(b) The other person is less than thirteen years of age, 1276
whether or not the offender knows the age of the other person. 1277

(c) The other person's ability to resist or consent is 1278
substantially impaired because of a mental or physical condition 1279
or because of advanced age, and the offender knows or has 1280
reasonable cause to believe that the other person's ability to 1281
resist or consent is substantially impaired because of a mental 1282
or physical condition or because of advanced age. 1283

(d) The offender knows that the judgment or control of the 1284
other person is substantially impaired as a result of the 1285
influence of any drug or intoxicant administered to the other 1286
person with the other person's consent for the purpose of any 1287
kind of medical or dental examination, treatment, or surgery. 1288

(2) No person shall engage in sexual conduct with another 1289
when the offender purposely compels the other person to submit 1290
by force or threat of force. 1291

(B) Whoever violates this section is guilty of rape, a 1292
felony of the first degree. If the offender under division (A) 1293
(1)(a) of this section substantially impairs the other person's 1294
judgment or control by administering any controlled substance, 1295
as defined in section 3719.01 of the Revised Code, to the other 1296
person surreptitiously or by force, threat of force, or 1297
deception, the prison term imposed upon the offender shall be 1298
one of the definite prison terms prescribed for a felony of the 1299

first degree in division (A) (1) (b) of section 2929.14 of the Revised Code that is not less than five years, except that if the violation is committed on or after March 22, 2019, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed for a felony of the first degree in division (A) (1) (a) of section 2929.14 of the Revised Code that is not less than five years. Except as otherwise provided in this division, notwithstanding sections 2929.11 to 2929.14 of the Revised Code, an offender under division (A) (1) (b) of this section shall be sentenced to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division. If an offender under division (A) (1) (b) of this section previously has been convicted of or pleaded guilty to violating division (A) (1) (b) of this section or to violating an existing or former law of this state, another state, or the United States that is substantially similar to division (A) (1) (b) of this section, if the offender during or immediately after the commission of the offense caused serious

physical harm to the victim, or if the victim under division (A) 1332
(1) (b) of this section is less than ten years of age, in lieu of 1333
sentencing the offender to a prison term or term of life 1334
imprisonment pursuant to section 2971.03 of the Revised Code, 1335
except as otherwise provided in this division, the court may 1336
impose upon the offender a term of life without parole. If the 1337
court imposes a term of life without parole pursuant to this 1338
division, division (F) of section 2971.03 of the Revised Code 1339
applies, and the offender automatically is classified a tier III 1340
sex offender/child-victim offender, as described in that 1341
division. A court shall not impose a term of life without parole 1342
on an offender for rape if the offender was under eighteen years 1343
of age at the time of the offense. 1344

(C) A victim need not prove physical resistance to the 1345
offender in prosecutions under this section. 1346

(D) Evidence of specific instances of the victim's sexual 1347
activity, opinion evidence of the victim's sexual activity, and 1348
reputation evidence of the victim's sexual activity shall not be 1349
admitted under this section unless it involves evidence of the 1350
origin of semen, pregnancy, or sexually transmitted disease or 1351
infection, or the victim's past sexual activity with the 1352
offender, and only to the extent that the court finds that the 1353
evidence is material to a fact at issue in the case and that its 1354
inflammatory or prejudicial nature does not outweigh its 1355
probative value. 1356

Evidence of specific instances of the defendant's sexual 1357
activity, opinion evidence of the defendant's sexual activity, 1358
and reputation evidence of the defendant's sexual activity shall 1359
not be admitted under this section unless it involves evidence 1360
of the origin of semen, pregnancy, or sexually transmitted 1361

disease or infection, the defendant's past sexual activity with 1362
the victim, or is admissible against the defendant under section 1363
2945.59 of the Revised Code, and only to the extent that the 1364
court finds that the evidence is material to a fact at issue in 1365
the case and that its inflammatory or prejudicial nature does 1366
not outweigh its probative value. 1367

(E) Prior to taking testimony or receiving evidence of any 1368
sexual activity of the victim or the defendant in a proceeding 1369
under this section, the court shall resolve the admissibility of 1370
the proposed evidence in a hearing in chambers, which shall be 1371
held at or before preliminary hearing and not less than three 1372
days before trial, or for good cause shown during the trial. 1373

(F) Upon approval by the court, the victim may be 1374
represented by counsel in any hearing in chambers or other 1375
proceeding to resolve the admissibility of evidence. If the 1376
victim is indigent or otherwise is unable to obtain the services 1377
of counsel, the court, upon request, may appoint counsel to 1378
represent the victim without cost to the victim. 1379

(G) It is not a defense to a charge under division (A) (2) 1380
of this section that the offender and the victim were married or 1381
were cohabiting at the time of the commission of the offense. 1382

Sec. 2907.03. (A) No person shall engage in sexual ~~conduct~~ 1383
activity with another, not the spouse of the offender,; cause 1384
another, not the spouse of the offender, to engage in sexual 1385
activity with the offender; or cause two or more other persons 1386
to engage in sexual activity when any of the following apply: 1387

(1) The offender knowingly coerces the other person, or 1388
one of the other persons, to submit by any means that would 1389
prevent resistance by a person of ordinary resolution. 1390

(2) The offender knows that the other person's, or one of
the other persons', ability to appraise the nature of or control
the other person's own conduct is substantially impaired.

(3) The offender knows that the other person, or one of
the other persons, submits because the other person is unaware
that the act is being committed.

(4) The offender knows that the other person, or one of
the other persons, submits because the other person mistakenly
identifies the offender as the other person's spouse.

(5) The offender is the other person's, or one of the
other persons', natural or adoptive parent, or a stepparent, or
guardian, custodian, or person in loco parentis of the other
person.

(6) The other person, or one of the other persons, is in
custody of law or a patient in a hospital or other institution,
and the offender has supervisory or disciplinary authority over
the other person.

(7) The offender is a teacher, administrator, coach, or
other person in authority employed by or serving in a school for
which the director of education and workforce prescribes minimum
standards pursuant to division (D) of section 3301.07 of the
Revised Code, the other person, or one of the other persons, is
enrolled in or attends that school, and the offender is not
enrolled in and does not attend that school.

(8) The other person, or one of the other persons, is a
minor, the offender is a teacher, administrator, coach, or other
person in authority employed by or serving in an institution of
higher education, and the other person is enrolled in or attends
that institution.

(9) The other person, or one of the other persons, is a 1420
minor, and the offender is the other person's athletic or other 1421
type of coach, is the other person's instructor, is the leader 1422
of a scouting troop of which the other person is a member, or is 1423
a person with temporary or occasional disciplinary control over 1424
the other person. 1425

(10) The offender is a mental health professional, the 1426
other person, or one of the other persons, is a mental health 1427
client or patient of the offender, and the offender induces the 1428
other person to submit by falsely representing to the other 1429
person that the sexual ~~conduct~~ activity is necessary for mental 1430
health treatment purposes. 1431

(11) The offender is a licensed medical professional, the 1432
other person, or one of the other persons, is a patient of the 1433
offender, and the sexual activity occurs in the course of 1434
medical treatment. 1435

(12) The other person, or one of the other persons, is 1436
confined in a detention facility, and the offender is an 1437
employee of that detention facility. 1438

~~(12)~~ (13) The other person, or one of the other persons, 1439
is a minor, the offender is a cleric, and the other person is a 1440
member of, or attends, the church or congregation served by the 1441
cleric. 1442

~~(13)~~ (14) The other person, or one of the other persons, 1443
is a minor, the offender is a peace officer, and the offender is 1444
more than two years older than the other person. 1445

(B) Whoever violates this section is guilty of sexual 1446
battery. ~~Except~~ 1447

(1) If the sexual activity involved is sexual conduct, 1448

except as otherwise provided in this division, sexual battery is 1449
a felony of the third degree. If the other person, or one of the 1450
other persons, is ~~less than~~ thirteen years of age or over and 1451
less than eighteen years of age, sexual battery is a felony of 1452
the second degree, and the court shall impose upon the offender 1453
a mandatory prison term equal to one of the definite prison 1454
terms prescribed in division (A) (2) (b) of section 2929.14 of the 1455
Revised Code for a felony of the second degree, except that if 1456
the violation is committed on or after March 22, 2019, the court 1457
shall impose as the minimum prison term for the offense a 1458
mandatory prison term that is one of the minimum terms 1459
prescribed in division (A) (2) (a) of that section for a felony of 1460
the second degree. 1461

(2) If the sexual activity involved is sexual contact, 1462
except as otherwise provided in this division, sexual battery is 1463
a felony of the fifth degree. If the other person, or one of the 1464
other persons, is less than eighteen years of age, sexual 1465
battery is a felony of the fourth degree. 1466

(C) As used in this section: 1467

(1) "Cleric" has the same meaning as in section 2317.02 of 1468
the Revised Code. 1469

(2) "Detention facility" has the same meaning as in 1470
section 2921.01 of the Revised Code. 1471

(3) "Institution of higher education" means a state 1472
institution of higher education defined in section 3345.011 of 1473
the Revised Code, a private nonprofit college or university 1474
located in this state that possesses a certificate of 1475
authorization issued by the chancellor of higher education 1476
pursuant to Chapter 1713. of the Revised Code, or a school 1477

certified under Chapter 3332. of the Revised Code. 1478

(4) "Peace officer" has the same meaning as in section 1479
2935.01 of the Revised Code. 1480

(5) "Medical treatment" means in-person medical services 1481
provided by a licensed medical professional under the legal 1482
authority conferred by a license or certificate, including in- 1483
person examination, consultation, health care, treatment, 1484
procedure, surgery, or other in-person procedures. 1485

Sec. 2907.06. (A) No person shall have sexual contact with 1486
another, not the spouse of the offender; cause another, not the 1487
spouse of the offender, to have sexual contact with the 1488
offender; or cause two or more other persons to have sexual 1489
contact when ~~any of the following applies:~~ 1490

~~(1) The the offender knows that the sexual contact is 1491~~
~~offensive to the other person, or one of the other persons, or 1492~~
~~is reckless in that regard. 1493~~

~~(2) The offender knows that the other person's, or one of 1494~~
~~the other person's, ability to appraise the nature of or control 1495~~
~~the offender's or touching person's conduct is substantially 1496~~
~~impaired. 1497~~

~~(3) The offender knows that the other person, or one of 1498~~
~~the other persons, submits because of being unaware of the 1499~~
~~sexual contact. 1500~~

~~(4) The other person, or one of the other persons, is 1501~~
~~thirteen years of age or older but less than sixteen years of 1502~~
~~age, whether or not the offender knows the age of such person, 1503~~
~~and the offender is at least eighteen years of age and four or 1504~~
~~more years older than such other person. 1505~~

~~(5) The offender is a mental health professional, the
other person or one of the other persons is a mental health
client or patient of the offender, and the offender induces the
other person who is the client or patient to submit by falsely
representing to the other person who is the client or patient
that the sexual contact is necessary for mental health treatment
purposes.~~

(B) No person shall be convicted of a violation of this
section solely upon the victim's testimony unsupported by other
evidence.

(C) Whoever violates this section is guilty of sexual
imposition, a misdemeanor of the third degree. If the offender
previously has been convicted of or pleaded guilty to a
violation of this section or of section 2907.02, 2907.03,
2907.04, or 2907.05, or former section 2907.12 of the Revised
Code, a violation of this section is a misdemeanor of the first
degree. If the offender previously has been convicted of or
pleaded guilty to three or more violations of this section or
section 2907.02, 2907.03, 2907.04, or 2907.05, or former section
2907.12 of the Revised Code, or of any combination of those
sections, a violation of this section is a misdemeanor of the
first degree and, notwithstanding the range of jail terms
prescribed in section 2929.24 of the Revised Code, the court may
impose on the offender a definite jail term of not more than one
year.

Sec. 2907.17. If a mental health professional or a
licensed medical professional is indicted or charged and bound
over to the court of common pleas for trial for an alleged
violation of division (A) (10) or (11) of section 2907.03 ~~or~~
~~division (A) (5) of section 2907.06~~ of the Revised Code,

whichever is applicable, the prosecuting attorney handling the 1536
case shall send written notice of the indictment or the charge 1537
and bind over to the regulatory or licensing board or agency, if 1538
any, that has the administrative authority to suspend or revoke 1539
the mental health professional's or licensed medical 1540
professional's professional license, certification, 1541
registration, or authorization. 1542

Sec. 2907.18. If a mental health professional or a 1543
licensed medical professional is convicted of or pleads guilty 1544
to a violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1545
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1546
whichever is applicable, the court shall transmit a certified 1547
copy of the judgment entry of conviction to the regulatory or 1548
licensing board or agency, if any, that has the administrative 1549
authority to suspend or revoke the mental health professional's_ 1550
or licensed medical professional's professional license, 1551
certification, registration, or authorization. 1552

Sec. 2921.22. (A) (1) Except as provided in division (A) (2) 1553
of this section, no person, knowing that a felony has been or is 1554
being committed, shall knowingly fail to report such information 1555
to law enforcement authorities. 1556

(2) No person, knowing that a violation of division (B) of 1557
section 2913.04 of the Revised Code has been, or is being 1558
committed or that the person has received information derived 1559
from such a violation, shall knowingly fail to report the 1560
violation to law enforcement authorities. 1561

(B) Except for conditions that are within the scope of 1562
division (E) of this section, no person giving aid to a sick or 1563
injured person shall negligently fail to report to law 1564
enforcement authorities any gunshot or stab wound treated or 1565

observed by the person, or any serious physical harm to persons 1566
that the person knows or has reasonable cause to believe 1567
resulted from an offense of violence. 1568

(C) No person who discovers the body or acquires the first 1569
knowledge of the death of a person shall fail to report the 1570
death immediately to a physician or advanced practice registered 1571
nurse whom the person knows to be treating the deceased for a 1572
condition from which death at such time would not be unexpected, 1573
or to a law enforcement officer, an ambulance service, an 1574
emergency squad, or the coroner in a political subdivision in 1575
which the body is discovered, the death is believed to have 1576
occurred, or knowledge concerning the death is obtained. For 1577
purposes of this division, "advanced practice registered nurse" 1578
does not include a certified registered nurse anesthetist. 1579

(D) No person shall fail to provide upon request of the 1580
person to whom a report required by division (C) of this section 1581
was made, or to any law enforcement officer who has reasonable 1582
cause to assert the authority to investigate the circumstances 1583
surrounding the death, any facts within the person's knowledge 1584
that may have a bearing on the investigation of the death. 1585

(E) (1) As used in this division, "burn injury" means any 1586
of the following: 1587

(a) Second or third degree burns; 1588

(b) Any burns to the upper respiratory tract or laryngeal 1589
edema due to the inhalation of superheated air; 1590

(c) Any burn injury or wound that may result in death; 1591

(d) Any physical harm to persons caused by or as the 1592
result of the use of fireworks, novelties and trick noisemakers, 1593
and wire sparklers, as each is defined by section 3743.01 of the 1594

Revised Code. 1595

(2) No physician, nurse, physician assistant, or limited 1596
practitioner who, outside a hospital, sanitarium, or other 1597
medical facility, attends or treats a person who has sustained a 1598
burn injury that is inflicted by an explosion or other 1599
incendiary device or that shows evidence of having been 1600
inflicted in a violent, malicious, or criminal manner shall fail 1601
to report the burn injury immediately to the local arson, or 1602
fire and explosion investigation, bureau, if there is a bureau 1603
of this type in the jurisdiction in which the person is attended 1604
or treated, or otherwise to local law enforcement authorities. 1605

(3) No manager, superintendent, or other person in charge 1606
of a hospital, sanitarium, or other medical facility in which a 1607
person is attended or treated for any burn injury that is 1608
inflicted by an explosion or other incendiary device or that 1609
shows evidence of having been inflicted in a violent, malicious, 1610
or criminal manner shall fail to report the burn injury 1611
immediately to the local arson, or fire and explosion 1612
investigation, bureau, if there is a bureau of this type in the 1613
jurisdiction in which the person is attended or treated, or 1614
otherwise to local law enforcement authorities. 1615

(4) No person who is required to report any burn injury 1616
under division (E) (2) or (3) of this section shall fail to file, 1617
within three working days after attending or treating the 1618
victim, a written report of the burn injury with the office of 1619
the state fire marshal. The report shall comply with the uniform 1620
standard developed by the state fire marshal pursuant to 1621
division (A) (15) of section 3737.22 of the Revised Code. 1622

(5) Anyone participating in the making of reports under 1623
division (E) of this section or anyone participating in a 1624

judicial proceeding resulting from the reports is immune from 1625
any civil or criminal liability that otherwise might be incurred 1626
or imposed as a result of such actions. Notwithstanding section 1627
4731.22 of the Revised Code, the physician-patient relationship 1628
or advanced practice registered nurse-patient relationship is 1629
not a ground for excluding evidence regarding a person's burn 1630
injury or the cause of the burn injury in any judicial 1631
proceeding resulting from a report submitted under division (E) 1632
of this section. 1633

(F) (1) No person who knows that a licensed medical 1634
professional has committed an offense under Chapter 2907. of the 1635
Revised Code, a violation of a municipal ordinance that is 1636
substantially equivalent to such offense, or a substantially 1637
equivalent criminal offense in another jurisdiction, against a 1638
patient of the licensed medical professional shall fail to 1639
report such knowledge to law enforcement authorities within 1640
thirty days of obtaining the knowledge. 1641

(2) Except for a self-report or participation in the 1642
offense or violation being reported, any person who makes a 1643
report within the thirty-day period provided in division (F) (1) 1644
of this section or any person who participates in a judicial 1645
proceeding that results from such report is immune from civil or 1646
criminal liability that otherwise might be incurred or imposed 1647
as a result of making that report or participating in that 1648
proceeding so long as the person is acting in good faith without 1649
fraud or malice. 1650

(3) The physician-patient relationship or physician 1651
assistant-patient relationship is not a ground for excluding 1652
evidence regarding the person's knowledge of a licensed medical 1653
professional's commission of an offense or violation reported 1654

under division (F) (1) of this section, against that licensed 1655
medical professional in any judicial proceeding resulting from a 1656
report made under that division. 1657

(4) As used in division (F) of this section, "licensed 1658
medical professional" has the same meaning as in section 2907.01 1659
of the Revised Code. 1660

(G) (1) Any doctor of medicine or osteopathic medicine, 1661
hospital intern or resident, nurse, psychologist, social worker, 1662
independent social worker, social work assistant, licensed 1663
professional clinical counselor, licensed professional 1664
counselor, independent marriage and family therapist, or 1665
marriage and family therapist who knows or has reasonable cause 1666
to believe that a patient or client has been the victim of 1667
domestic violence, as defined in section 3113.31 of the Revised 1668
Code, shall note that knowledge or belief and the basis for it 1669
in the patient's or client's records. 1670

(2) Notwithstanding section 4731.22 of the Revised Code, 1671
the physician-patient privilege or advanced practice registered 1672
nurse-patient privilege shall not be a ground for excluding any 1673
information regarding the report containing the knowledge or 1674
belief noted under division ~~(F) (1)~~ (G) (1) of this section, and 1675
the information may be admitted as evidence in accordance with 1676
the Rules of Evidence. 1677

~~(G)~~ (H) Divisions (A) and (D) of this section do not 1678
require disclosure of information, when any of the following 1679
applies: 1680

(1) The information is privileged by reason of the 1681
relationship between attorney and client; physician and patient; 1682
advanced practice registered nurse and patient; licensed 1683

psychologist or licensed school psychologist and client; 1684
licensed professional clinical counselor, licensed professional 1685
counselor, independent social worker, social worker, independent 1686
marriage and family therapist, or marriage and family therapist 1687
and client; member of the clergy, rabbi, minister, or priest and 1688
any person communicating information confidentially to the 1689
member of the clergy, rabbi, minister, or priest for a religious 1690
counseling purpose of a professional character; husband and 1691
wife; or a communications assistant and those who are a party to 1692
a telecommunications relay service call. 1693

(2) The information would tend to incriminate a member of 1694
the actor's immediate family. 1695

(3) Disclosure of the information would amount to 1696
revealing a news source, privileged under section 2739.04 or 1697
2739.12 of the Revised Code. 1698

(4) Disclosure of the information would amount to 1699
disclosure by a member of the ordained clergy of an organized 1700
religious body of a confidential communication made to that 1701
member of the clergy in that member's capacity as a member of 1702
the clergy by a person seeking the aid or counsel of that member 1703
of the clergy. 1704

(5) Disclosure would amount to revealing information 1705
acquired by the actor in the course of the actor's duties in 1706
connection with a bona fide program of treatment or services for 1707
persons with drug dependencies or persons in danger of drug 1708
dependence, which program is maintained or conducted by a 1709
hospital, clinic, person, agency, or community addiction 1710
services provider whose alcohol and drug addiction services are 1711
certified pursuant to section 5119.36 of the Revised Code. 1712

(6) Disclosure would amount to revealing information 1713
acquired by the actor in the course of the actor's duties in 1714
connection with a bona fide program for providing counseling 1715
services to victims of crimes that are violations of section 1716
2907.02 or 2907.05 of the Revised Code or to victims of 1717
felonious sexual penetration in violation of former section 1718
2907.12 of the Revised Code. As used in this division, 1719
"counseling services" include services provided in an informal 1720
setting by a person who, by education or experience, is 1721
competent to provide those services. 1722

~~(H)~~ (I) No disclosure of information pursuant to this 1723
section gives rise to any liability or recrimination for a 1724
breach of privilege or confidence. 1725

~~(I)~~ (J) Whoever violates division (A) ~~or, (B), or (F) (1)~~ 1726
of this section is guilty of failure to report a crime. 1727
Violation of division (A) (1) or (F) (1) of this section is a 1728
misdemeanor of the fourth degree. Violation of division (A) (2) 1729
or (B) of this section is a misdemeanor of the second degree. 1730

~~(J)~~ (K) Whoever violates division (C) or (D) of this 1731
section is guilty of failure to report knowledge of a death, a 1732
misdemeanor of the fourth degree. 1733

~~(K) (1)~~ (L) (1) Whoever negligently violates division (E) of 1734
this section is guilty of a minor misdemeanor. 1735

(2) Whoever knowingly violates division (E) of this 1736
section is guilty of a misdemeanor of the second degree. 1737

~~(I)~~ (M) As used in this section, "nurse" includes an 1738
advanced practice registered nurse, registered nurse, and 1739
licensed practical nurse. 1740

Sec. 2929.42. (A) The prosecutor in any case against any 1741

person licensed, certified, registered, or otherwise authorized 1742
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1743
4731., 4734., ~~or~~ 4741., 4759., 4760., 4761., 4762., 4774., or 1744
4778. of the Revised Code shall notify the appropriate licensing 1745
board, on forms provided by the board, of any of the following 1746
regarding the person: 1747

(1) A plea of guilty to, or a conviction of, a felony, or 1748
a court order dismissing a felony charge on technical or 1749
procedural grounds; 1750

(2) A plea of guilty to, or a conviction of, a misdemeanor 1751
committed in the course of practice or in the course of 1752
business, or a court order dismissing such a misdemeanor charge 1753
on technical or procedural grounds; 1754

(3) A plea of guilty to, or a conviction of, a misdemeanor 1755
involving moral turpitude, or a court order dismissing such a 1756
charge on technical or procedural grounds. 1757

(B) The report required by division (A) of this section 1758
shall include the name and address of the person, the nature of 1759
the offense, and certified copies of court entries in the 1760
action. 1761

Sec. 2950.01. As used in this chapter, unless the context 1762
clearly requires otherwise: 1763

(A) "Sexually oriented offense" means any of the following 1764
violations or offenses committed by a person, regardless of the 1765
person's age: 1766

(1) A violation of section 2907.02, 2907.03, 2907.05, 1767
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 1768
2907.322, or 2907.323 of the Revised Code; 1769

(2) A violation of section 2907.04 of the Revised Code 1770
when the offender is less than four years older than the other 1771
person with whom the offender engaged in sexual conduct, the 1772
other person did not consent to the sexual conduct, and the 1773
offender previously has not been convicted of or pleaded guilty 1774
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1775
Revised Code or a violation of former section 2907.12 of the 1776
Revised Code; 1777

(3) A violation of section 2907.04 of the Revised Code 1778
when the offender is at least four years older than the other 1779
person with whom the offender engaged in sexual conduct or when 1780
the offender is less than four years older than the other person 1781
with whom the offender engaged in sexual conduct and the 1782
offender previously has been convicted of or pleaded guilty to a 1783
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1784
Code or a violation of former section 2907.12 of the Revised 1785
Code; 1786

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 1787
the Revised Code when the violation was committed with a sexual 1788
motivation; 1789

(5) A violation of division (A) of section 2903.04 of the 1790
Revised Code when the offender committed or attempted to commit 1791
the felony that is the basis of the violation with a sexual 1792
motivation; 1793

(6) A violation of division (A)(3) of section 2903.211 of 1794
the Revised Code; 1795

(7) A violation of division (A)(1), (2), (3), or (5) of 1796
section 2905.01 of the Revised Code when the offense is 1797
committed with a sexual motivation; 1798

(8) A violation of division (A) (4) of section 2905.01 of the Revised Code; 1799
1800

(9) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense; 1801
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(10) A violation of division (B) of section 2903.03, of division (B) of section 2905.02, of division (B) of section 2905.03, of division (B) of section 2905.05, or of division (B) (5) of section 2919.22 of the Revised Code; 1805
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(11) A violation of section 2905.32 of the Revised Code when either of the following applies: 1809
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(a) The violation is a violation of division (A) (1) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person knowing that the person would be compelled to engage in sexual activity for hire, engage in a performance that was obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that was obscene, sexually oriented, or nudity oriented. 1811
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(b) The violation is a violation of division (A) (2) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is less than eighteen years of age or is a person with a developmental disability whom the offender knows or has 1821
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reasonable cause to believe is a person with a developmental 1828
disability for any purpose listed in divisions (A) (2) (a) to (c) 1829
of that section. 1830

(12) A violation of division (B) (4) of section 2907.09 of 1831
the Revised Code if the sentencing court classifies the offender 1832
as a tier I sex offender/child-victim offender relative to that 1833
offense pursuant to division (D) of that section; 1834

(13) A violation of any former law of this state, any 1835
existing or former municipal ordinance or law of another state 1836
or the United States, any existing or former law applicable in a 1837
military court or in an Indian tribal court, or any existing or 1838
former law of any nation other than the United States that is or 1839
was substantially equivalent to any offense listed in division 1840
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or 1841
(12) of this section; 1842

(14) Any attempt to commit, conspiracy to commit, or 1843
complicity in committing any offense listed in division (A) (1), 1844
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 1845
(13) of this section. 1846

(B) (1) "Sex offender" means, subject to division (B) (2) of 1847
this section, a person who is convicted of, pleads guilty to, 1848
has been convicted of, has pleaded guilty to, is adjudicated a 1849
delinquent child for committing, or has been adjudicated a 1850
delinquent child for committing any sexually oriented offense. 1851

(2) "Sex offender" does not include a person who is 1852
convicted of, pleads guilty to, has been convicted of, has 1853
pleaded guilty to, is adjudicated a delinquent child for 1854
committing, or has been adjudicated a delinquent child for 1855
committing a sexually oriented offense if the offense involves 1856

consensual sexual conduct or consensual sexual contact and 1857
either of the following applies: 1858

(a) The victim of the sexually oriented offense was 1859
eighteen years of age or older and at the time of the sexually 1860
oriented offense was not under the custodial authority of the 1861
person who is convicted of, pleads guilty to, has been convicted 1862
of, has pleaded guilty to, is adjudicated a delinquent child for 1863
committing, or has been adjudicated a delinquent child for 1864
committing the sexually oriented offense. 1865

(b) The victim of the offense was thirteen years of age or 1866
older, and the person who is convicted of, pleads guilty to, has 1867
been convicted of, has pleaded guilty to, is adjudicated a 1868
delinquent child for committing, or has been adjudicated a 1869
delinquent child for committing the sexually oriented offense is 1870
not more than four years older than the victim. 1871

(c) "Child-victim oriented offense" means any of the 1872
following violations or offenses committed by a person, 1873
regardless of the person's age, when the victim is under 1874
eighteen years of age and is not a child of the person who 1875
commits the violation: 1876

(1) A violation of division (A)(1), (2), (3), or (5) of 1877
section 2905.01 of the Revised Code when the violation is not 1878
included in division (A)(7) of this section; 1879

(2) A violation of division (A) of section 2905.02, 1880
division (A) of section 2905.03, or division (A) of section 1881
2905.05 of the Revised Code; 1882

(3) A violation of any former law of this state, any 1883
existing or former municipal ordinance or law of another state 1884
or the United States, any existing or former law applicable in a 1885

military court or in an Indian tribal court, or any existing or 1886
former law of any nation other than the United States that is or 1887
was substantially equivalent to any offense listed in division 1888
(C) (1) or (2) of this section; 1889

(4) Any attempt to commit, conspiracy to commit, or 1890
complicity in committing any offense listed in division (C) (1), 1891
(2), or (3) of this section. 1892

(D) "Child-victim offender" means a person who is 1893
convicted of, pleads guilty to, has been convicted of, has 1894
pleaded guilty to, is adjudicated a delinquent child for 1895
committing, or has been adjudicated a delinquent child for 1896
committing any child-victim oriented offense. 1897

(E) "Tier I sex offender/child-victim offender" means any 1898
of the following: 1899

(1) A sex offender who is convicted of, pleads guilty to, 1900
has been convicted of, or has pleaded guilty to any of the 1901
following sexually oriented offenses: 1902

(a) A violation of section 2907.06, 2907.07, 2907.08, 1903
2907.22, or 2907.32 of the Revised Code; 1904

(b) A violation of section 2907.04 of the Revised Code 1905
when the offender is less than four years older than the other 1906
person with whom the offender engaged in sexual conduct, the 1907
other person did not consent to the sexual conduct, and the 1908
offender previously has not been convicted of or pleaded guilty 1909
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1910
Revised Code or a violation of former section 2907.12 of the 1911
Revised Code; 1912

(c) A violation of division (A) (1), (2), (3), or (5) of 1913
section 2907.05 of the Revised Code; 1914

(d) A violation of division (A) (3) of section 2907.323 of the Revised Code; 1915
1916

(e) A violation of division (A) (3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code; 1917
1918
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(f) A violation of division (B) (4) of section 2907.09 of the Revised Code if the sentencing court classifies the offender as a tier I sex offender/child-victim offender relative to that offense pursuant to division (D) of that section; 1920
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(g) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E) (1) (a), (b), (c), (d), (e), or (f) of this section; 1924
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(h) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E) (1) (a), (b), (c), (d), (e), (f), or (g) of this section. 1931
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(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F) (2) or (G) (2) of this section. 1934
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(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child- 1939
1940
1941
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1943

victim offender relative to the offense. 1944

(4) A child-victim offender who is adjudicated a 1945
delinquent child for committing or has been adjudicated a 1946
delinquent child for committing any child-victim oriented 1947
offense and who a juvenile court, pursuant to section 2152.82, 1948
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 1949
tier I sex offender/child-victim offender relative to the 1950
offense. 1951

(F) "Tier II sex offender/child-victim offender" means any 1952
of the following: 1953

(1) A sex offender who is convicted of, pleads guilty to, 1954
has been convicted of, or has pleaded guilty to any of the 1955
following sexually oriented offenses: 1956

(a) A violation of section 2907.21, 2907.321, or 2907.322 1957
of the Revised Code; 1958

(b) A violation of section 2907.04 of the Revised Code 1959
when the offender is at least four years older than the other 1960
person with whom the offender engaged in sexual conduct, or when 1961
the offender is less than four years older than the other person 1962
with whom the offender engaged in sexual conduct and the 1963
offender previously has been convicted of or pleaded guilty to a 1964
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1965
Code or former section 2907.12 of the Revised Code; 1966

(c) A violation of section 2907.03 of the Revised Code if 1967
the sexual activity involved is sexual contact; 1968

(d) A violation of division (A) (4) of section 2907.05 or 1969
of division (A) (1) or (2) of section 2907.323 of the Revised 1970
Code; 1971

(d) <u>(e)</u> A violation of division (A) (1), (2), (3), or (5)	1972
of section 2905.01 of the Revised Code when the offense is	1973
committed with a sexual motivation;	1974
(e) <u>(f)</u> A violation of division (A) (4) of section 2905.01	1975
of the Revised Code when the victim of the offense is eighteen	1976
years of age or older;	1977
(f) <u>(g)</u> A violation of division (B) of section 2905.02 or	1978
of division (B) (5) of section 2919.22 of the Revised Code;	1979
(g) <u>(h)</u> A violation of section 2905.32 of the Revised Code	1980
that is described in division (A) (11) (a) or (b) of this section;	1981
(h) <u>(i)</u> A violation of any former law of this state, any	1982
existing or former municipal ordinance or law of another state	1983
or the United States, any existing or former law applicable in a	1984
military court or in an Indian tribal court, or any existing or	1985
former law of any nation other than the United States that is or	1986
was substantially equivalent to any offense listed in division	1987
(F) (1) (a), (b), (c), (d), (e), (f), or (g) , <u>or (h)</u> of this	1988
section;	1989
(i) <u>(j)</u> Any attempt to commit, conspiracy to commit, or	1990
complicity in committing any offense listed in division (F) (1)	1991
(a), (b), (c), (d), (e), (f), (g), or (h) , <u>or (i)</u> of this	1992
section;	1993
(j) <u>(k)</u> Any sexually oriented offense that is committed	1994
after the sex offender previously has been convicted of, pleaded	1995
guilty to, or has been adjudicated a delinquent child for	1996
committing any sexually oriented offense or child-victim	1997
oriented offense for which the offender was classified a tier I	1998
sex offender/child-victim offender.	1999
(2) A child-victim offender who is convicted of, pleads	2000

guilty to, has been convicted of, or has pleaded guilty to any 2001
child-victim oriented offense when the child-victim oriented 2002
offense is committed after the child-victim offender previously 2003
has been convicted of, pleaded guilty to, or been adjudicated a 2004
delinquent child for committing any sexually oriented offense or 2005
child-victim oriented offense for which the offender was 2006
classified a tier I sex offender/child-victim offender. 2007

(3) A sex offender who is adjudicated a delinquent child 2008
for committing or has been adjudicated a delinquent child for 2009
committing any sexually oriented offense and who a juvenile 2010
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2011
of the Revised Code, classifies a tier II sex offender/child- 2012
victim offender relative to the offense. 2013

(4) A child-victim offender who is adjudicated a 2014
delinquent child for committing or has been adjudicated a 2015
delinquent child for committing any child-victim oriented 2016
offense and whom a juvenile court, pursuant to section 2152.82, 2017
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2018
tier II sex offender/child-victim offender relative to the 2019
current offense. 2020

(5) A sex offender or child-victim offender who is not in 2021
any category of tier II sex offender/child-victim offender set 2022
forth in division (F)(1), (2), (3), or (4) of this section, who 2023
prior to January 1, 2008, was adjudicated a delinquent child for 2024
committing a sexually oriented offense or child-victim oriented 2025
offense, and who prior to that date was determined to be a 2026
habitual sex offender or determined to be a habitual child- 2027
victim offender, unless either of the following applies: 2028

(a) The sex offender or child-victim offender is 2029
reclassified pursuant to section 2950.031 or 2950.032 of the 2030

Revised Code as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(b) A juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(G) "Tier III sex offender/child-victim offender" means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.02 of the Revised Code or a violation of section 2907.03 of the Revised Code if the sexual activity involved is sexual conduct;

(b) A violation of division (B) of section 2907.05 of the Revised Code;

(c) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;

(d) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(e) A violation of division (A) (4) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age;

(f) A violation of division (B) of section 2905.01 of the

Revised Code when the victim of the offense is under eighteen 2059
years of age and the offender is not a parent of the victim of 2060
the offense; 2061

(g) A violation of division (B) of section 2903.03 of the 2062
Revised Code; 2063

(h) A violation of any former law of this state, any 2064
existing or former municipal ordinance or law of another state 2065
or the United States, any existing or former law applicable in a 2066
military court or in an Indian tribal court, or any existing or 2067
former law of any nation other than the United States that is or 2068
was substantially equivalent to any offense listed in division 2069
(G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 2070

(i) Any attempt to commit, conspiracy to commit, or 2071
complicity in committing any offense listed in division (G) (1) 2072
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 2073

(j) Any sexually oriented offense that is committed after 2074
the sex offender previously has been convicted of, pleaded 2075
guilty to, or been adjudicated a delinquent child for committing 2076
any sexually oriented offense or child-victim oriented offense 2077
for which the offender was classified a tier II sex 2078
offender/child-victim offender or a tier III sex offender/child- 2079
victim offender. 2080

(2) A child-victim offender who is convicted of, pleads 2081
guilty to, has been convicted of, or has pleaded guilty to any 2082
child-victim oriented offense when the child-victim oriented 2083
offense is committed after the child-victim offender previously 2084
has been convicted of, pleaded guilty to, or been adjudicated a 2085
delinquent child for committing any sexually oriented offense or 2086
child-victim oriented offense for which the offender was 2087

classified a tier II sex offender/child-victim offender or a 2088
tier III sex offender/child-victim offender. 2089

(3) A sex offender who is adjudicated a delinquent child 2090
for committing or has been adjudicated a delinquent child for 2091
committing any sexually oriented offense and who a juvenile 2092
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2093
of the Revised Code, classifies a tier III sex offender/child- 2094
victim offender relative to the offense. 2095

(4) A child-victim offender who is adjudicated a 2096
delinquent child for committing or has been adjudicated a 2097
delinquent child for committing any child-victim oriented 2098
offense and whom a juvenile court, pursuant to section 2152.82, 2099
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2100
tier III sex offender/child-victim offender relative to the 2101
current offense. 2102

(5) A sex offender or child-victim offender who is not in 2103
any category of tier III sex offender/child-victim offender set 2104
forth in division (G) (1), (2), (3), or (4) of this section, who 2105
prior to January 1, 2008, was convicted of or pleaded guilty to 2106
a sexually oriented offense or child-victim oriented offense or 2107
was adjudicated a delinquent child for committing a sexually 2108
oriented offense or child-victim oriented offense and classified 2109
a juvenile offender registrant, and who prior to that date was 2110
adjudicated a sexual predator or adjudicated a child-victim 2111
predator, unless either of the following applies: 2112

(a) The sex offender or child-victim offender is 2113
reclassified pursuant to section 2950.031 or 2950.032 of the 2114
Revised Code as a tier I sex offender/child-victim offender or a 2115
tier II sex offender/child-victim offender relative to the 2116
offense. 2117

(b) The sex offender or child-victim offender is a 2118
delinquent child, and a juvenile court, pursuant to section 2119
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 2120
classifies the child a tier I sex offender/child-victim offender 2121
or a tier II sex offender/child-victim offender relative to the 2122
offense. 2123

(6) A sex offender who is convicted of, pleads guilty to, 2124
was convicted of, or pleaded guilty to a sexually oriented 2125
offense, if the sexually oriented offense and the circumstances 2126
in which it was committed are such that division (F) of section 2127
2971.03 of the Revised Code automatically classifies the 2128
offender as a tier III sex offender/child-victim offender; 2129

(7) A sex offender or child-victim offender who is 2130
convicted of, pleads guilty to, was convicted of, pleaded guilty 2131
to, is adjudicated a delinquent child for committing, or was 2132
adjudicated a delinquent child for committing a sexually 2133
oriented offense or child-victim offense in another state, in a 2134
federal court, military court, or Indian tribal court, or in a 2135
court in any nation other than the United States if both of the 2136
following apply: 2137

(a) Under the law of the jurisdiction in which the 2138
offender was convicted or pleaded guilty or the delinquent child 2139
was adjudicated, the offender or delinquent child is in a 2140
category substantially equivalent to a category of tier III sex 2141
offender/child-victim offender described in division (G)(1), 2142
(2), (3), (4), (5), or (6) of this section. 2143

(b) Subsequent to the conviction, plea of guilty, or 2144
adjudication in the other jurisdiction, the offender or 2145
delinquent child resides, has temporary domicile, attends school 2146
or an institution of higher education, is employed, or intends 2147

to reside in this state in any manner and for any period of time 2148
that subjects the offender or delinquent child to a duty to 2149
register or provide notice of intent to reside under section 2150
2950.04 or 2950.041 of the Revised Code. 2151

(H) "Confinement" includes, but is not limited to, a 2152
community residential sanction imposed pursuant to section 2153
2929.16 or 2929.26 of the Revised Code. 2154

(I) "Prosecutor" has the same meaning as in section 2155
2935.01 of the Revised Code. 2156

(J) "Supervised release" means a release of an offender 2157
from a prison term, a term of imprisonment, or another type of 2158
confinement that satisfies either of the following conditions: 2159

(1) The release is on parole, a conditional pardon, under 2160
a community control sanction, under transitional control, or 2161
under a post-release control sanction, and it requires the 2162
person to report to or be supervised by a parole officer, 2163
probation officer, field officer, or another type of supervising 2164
officer. 2165

(2) The release is any type of release that is not 2166
described in division (J)(1) of this section and that requires 2167
the person to report to or be supervised by a probation officer, 2168
a parole officer, a field officer, or another type of 2169
supervising officer. 2170

(K) "Sexually violent predator specification," "sexually 2171
violent predator," "sexually violent offense," "sexual 2172
motivation specification," "designated homicide, assault, or 2173
kidnapping offense," and "violent sex offense" have the same 2174
meanings as in section 2971.01 of the Revised Code. 2175

(L) "Post-release control sanction" and "transitional 2176

control" have the same meanings as in section 2967.01 of the Revised Code.

(M) "Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense, who is fourteen years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under section 2152.82, 2152.83, 2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a juvenile offender registrant and specifies has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code. "Juvenile offender registrant" includes a person who prior to January 1, 2008, was a "juvenile offender registrant" under the definition of the term in existence prior to January 1, 2008, and a person who prior to July 31, 2003, was a "juvenile sex offender registrant" under the former definition of that former term.

(N) "Public registry-qualified juvenile offender registrant" means a person who is adjudicated a delinquent child and on whom a juvenile court has imposed a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code before, on, or after January 1, 2008, and to whom all of the following apply:

(1) The person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing one of the following acts:

(a) A violation of section 2907.02 of the Revised Code, division (B) of section 2907.05 of the Revised Code, or section 2907.03 of the Revised Code if the victim of the violation was less than twelve years of age;

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 2207
the Revised Code that was committed with a purpose to gratify 2208
the sexual needs or desires of the child; 2209

(c) A violation of division (B) of section 2903.03 of the 2210
Revised Code. 2211

(2) The person was fourteen, fifteen, sixteen, or 2212
seventeen years of age at the time of committing the act. 2213

(3) A juvenile court judge, pursuant to an order issued 2214
under section 2152.86 of the Revised Code, classifies the person 2215
a juvenile offender registrant, specifies the person has a duty 2216
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2217
Revised Code, and classifies the person a public registry- 2218
qualified juvenile offender registrant, and the classification 2219
of the person as a public registry-qualified juvenile offender 2220
registrant has not been terminated pursuant to division (D) of 2221
section 2152.86 of the Revised Code. 2222

(O) "Secure facility" means any facility that is designed 2223
and operated to ensure that all of its entrances and exits are 2224
locked and under the exclusive control of its staff and to 2225
ensure that, because of that exclusive control, no person who is 2226
institutionalized or confined in the facility may leave the 2227
facility without permission or supervision. 2228

(P) "Out-of-state juvenile offender registrant" means a 2229
person who is adjudicated a delinquent child in a court in 2230
another state, in a federal court, military court, or Indian 2231
tribal court, or in a court in any nation other than the United 2232
States for committing a sexually oriented offense or a child- 2233
victim oriented offense, who on or after January 1, 2002, moves 2234
to and resides in this state or temporarily is domiciled in this 2235

state for more than five days, and who has a duty under section 2236
2950.04 or 2950.041 of the Revised Code to register in this 2237
state and the duty to otherwise comply with that applicable 2238
section and sections 2950.05 and 2950.06 of the Revised Code. 2239
"Out-of-state juvenile offender registrant" includes a person 2240
who prior to January 1, 2008, was an "out-of-state juvenile 2241
offender registrant" under the definition of the term in 2242
existence prior to January 1, 2008, and a person who prior to 2243
July 31, 2003, was an "out-of-state juvenile sex offender 2244
registrant" under the former definition of that former term. 2245

(Q) "Juvenile court judge" includes a magistrate to whom 2246
the juvenile court judge confers duties pursuant to division (A) 2247
(15) of section 2151.23 of the Revised Code. 2248

(R) "Adjudicated a delinquent child for committing a 2249
sexually oriented offense" includes a child who receives a 2250
serious youthful offender dispositional sentence under section 2251
2152.13 of the Revised Code for committing a sexually oriented 2252
offense. 2253

(S) "School" and "school premises" have the same meanings 2254
as in section 2925.01 of the Revised Code. 2255

(T) "Residential premises" means the building in which a 2256
residential unit is located and the grounds upon which that 2257
building stands, extending to the perimeter of the property. 2258
"Residential premises" includes any type of structure in which a 2259
residential unit is located, including, but not limited to, 2260
multi-unit buildings and mobile and manufactured homes. 2261

(U) "Residential unit" means a dwelling unit for 2262
residential use and occupancy, and includes the structure or 2263
part of a structure that is used as a home, residence, or 2264

sleeping place by one person who maintains a household or two or more persons who maintain a common household. "Residential unit" does not include a halfway house or a community-based correctional facility.

(V) "Multi-unit building" means a building in which is located more than twelve residential units that have entry doors that open directly into the unit from a hallway that is shared with one or more other units. A residential unit is not considered located in a multi-unit building if the unit does not have an entry door that opens directly into the unit from a hallway that is shared with one or more other units or if the unit is in a building that is not a multi-unit building as described in this division.

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

(X) "Halfway house" and "community-based correctional facility" have the same meanings as in section 2929.01 of the Revised Code.

(Y) A person is in a "restricted offender category" if both of the following apply with respect to the person:

(1) The person has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense where the victim was under the age of eighteen or a child-victim oriented offense.

(2) With respect to the offense described in division (Y) (1) of this section, one of the following applies:

(a) With respect to that offense, the person is a tier II sex offender/child-victim offender or is a tier III sex offender/child-victim offender who is subject to the duties

imposed by sections 2950.04, 2950.041, 2950.05, and 2950.06 of 2294
the Revised Code. 2295

(b) With respect to that offense if it was committed prior 2296
to January 1, 2008, under the version of Chapter 2950. of the 2297
Revised Code in effect prior to January 1, 2008, the person was 2298
adjudicated a sexual predator, was adjudicated a child-victim 2299
predator, was classified a habitual sex offender, or was 2300
classified a habitual child-victim sex offender. 2301

(Z) "Adjudicated a sexual predator," "adjudicated a child- 2302
victim predator," "habitual sex offender," and "habitual child- 2303
victim offender" have the meanings of those terms that applied 2304
to them under Chapter 2950. of the Revised Code prior to January 2305
1, 2008. 2306

Sec. 2950.151. (A) As used in this section, "eligible 2307
offender" means either of the following: 2308

(1) An offender who was convicted of or pleaded guilty to 2309
a violation of section 2907.04 of the Revised Code to whom all 2310
of the following apply: 2311

(a) The sentencing court found the offender to be at low 2312
risk of reoffending based on a presentence investigation report 2313
that included a risk assessment, assessed by the single 2314
validated risk assessment tool selected by the department of 2315
rehabilitation and correction under section 5120.114 of the 2316
Revised Code; 2317

(b) The sentencing court imposed a community control 2318
sanction or combination of community control sanctions instead 2319
of a prison term and the offender has fulfilled every condition 2320
of every community control sanction imposed by the sentencing 2321
court; 2322

(c) The offender was under twenty-one years of age at the 2323
time of committing the offense; 2324

(d) The offender has not otherwise been convicted of or 2325
pleaded guilty to another violation of section 2907.04 of the 2326
Revised Code or any sexually oriented offense or child-victim 2327
oriented offense other than the violation of section 2907.04 of 2328
the Revised Code; 2329

(e) The minor with whom the offender engaged in sexual 2330
conduct was at least fourteen years of age at the time of the 2331
offense and consented to the sexual conduct, with no evidence of 2332
coercion, force, or threat of force; 2333

(f) The offender was not in a position of authority, 2334
including a position of a type described in divisions (A) (5) to 2335
~~(13)~~ (14) of section 2907.03 of the Revised Code, over the minor 2336
with whom the offender engaged in sexual conduct. 2337

(2) An offender who was convicted of or pleaded guilty to 2338
a violation of any former law of this state, any existing or 2339
former municipal ordinance or law of another state or the United 2340
States, any existing or former law applicable in a military 2341
court or in an Indian trial court, or any existing or former law 2342
of any nation other than the United States that is or was 2343
substantially equivalent to a violation of section 2907.04 of 2344
the Revised Code and to whom all of the factors described in 2345
divisions (A) (1) (a) to (f) of this section apply. For purposes 2346
of this division: 2347

(a) The reference in division (A) (1) (b) of this section to 2348
a community control sanction shall be construed as including 2349
nonprison sanctions under the law of the jurisdiction in which 2350
the offender was convicted of or pleaded guilty to the violation 2351

that is or was substantially equivalent to a violation of 2352
section 2907.04 of the Revised Code; 2353

(b) The reference in division (A) (1) (d) of this section to 2354
the violations specified in that division shall be construed as 2355
including substantially equivalent violations under the law of 2356
the jurisdiction in which the offender was convicted of or 2357
pleaded guilty to the violation that is or was substantially 2358
equivalent to a violation of section 2907.04 of the Revised 2359
Code. 2360

(B) Upon completion of all community control sanctions 2361
imposed by the sentencing court for the violation of section 2362
2907.04 of the Revised Code or the violation of the 2363
substantially equivalent law or ordinance, whichever is 2364
applicable, an eligible offender may petition the appropriate 2365
court specified in division (C) of this section to review the 2366
effectiveness of the offender's participation in community 2367
control sanctions and to determine whether to terminate the 2368
offender's duty to comply with sections 2950.04, 2950.05, and 2369
2950.06 of the Revised Code, reclassify the offender as a tier I 2370
sex offender/child-victim offender, or continue the offender's 2371
current classification. 2372

(C) Except as otherwise provided in this division, the 2373
eligible offender shall file the petition described in division 2374
(B) of this section in the court in which the eligible offender 2375
was convicted of or pleaded guilty to the offense. If the 2376
eligible offender was convicted of or pleaded guilty to the 2377
offense in a jurisdiction other than this state, the eligible 2378
offender shall file the petition in whichever of the following 2379
courts is applicable: 2380

(1) If the eligible offender is a resident of this state, 2381

in the court of common pleas of the county in which the offender
resides; 2382
2383

(2) If the eligible offender is not a resident of this 2384
state, in the court of common pleas of the county in which the 2385
offender has registered pursuant to section 2950.04 of the 2386
Revised Code. If the offender has registered addresses of that 2387
nature in more than one county, the offender may file a petition 2388
in the court of only one of those counties. 2389

(D) An eligible offender who files a petition under 2390
division (B) of this section shall include all of the following 2391
with the petition: 2392

(1) A certified copy of the judgment entry and any other 2393
documentation of the sentence given for the offense for which 2394
the eligible offender was convicted or pleaded guilty; 2395

(2) Documentation of the date of discharge from probation 2396
supervision or other supervision, if applicable; 2397

(3) Evidence that the eligible offender has completed a 2398
sex offender treatment program certified by the department of 2399
rehabilitation and correction pursuant to section 2950.16 of the 2400
Revised Code in the county where the offender was sentenced if 2401
the completion of such a program is ordered by the court, or, if 2402
completion of such a program is ordered by the court and such a 2403
program is not available in the county of sentencing, in another 2404
county; 2405

(4) Any other evidence necessary to show that the offender 2406
meets the qualifications listed in division (A) of this section; 2407

(5) Evidence that the eligible offender has been 2408
rehabilitated to a satisfactory degree by successful completion 2409
of community control sanctions. 2410

(E) An eligible offender may obtain, at the offender's 2411
expense, a risk assessment or professional opinion, recommending 2412
relief under this section, from a licensed clinical 2413
psychologist, social worker, or other professional certified in 2414
sex offender treatment. The professional opinion or risk 2415
assessment may be submitted with the petition as additional 2416
evidence of rehabilitation. 2417

(F) Upon the filing of a petition under division (B) of 2418
this section, the court shall schedule a hearing to review the 2419
eligible offender's petition and all evidence of rehabilitation 2420
accompanying the petition. The court shall notify the offender 2421
and the prosecutor of the county in which the petition is filed 2422
of the date, time, and place of the hearing. Upon receipt of the 2423
notice, the prosecutor shall notify the victim of the date, 2424
time, and place of the hearing. The victim may submit a written 2425
statement to the prosecutor regarding any knowledge the victim 2426
has of the eligible offender's conduct while subject to the 2427
duties imposed by sections 2950.04, 2950.05, and 2950.06 of the 2428
Revised Code. At least seven days before the hearing date, the 2429
prosecutor may file an objection to the petition with the court 2430
and serve a copy of the objection to the petition on the 2431
eligible offender or the eligible offender's attorney. In 2432
addition to considering the evidence and information included 2433
with the petition as described in division (D) of this section 2434
and any risk assessment or professional opinion submitted as 2435
described in division (E) of this section, in determining the 2436
type of order to enter in response to the petition, the court 2437
shall consider any objections submitted by the prosecutor and 2438
any written statement submitted by the victim. After the 2439
hearing, the court shall enter one of the following orders: 2440

(1) An order to terminate the offender's duty to comply 2441

with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 2442

(2) If the offender is classified a tier II sex 2443
offender/child-victim offender, an order to reclassify the 2444
offender from a tier II sex offender/child-victim offender 2445
classification to a tier I sex offender/child-victim offender 2446
classification; 2447

(3) If the offender is classified a tier I sex 2448
offender/child-victim offender or a tier II sex offender/child- 2449
victim offender, an order to continue the offender's 2450
classification as a tier I sex offender/child-victim offender or 2451
tier II sex offender/child-victim offender, whichever is 2452
applicable, required to comply with sections 2950.04, 2950.05, 2453
and 2950.06 of the Revised Code. 2454

(G) After issuing an order pursuant to division (F) of 2455
this section, the court shall provide a copy of the order to the 2456
eligible offender and the bureau of criminal identification and 2457
investigation. The bureau, upon receipt of the copy, shall 2458
promptly notify the sheriff with whom the offender most recently 2459
registered under section 2950.04 or 2950.05 of the Revised Code 2460
of the court's order. 2461

(H) (1) An order issued under division (F) (2) or (3) of 2462
this section shall remain in effect for the duration of the 2463
eligible offender's duty to comply with sections 2950.04, 2464
2950.05, and 2950.06 of the Revised Code under the 2465
reclassification or continuation, whichever is applicable, as 2466
specified in section 2950.07 of the Revised Code, except that an 2467
eligible offender may refile a petition under this section at 2468
the time prescribed under division (H) (2) of this section. An 2469
order issued under division (F) (2) or (3) of this section shall 2470
not increase the duration of the offender's duty to comply with 2471

sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2472

(2) After the eligible offender's initial petition filed 2473
under this section, if the court entered an order continuing the 2474
offender's classification or reclassifying the offender, the 2475
offender may file a second petition not earlier than three years 2476
after the court entered the first order. After the second 2477
petition, the offender may file one subsequent petition not 2478
earlier than five years after the most recent order continuing 2479
the offender's classification or reclassifying the offender. A 2480
petition filed under this division shall comply with the 2481
requirements described in divisions (C), (D), and (E) of this 2482
section. 2483

(3) Upon the filing of a second or subsequent petition by 2484
an eligible offender pursuant to division (H) (2) of this 2485
section, the court shall schedule a hearing to review any 2486
previous order entered under this section, consider all of the 2487
documents previously submitted, and evaluate any new evidence of 2488
rehabilitation presented with the petition. The court shall 2489
notify the offender and the prosecutor of the county in which 2490
the petition is filed of the date, time, and place of the 2491
hearing. Upon receipt of the notice, the prosecutor shall notify 2492
the victim of the date, time, and place of the hearing. The 2493
victim may submit a written statement to the prosecutor 2494
regarding any knowledge the victim has of the eligible 2495
offender's conduct while subject to the duties imposed by 2496
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At 2497
least seven days before the hearing date, the prosecutor may 2498
file an objection to the petition with the court and serve a 2499
copy of the objection to the petition on the eligible offender 2500
or the eligible offender's attorney. In addition to reviewing 2501
any previous order, considering the documents previously 2502

submitted, and evaluating any new evidence of rehabilitation 2503
presented with the petition as described in this division, in 2504
determining whether to deny the petition or the type of order to 2505
enter in response to the petition, the court shall consider any 2506
objections submitted by the prosecutor and any written statement 2507
submitted by the victim. After the hearing on the petition, the 2508
court may deny the petition or enter either of the following 2509
orders: 2510

(a) If the previous order continued the offender's 2511
classification as a tier II sex offender/child-victim offender, 2512
an order to reclassify the offender as a tier I sex 2513
offender/child-victim offender or terminate the offender's duty 2514
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2515
Revised Code; 2516

(b) If the previous order reclassified the offender as a 2517
tier I sex offender/child-victim offender or continued the 2518
offender's classification as a tier I sex offender/child-victim 2519
offender, an order to terminate the offender's duty to comply 2520
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2521

Sec. 2971.01. As used in this chapter: 2522

(A) "Mandatory prison term" has the same meaning as in 2523
section 2929.01 of the Revised Code. 2524

(B) "Designated homicide, assault, or kidnapping offense" 2525
means any of the following: 2526

(1) A violation of section 2903.01, 2903.02, 2903.11, or 2527
2905.01 of the Revised Code or a violation of division (A) of 2528
section 2903.04 of the Revised Code; 2529

(2) An attempt to commit or complicity in committing a 2530
violation listed in division (B)(1) of this section, if the 2531

attempt or complicity is a felony.	2532
(C) "Examiner" has the same meaning as in section 2945.371 of the Revised Code.	2533 2534
(D) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	2535 2536
(E) "Prosecuting attorney" means the prosecuting attorney who prosecuted the case of the offender in question or the successor in office to that prosecuting attorney.	2537 2538 2539
(F) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	2540 2541 2542
(G) "Sexually violent offense" means any of the following:	2543
(1) A violent sex offense;	2544
(2) A designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.	2545 2546
(H) (1) "Sexually violent predator" means a person who, on or after January 1, 1997, commits a sexually violent offense and is likely to engage in the future in one or more sexually violent offenses.	2547 2548 2549 2550
(2) For purposes of division (H) (1) of this section, any of the following factors may be considered as evidence tending to indicate that there is a likelihood that the person will engage in the future in one or more sexually violent offenses:	2551 2552 2553 2554
(a) The person has been convicted two or more times, in separate criminal actions, of a sexually oriented offense or a child-victim oriented offense. For purposes of this division, convictions that result from or are connected with the same act	2555 2556 2557 2558

or result from offenses committed at the same time are one 2559
conviction, and a conviction set aside pursuant to law is not a 2560
conviction. 2561

(b) The person has a documented history from childhood, 2562
into the juvenile developmental years, that exhibits sexually 2563
deviant behavior. 2564

(c) Available information or evidence suggests that the 2565
person chronically commits offenses with a sexual motivation. 2566

(d) The person has committed one or more offenses in which 2567
the person has tortured or engaged in ritualistic acts with one 2568
or more victims. 2569

(e) The person has committed one or more offenses in which 2570
one or more victims were physically harmed to the degree that 2571
the particular victim's life was in jeopardy. 2572

(f) Any other relevant evidence. 2573

(I) "Sexually violent predator specification" means a 2574
specification, as described in section 2941.148 of the Revised 2575
Code, that charges that a person charged with a violent sex 2576
offense, or a person charged with a designated homicide, 2577
assault, or kidnapping offense and a sexual motivation 2578
specification, is a sexually violent predator. 2579

(J) "Sexual motivation" means a purpose to gratify the 2580
sexual needs or desires of the offender. 2581

(K) "Sexual motivation specification" means a 2582
specification, as described in section 2941.147 of the Revised 2583
Code, that charges that a person charged with a designated 2584
homicide, assault, or kidnapping offense committed the offense 2585
with a sexual motivation. 2586

(L) "Violent sex offense" means any of the following:	2587
(1) A violation of section 2907.02, 2907.03 <u>if the sexual activity involved is sexual conduct</u> , or 2907.12 or of division (A) (4) or (B) of section 2907.05 of the Revised Code;	2588 2589 2590
(2) A felony violation of a former law of this state that is substantially equivalent to a violation listed in division (L) (1) of this section or of an existing or former law of the United States or of another state that is substantially equivalent to a violation listed in division (L) (1) of this section;	2591 2592 2593 2594 2595 2596
(3) An attempt to commit or complicity in committing a violation listed in division (L) (1) or (2) of this section if the attempt or complicity is a felony.	2597 2598 2599
Sec. 3107.07. Consent to adoption is not required of any of the following:	2600 2601
(A) A parent of a minor, when it is alleged in the adoption petition and the court, after proper service of notice and hearing, finds by clear and convincing evidence that the parent has failed without justifiable cause to provide more than de minimis contact with the minor or to provide for the maintenance and support of the minor as required by law or judicial decree for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner.	2602 2603 2604 2605 2606 2607 2608 2609 2610
(B) The putative father of a minor if either of the following applies:	2611 2612
(1) The putative father fails to register as the minor's putative father with the putative father registry established under section 3107.062 of the Revised Code not later than	2613 2614 2615

fifteen days after the minor's birth; 2616

(2) The court finds, after proper service of notice and 2617
hearing, that any of the following are the case: 2618

(a) The putative father is not the father of the minor; 2619

(b) The putative father has willfully abandoned or failed 2620
to care for and support the minor; 2621

(c) The putative father has willfully abandoned the mother 2622
of the minor during her pregnancy and up to the time of her 2623
surrender of the minor, or the minor's placement in the home of 2624
the petitioner, whichever occurs first. 2625

(C) Except as provided in section 3107.071 of the Revised 2626
Code, a parent who has entered into a voluntary permanent 2627
custody surrender agreement under division (B) of section 2628
5103.15 of the Revised Code; 2629

(D) A parent whose parental rights have been terminated by 2630
order of a juvenile court under Chapter 2151. of the Revised 2631
Code; 2632

(E) A parent who is married to the petitioner and supports 2633
the adoption; 2634

(F) The father, putative father, or mother, of a minor if 2635
the minor is conceived as the result of the commission of rape 2636
or sexual battery by the father, putative father, or mother and 2637
the father, putative father, or mother is convicted of or pleads 2638
guilty to the commission of that offense. As used in this 2639
division, "rape" means a violation of section 2907.02 of the 2640
Revised Code or a similar law of another state and "sexual 2641
battery" means a violation of section 2907.03 of the Revised 2642
Code if the sexual activity involved is sexual conduct, or a 2643

similar law of another state. 2644

(G) A legal guardian or guardian ad litem of a parent 2645
judicially declared incompetent in a separate court proceeding 2646
who has failed to respond in writing to a request for consent, 2647
for a period of thirty days, or who, after examination of the 2648
written reasons for withholding consent, is found by the court 2649
to be withholding consent unreasonably; 2650

(H) Any legal guardian or lawful custodian of the person 2651
to be adopted, other than a parent, who has failed to respond in 2652
writing to a request for consent, for a period of thirty days, 2653
or who, after examination of the written reasons for withholding 2654
consent, is found by the court to be withholding consent 2655
unreasonably; 2656

(I) The spouse of the person to be adopted, if the failure 2657
of the spouse to consent to the adoption is found by the court 2658
to be by reason of prolonged unexplained absence, 2659
unavailability, incapacity, or circumstances that make it 2660
impossible or unreasonably difficult to obtain the consent or 2661
refusal of the spouse; 2662

(J) Any parent, legal guardian, or other lawful custodian 2663
in a foreign country, if the person to be adopted has been 2664
released for adoption pursuant to the laws of the country in 2665
which the person resides and the release of such person is in a 2666
form that satisfies the requirements of the immigration and 2667
naturalization service of the United States department of 2668
justice for purposes of immigration to the United States 2669
pursuant to section 101(b)(1)(F) of the "Immigration and 2670
Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101(b)(1)(F), 2671
as amended or reenacted. 2672

(K) Except as provided in divisions (G) and (H) of this section, a juvenile court, agency, or person given notice of the petition pursuant to division (A) (1) of section 3107.11 of the Revised Code that fails to file an objection to the petition within fourteen days after proof is filed pursuant to division (B) of that section that the notice was given;

(L) Any guardian, custodian, or other party who has temporary custody of the child.

Sec. 3109.50. As used in sections 3109.501 to 3109.507 of the Revised Code:

(A) "Parental rights" means parental rights and responsibilities, parenting time, or any other similar right established by the laws of this state with respect to a child. "Parental rights" does not include the parental duty of support for a child.

(B) "Rape" means a violation of section 2907.02 of the Revised Code or similar law of another state.

(C) "Sexual battery" means a violation of section 2907.03 of the Revised Code if the sexual activity involved is sexual conduct, or similar law of another state.

Sec. 3111.04. (A) (1) Except as provided in division (A) (2) of this section, an action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's caretaker, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother, father, or alleged father is a recipient of public assistance or of services under Title

IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 2702
U.S.C.A. 651, as amended, or the alleged father's personal 2703
representative. 2704

(2) A man alleged or alleging himself to be the child's 2705
father is not eligible to file an action under division (A) (1) 2706
of this section if the man was convicted of or pleaded guilty to 2707
rape or sexual battery, the victim of the rape or sexual battery 2708
was the child's mother, and the child was conceived as a result 2709
of the rape or sexual battery. 2710

(B) An agreement does not bar an action under this 2711
section. 2712

(C) If an action under this section is brought before the 2713
birth of the child and if the action is contested, all 2714
proceedings, except service of process and the taking of 2715
depositions to perpetuate testimony, may be stayed until after 2716
the birth. 2717

(D) A recipient of public assistance or of services under 2718
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 2719
42 U.S.C.A. 651, as amended, shall cooperate with the child 2720
support enforcement agency of the county in which a child 2721
resides to obtain an administrative determination pursuant to 2722
sections 3111.38 to 3111.54 of the Revised Code, or, if 2723
necessary, a court determination pursuant to sections 3111.01 to 2724
3111.18 of the Revised Code, of the existence or nonexistence of 2725
a parent and child relationship between the father and the 2726
child. If the recipient fails to cooperate, the agency may 2727
commence an action to determine the existence or nonexistence of 2728
a parent and child relationship between the father and the child 2729
pursuant to sections 3111.01 to 3111.18 of the Revised Code. 2730

(E) As used in this section:	2731
(1) "Public assistance" means both of the following:	2732
(a) Medicaid;	2733
(b) Ohio works first under Chapter 5107. of the Revised Code.	2734 2735
(2) "Rape" means a violation of section 2907.02 of the Revised Code or similar law of another state.	2736 2737
(3) "Sexual battery" means a violation of section 2907.03 of the Revised Code <u>if the sexual activity involved is sexual conduct</u> , or similar law of another state.	2738 2739 2740
Sec. 4730.25. (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as a physician assistant to, or may revoke the license held by, an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.	2741 2742 2743 2744 2745 2746
(B) Except as provided in division (N) of this section, the board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a physician assistant or prescriber number, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:	2747 2748 2749 2750 2751 2752 2753 2754
(1) Failure to practice in accordance with the supervising physician's supervision agreement with the physician assistant, including, if applicable, the policies of the health care facility in which the supervising physician and physician	2755 2756 2757 2758

assistant are practicing;	2759
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	2760 2761 2762
(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;	2763 2764 2765 2766
(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	2767 2768 2769 2770
(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;	2771 2772 2773 2774
(6) Administering drugs for purposes other than those authorized under this chapter;	2775 2776
(7) Willfully betraying a professional confidence;	2777
(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.	2778 2779 2780 2781 2782 2783 2784
As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a	2785 2786

misrepresentation of fact, is likely to mislead or deceive 2787
because of a failure to disclose material facts, is intended or 2788
is likely to create false or unjustified expectations of 2789
favorable results, or includes representations or implications 2790
that in reasonable probability will cause an ordinarily prudent 2791
person to misunderstand or be deceived. 2792

(9) Representing, with the purpose of obtaining 2793
compensation or other advantage personally or for any other 2794
person, that an incurable disease or injury, or other incurable 2795
condition, can be permanently cured; 2796

(10) The obtaining of, or attempting to obtain, money or 2797
anything of value by fraudulent misrepresentations in the course 2798
of practice; 2799

(11) A plea of guilty to, a judicial finding of guilt of, 2800
or a judicial finding of eligibility for intervention in lieu of 2801
conviction for, a felony; 2802

(12) Commission of an act that constitutes a felony in 2803
this state, regardless of the jurisdiction in which the act was 2804
committed; 2805

(13) A plea of guilty to, a judicial finding of guilt of, 2806
or a judicial finding of eligibility for intervention in lieu of 2807
conviction for, a misdemeanor committed in the course of 2808
practice; 2809

(14) A plea of guilty to, a judicial finding of guilt of, 2810
or a judicial finding of eligibility for intervention in lieu of 2811
conviction for, a misdemeanor involving moral turpitude; 2812

(15) Commission of an act in the course of practice that 2813
constitutes a misdemeanor in this state, regardless of the 2814
jurisdiction in which the act was committed; 2815

(16) Commission of an act involving moral turpitude that 2816
constitutes a misdemeanor in this state, regardless of the 2817
jurisdiction in which the act was committed; 2818

(17) A plea of guilty to, a judicial finding of guilt of, 2819
or a judicial finding of eligibility for intervention in lieu of 2820
conviction for violating any state or federal law regulating the 2821
possession, distribution, or use of any drug, including 2822
trafficking in drugs; 2823

(18) Any of the following actions taken by the state 2824
agency responsible for regulating the practice of physician 2825
assistants in another state, for any reason other than the 2826
nonpayment of fees: the limitation, revocation, or suspension of 2827
an individual's license to practice; acceptance of an 2828
individual's license surrender; denial of a license; refusal to 2829
renew or reinstate a license; imposition of probation; or 2830
issuance of an order of censure or other reprimand; 2831

(19) A departure from, or failure to conform to, minimal 2832
standards of care of similar physician assistants under the same 2833
or similar circumstances, regardless of whether actual injury to 2834
a patient is established; 2835

(20) Violation of the conditions placed by the board on a 2836
license to practice as a physician assistant; 2837

(21) Failure to use universal blood and body fluid 2838
precautions established by rules adopted under section 4731.051 2839
of the Revised Code; 2840

(22) Failure to cooperate in an investigation conducted by 2841
the board under section 4730.26 of the Revised Code, including 2842
failure to comply with a subpoena or order issued by the board 2843
or failure to answer truthfully a question presented by the 2844

board at a deposition or in written interrogatories, except that 2845
failure to cooperate with an investigation shall not constitute 2846
grounds for discipline under this section if a court of 2847
competent jurisdiction has issued an order that either quashes a 2848
subpoena or permits the individual to withhold the testimony or 2849
evidence in issue; 2850

(23) Assisting suicide, as defined in section 3795.01 of 2851
the Revised Code; 2852

(24) Prescribing any drug or device to perform or induce 2853
an abortion, or otherwise performing or inducing an abortion; 2854

(25) Failure to comply with section 4730.53 of the Revised 2855
Code, unless the board no longer maintains a drug database 2856
pursuant to section 4729.75 of the Revised Code; 2857

(26) Failure to comply with the requirements in section 2858
3719.061 of the Revised Code before issuing for a minor a 2859
prescription for an opioid analgesic, as defined in section 2860
3719.01 of the Revised Code; 2861

(27) Having certification by the national commission on 2862
certification of physician assistants or a successor 2863
organization expire, lapse, or be suspended or revoked; 2864

(28) The revocation, suspension, restriction, reduction, 2865
or termination of clinical privileges by the United States 2866
department of defense or department of veterans affairs or the 2867
termination or suspension of a certificate of registration to 2868
prescribe drugs by the drug enforcement administration of the 2869
United States department of justice; 2870

(29) Failure to comply with terms of a consult agreement 2871
entered into with a pharmacist pursuant to section 4729.39 of 2872
the Revised Code. 2873

(C) Disciplinary actions taken by the board under 2874
divisions (A) and (B) of this section shall be taken pursuant to 2875
an adjudication under Chapter 119. of the Revised Code, except 2876
that in lieu of an adjudication, the board may enter into a 2877
consent agreement with a physician assistant or applicant to 2878
resolve an allegation of a violation of this chapter or any rule 2879
adopted under it. A consent agreement, when ratified by an 2880
affirmative vote of not fewer than six members of the board, 2881
shall constitute the findings and order of the board with 2882
respect to the matter addressed in the agreement. If the board 2883
refuses to ratify a consent agreement, the admissions and 2884
findings contained in the consent agreement shall be of no force 2885
or effect. 2886

(D) For purposes of divisions (B) (12), (15), and (16) of 2887
this section, the commission of the act may be established by a 2888
finding by the board, pursuant to an adjudication under Chapter 2889
119. of the Revised Code, that the applicant or license holder 2890
committed the act in question. The board shall have no 2891
jurisdiction under these divisions in cases where the trial 2892
court renders a final judgment in the license holder's favor and 2893
that judgment is based upon an adjudication on the merits. The 2894
board shall have jurisdiction under these divisions in cases 2895
where the trial court issues an order of dismissal upon 2896
technical or procedural grounds. 2897

(E) The sealing or expungement of conviction records by 2898
any court shall have no effect upon a prior board order entered 2899
under the provisions of this section or upon the board's 2900
jurisdiction to take action under the provisions of this section 2901
if, based upon a plea of guilty, a judicial finding of guilt, or 2902
a judicial finding of eligibility for intervention in lieu of 2903
conviction, the board issued a notice of opportunity for a 2904

hearing prior to the court's order to seal or expunge the 2905
records. The board shall not be required to seal, destroy, 2906
redact, or otherwise modify its records to reflect the court's 2907
sealing or expungement of conviction records. 2908

(F) For purposes of this division, any individual who 2909
holds a license issued under this chapter, or applies for a 2910
license issued under this chapter, shall be deemed to have given 2911
consent to submit to a mental or physical examination when 2912
directed to do so in writing by the board and to have waived all 2913
objections to the admissibility of testimony or examination 2914
reports that constitute a privileged communication. 2915

(1) In enforcing division (B)(4) of this section, the 2916
board, upon a showing of a possible violation, shall refer any 2917
individual who holds, or has applied for, a license issued under 2918
this chapter to the monitoring organization that conducts the 2919
confidential monitoring program established under section 2920
4731.25 of the Revised Code. The board also may compel the 2921
individual to submit to a mental examination, physical 2922
examination, including an HIV test, or both a mental and 2923
physical examination. The expense of the examination is the 2924
responsibility of the individual compelled to be examined. 2925
Failure to submit to a mental or physical examination or consent 2926
to an HIV test ordered by the board constitutes an admission of 2927
the allegations against the individual unless the failure is due 2928
to circumstances beyond the individual's control, and a default 2929
and final order may be entered without the taking of testimony 2930
or presentation of evidence. If the board finds a physician 2931
assistant unable to practice because of the reasons set forth in 2932
division (B)(4) of this section, the board shall require the 2933
physician assistant to submit to care, counseling, or treatment 2934
by physicians approved or designated by the board, as a 2935

condition for an initial, continued, reinstated, or renewed 2936
license. An individual affected under this division shall be 2937
afforded an opportunity to demonstrate to the board the ability 2938
to resume practicing in compliance with acceptable and 2939
prevailing standards of care. 2940

(2) For purposes of division (B) (5) of this section, if 2941
the board has reason to believe that any individual who holds a 2942
license issued under this chapter or any applicant for a license 2943
suffers such impairment, the board shall refer the individual to 2944
the monitoring organization that conducts the confidential 2945
monitoring program established under section 4731.25 of the 2946
Revised Code. The board also may compel the individual to submit 2947
to a mental or physical examination, or both. The expense of the 2948
examination is the responsibility of the individual compelled to 2949
be examined. Any mental or physical examination required under 2950
this division shall be undertaken by a treatment provider or 2951
physician qualified to conduct such examination and approved 2952
under section 4731.251 of the Revised Code. 2953

Failure to submit to a mental or physical examination 2954
ordered by the board constitutes an admission of the allegations 2955
against the individual unless the failure is due to 2956
circumstances beyond the individual's control, and a default and 2957
final order may be entered without the taking of testimony or 2958
presentation of evidence. If the board determines that the 2959
individual's ability to practice is impaired, the board shall 2960
suspend the individual's license or deny the individual's 2961
application and shall require the individual, as a condition for 2962
initial, continued, reinstated, or renewed licensure, to submit 2963
to treatment. 2964

Before being eligible to apply for reinstatement of a 2965

license suspended under this division, the physician assistant 2966
shall demonstrate to the board the ability to resume practice or 2967
prescribing in compliance with acceptable and prevailing 2968
standards of care. The demonstration shall include the 2969
following: 2970

(a) Certification from a treatment provider approved under 2971
section 4731.251 of the Revised Code that the individual has 2972
successfully completed any required inpatient treatment; 2973

(b) Evidence of continuing full compliance with an 2974
aftercare contract or consent agreement; 2975

(c) Two written reports indicating that the individual's 2976
ability to practice has been assessed and that the individual 2977
has been found capable of practicing according to acceptable and 2978
prevailing standards of care. The reports shall be made by 2979
individuals or providers approved by the board for making such 2980
assessments and shall describe the basis for their 2981
determination. 2982

The board may reinstate a license suspended under this 2983
division after such demonstration and after the individual has 2984
entered into a written consent agreement. 2985

When the impaired physician assistant resumes practice or 2986
prescribing, the board shall require continued monitoring of the 2987
physician assistant. The monitoring shall include compliance 2988
with the written consent agreement entered into before 2989
reinstatement or with conditions imposed by board order after a 2990
hearing, and, upon termination of the consent agreement, 2991
submission to the board for at least two years of annual written 2992
progress reports made under penalty of falsification stating 2993
whether the physician assistant has maintained sobriety. 2994

~~(G)~~ (G) (1) If either of the following circumstances occur, 2995
the secretary and supervising member ~~determine~~ may recommend 2996
that the board suspend the individual's license without a prior 2997
hearing: 2998

(a) The secretary and supervising member determine that 2999
there is clear and convincing evidence that a physician 3000
assistant has violated division (B) of this section and that the 3001
individual's continued practice or prescribing presents a danger 3002
of immediate and serious harm to the public, ~~they may recommend~~ 3003
~~that the board suspend the individual's license without a prior~~ 3004
~~hearing.~~ 3005

(b) The board receives verifiable information that a 3006
licensee has been charged in any state or federal court with a 3007
crime classified as a felony under the charging court's law and 3008
the conduct charged constitutes a violation of division (B) of 3009
this section. ~~Written~~ 3010

(2) If a recommendation is made to suspend without a prior 3011
hearing pursuant to division (G) (1) of this section, written 3012
allegations shall be prepared for consideration by the board. 3013

The board, upon review of those allegations and by an 3014
affirmative vote of not fewer than six of its members, excluding 3015
the secretary and supervising member, may suspend a license 3016
without a prior hearing. A telephone conference call may be 3017
utilized for reviewing the allegations and taking the vote on 3018
the summary suspension. 3019

The board shall serve a written order of suspension in 3020
accordance with sections 119.05 and 119.07 of the Revised Code. 3021
The order shall not be subject to suspension by the court during 3022
pendency of any appeal filed under section 119.12 of the Revised 3023

Code. If the physician assistant requests an adjudicatory 3024
hearing by the board, the date set for the hearing shall be 3025
within fifteen days, but not earlier than seven days, after the 3026
physician assistant requests the hearing, unless otherwise 3027
agreed to by both the board and the license holder. 3028

(3) A summary suspension imposed under this division shall 3029
remain in effect, unless reversed on appeal, until a final 3030
adjudicative order issued by the board pursuant to this section 3031
and Chapter 119. of the Revised Code becomes effective. The 3032
board shall issue its final adjudicative order within seventy- 3033
five days after completion of its hearing. Failure to issue the 3034
order within seventy-five days shall result in dissolution of 3035
the summary suspension order, but shall not invalidate any 3036
subsequent, final adjudicative order. 3037

(H) If the board takes action under division (B) (11), 3038
(13), or (14) of this section, and the judicial finding of 3039
guilt, guilty plea, or judicial finding of eligibility for 3040
intervention in lieu of conviction is overturned on appeal, upon 3041
exhaustion of the criminal appeal, a petition for 3042
reconsideration of the order may be filed with the board along 3043
with appropriate court documents. Upon receipt of a petition and 3044
supporting court documents, the board shall reinstate the 3045
individual's license. The board may then hold an adjudication 3046
under Chapter 119. of the Revised Code to determine whether the 3047
individual committed the act in question. Notice of opportunity 3048
for hearing shall be given in accordance with Chapter 119. of 3049
the Revised Code. If the board finds, pursuant to an 3050
adjudication held under this division, that the individual 3051
committed the act, or if no hearing is requested, it may order 3052
any of the sanctions identified under division (B) of this 3053
section. 3054

(I) The license to practice issued to a physician 3055
assistant and the physician assistant's practice in this state 3056
are automatically suspended as of the date the physician 3057
assistant pleads guilty to, is found by a judge or jury to be 3058
guilty of, or is subject to a judicial finding of eligibility 3059
for intervention in lieu of conviction in this state or 3060
treatment or intervention in lieu of conviction in another state 3061
for any of the following criminal offenses in this state or a 3062
substantially equivalent criminal offense in another 3063
jurisdiction: aggravated murder, murder, voluntary manslaughter, 3064
felonious assault, trafficking in persons, kidnapping, rape, 3065
sexual battery, gross sexual imposition, aggravated arson, 3066
aggravated robbery, or aggravated burglary. Continued practice 3067
after the suspension shall be considered practicing without a 3068
license. 3069

The board shall notify the individual subject to the 3070
suspension in accordance with sections 119.05 and 119.07 of the 3071
Revised Code. If an individual whose license is suspended under 3072
this division fails to make a timely request for an adjudication 3073
under Chapter 119. of the Revised Code, the board shall enter a 3074
final order permanently revoking the individual's license to 3075
practice. 3076

(J) In any instance in which the board is required by 3077
Chapter 119. of the Revised Code to give notice of opportunity 3078
for hearing and the individual subject to the notice does not 3079
timely request a hearing in accordance with section 119.07 of 3080
the Revised Code, the board is not required to hold a hearing, 3081
but may adopt, by an affirmative vote of not fewer than six of 3082
its members, a final order that contains the board's findings. 3083
In that final order, the board may order any of the sanctions 3084
identified under division (A) or (B) of this section. 3085

(K) Any action taken by the board under division (B) of 3086
this section resulting in a suspension shall be accompanied by a 3087
written statement of the conditions under which the physician 3088
assistant's license may be reinstated. The board shall adopt 3089
rules in accordance with Chapter 119. of the Revised Code 3090
governing conditions to be imposed for reinstatement. 3091
Reinstatement of a license suspended pursuant to division (B) of 3092
this section requires an affirmative vote of not fewer than six 3093
members of the board. 3094

(L) When the board refuses to grant or issue to an 3095
applicant a license to practice as a physician assistant, 3096
revokes an individual's license, refuses to renew an 3097
individual's license, or refuses to reinstate an individual's 3098
license, the board may specify that its action is permanent. An 3099
individual subject to a permanent action taken by the board is 3100
forever thereafter ineligible to hold the license and the board 3101
shall not accept an application for reinstatement of the license 3102
or for issuance of a new license. 3103

(M) Notwithstanding any other provision of the Revised 3104
Code, all of the following apply: 3105

(1) The surrender of a license issued under this chapter 3106
is not effective unless or until accepted by the board. 3107
Reinstatement of a license surrendered to the board requires an 3108
affirmative vote of not fewer than six members of the board. 3109

(2) An application made under this chapter for a license 3110
may not be withdrawn without approval of the board. 3111

(3) Failure by an individual to renew a license in 3112
accordance with section 4730.14 of the Revised Code does not 3113
remove or limit the board's jurisdiction to take disciplinary 3114

action under this section against the individual. 3115

(4) The placement of an individual's license on retired 3116
status, as described in section 4730.141 of the Revised Code, 3117
does not remove or limit the board's jurisdiction to take any 3118
disciplinary action against the individual with regard to the 3119
license as it existed before being placed on retired status. 3120

(N) The board shall not refuse to issue a license to an 3121
applicant because of a conviction, plea of guilty, judicial 3122
finding of guilt, judicial finding of eligibility for 3123
intervention in lieu of conviction, or the commission of an act 3124
that constitutes a criminal offense, unless the refusal is in 3125
accordance with section 9.79 of the Revised Code. 3126

Sec. 4730.26. (A) The state medical board shall 3127
investigate evidence that appears to show that any person has 3128
violated this chapter or a rule adopted under it. In an 3129
investigation involving the practice or supervision of a 3130
physician assistant pursuant to the policies of a health care 3131
facility, the board may require that the health care facility 3132
provide any information the board considers necessary to 3133
identify either or both of the following: 3134

(1) The facility's policies for the practice of physician 3135
assistants within the facility; 3136

(2) The services that the facility has authorized a 3137
particular physician assistant to provide for the facility. 3138

(B) Any person may report to the board in a signed writing 3139
any information the person has that appears to show a violation 3140
of any provision of this chapter or rule adopted under it. In 3141
the absence of bad faith, a person who reports such information 3142
or testifies before the board in an adjudication conducted under 3143

Chapter 119. of the Revised Code shall not be liable for civil 3144
damages as a result of reporting the information or providing 3145
testimony. Each complaint or allegation of a violation received 3146
by the board shall be assigned a case number and be recorded by 3147
the board. 3148

(C) Investigations of alleged violations of this chapter 3149
or rules adopted under it shall be supervised by the supervising 3150
member elected by the board in accordance with section 4731.02 3151
of the Revised Code and by the secretary as provided in section 3152
4730.33 of the Revised Code. The president may designate another 3153
member of the board to supervise the investigation in place of 3154
the supervising member. Upon a vote of the majority of the board 3155
to authorize the addition of a consumer member in the 3156
supervision of any part of any investigation, the president 3157
shall designate a consumer member for supervision of 3158
investigations as determined by the president. The authorization 3159
of consumer member participation in investigation supervision 3160
may be rescinded by a majority vote of the board. A member of 3161
the board who supervises the investigation of a case shall not 3162
participate in further adjudication of the case. 3163

(D) In investigating a possible violation of this chapter 3164
or a rule adopted under it, the board may administer oaths, 3165
order the taking of depositions, issue subpoenas, and compel the 3166
attendance of witnesses and production of books, accounts, 3167
papers, records, documents, and testimony, except that a 3168
subpoena for patient record information shall not be issued 3169
without consultation with the attorney general's office and 3170
approval of the secretary of the board. Before issuance of a 3171
subpoena for patient record information, the secretary shall 3172
determine whether there is probable cause to believe that the 3173
complaint filed alleges a violation of this chapter or a rule 3174

adopted under it and that the records sought are relevant to the 3175
alleged violation and material to the investigation. The 3176
subpoena may apply only to records that cover a reasonable 3177
period of time surrounding the alleged violation. 3178

On failure to comply with any subpoena issued by the board 3179
and after reasonable notice to the person being subpoenaed, the 3180
board may move for an order compelling the production of persons 3181
or records pursuant to the Rules of Civil Procedure. 3182

A subpoena issued by the board may be served by a sheriff, 3183
the sheriff's deputy, or a board employee designated by the 3184
board. Service of a subpoena issued by the board may be made by 3185
delivering a copy of the subpoena to the person named therein, 3186
reading it to the person, or leaving it at the person's usual 3187
place of residence. When the person being served is a physician 3188
assistant, service of the subpoena may be made by certified 3189
mail, restricted delivery, return receipt requested, and the 3190
subpoena shall be deemed served on the date delivery is made or 3191
the date the person refuses to accept delivery. 3192

A sheriff's deputy who serves a subpoena shall receive the 3193
same fees as a sheriff. Each witness who appears before the 3194
board in obedience to a subpoena shall receive the fees and 3195
mileage provided for under section 119.094 of the Revised Code. 3196

(E) All hearings and investigations of the board shall be 3197
considered civil actions for the purposes of section 2305.252 of 3198
the Revised Code. 3199

(F) Information received by the board pursuant to an 3200
investigation is confidential and not subject to discovery in 3201
any civil action. 3202

The board shall conduct all investigations and proceedings 3203

in a manner that protects the confidentiality of patients and 3204
persons who file complaints with the board. The board shall not 3205
make public the names or any other identifying information about 3206
patients or complainants unless proper consent is given or, in 3207
the case of a patient, a waiver of the patient privilege exists 3208
under division (B) of section 2317.02 of the Revised Code, 3209
except that consent or a waiver is not required if the board 3210
possesses reliable and substantial evidence that no bona fide 3211
physician-patient relationship exists. 3212

The board may share any information it receives pursuant 3213
to an investigation, including patient records and patient 3214
record information, with law enforcement agencies, other 3215
licensing boards, and other governmental agencies that are 3216
prosecuting, adjudicating, or investigating alleged violations 3217
of statutes or administrative rules. An agency or board that 3218
receives the information shall comply with the same requirements 3219
regarding confidentiality as those with which the state medical 3220
board must comply, notwithstanding any conflicting provision of 3221
the Revised Code or procedure of the agency or board that 3222
applies when it is dealing with other information in its 3223
possession. In a judicial proceeding, the information may be 3224
admitted into evidence only in accordance with the Rules of 3225
Evidence, but the court shall require that appropriate measures 3226
are taken to ensure that confidentiality is maintained with 3227
respect to any part of the information that contains names or 3228
other identifying information about patients or complainants 3229
whose confidentiality was protected by the state medical board 3230
when the information was in the board's possession. Measures to 3231
ensure confidentiality that may be taken by the court include 3232
sealing its records or deleting specific information from its 3233
records. 3234

No person shall knowingly access, use, or disclose 3235
confidential investigatory information in a manner prohibited by 3236
law. 3237

(G) The state medical board shall develop requirements for 3238
and provide appropriate initial and continuing training for 3239
investigators employed by the board to carry out its duties 3240
under this chapter. The training and continuing education may 3241
include enrollment in courses operated or approved by the Ohio 3242
peace officer training commission that the board considers 3243
appropriate under conditions set forth in section 109.79 of the 3244
Revised Code. 3245

(H) On a quarterly basis, the board shall prepare a report 3246
that documents the disposition of all cases during the preceding 3247
three months. The report shall contain the following information 3248
for each case with which the board has completed its activities: 3249

(1) The case number assigned to the complaint or alleged 3250
violation; 3251

(2) The type of license, if any, held by the individual 3252
against whom the complaint is directed; 3253

(3) A description of the allegations contained in the 3254
complaint; 3255

(4) Whether witnesses were interviewed; 3256

(5) Whether the individual against whom the complaint is 3257
directed is the subject of any pending complaints; 3258

(6) The disposition of the case. 3259

The report shall state how many cases are still pending, 3260
and shall be prepared in a manner that protects the identity of 3261
each person involved in each case. The report shall be submitted 3262

to the physician assistant policy committee of the board and is 3263
a public record for purposes of section 149.43 of the Revised 3264
Code. 3265

(I) The board may provide a status update regarding an 3266
investigation to a complainant on request if the board verifies 3267
the complainant's identity. 3268

Sec. 4730.32. (A) As used in this section, "criminal 3269
conduct" and "sexual misconduct" have the same meanings as in 3270
section 4731.224 of the Revised Code. 3271

(B) (1) Within ~~sixty~~-thirty days after the imposition of 3272
any formal disciplinary action taken by a health care facility 3273
against any individual holding a valid license to practice as a 3274
physician assistant issued under this chapter, the chief 3275
administrator or executive officer of the facility shall report 3276
to the state medical board the name of the individual, the 3277
action taken by the facility, and a summary of the underlying 3278
facts leading to the action taken. Upon request, the board shall 3279
be provided certified copies of the patient records that were 3280
the basis for the facility's action. Prior to release to the 3281
board, the summary shall be approved by the peer review 3282
committee that reviewed the case or by the governing board of 3283
the facility. 3284

The filing of a report with the board or decision not to 3285
file a report, investigation by the board, or any disciplinary 3286
action taken by the board, does not preclude a health care 3287
facility from taking disciplinary action against a physician 3288
assistant. 3289

In the absence of fraud or bad faith, no individual or 3290
entity that provides patient records to the board shall be 3291

liable in damages to any person as a result of providing the 3292
records. 3293

(2) Within thirty days after commencing an investigation 3294
regarding criminal conduct or sexual misconduct against any 3295
individual holding a valid license to practice issued pursuant 3296
to this chapter, a health care facility, including a hospital, 3297
health care facility operated by a health insuring corporation, 3298
ambulatory surgical center, or similar facility, shall report to 3299
the board the name of the individual and a summary of the 3300
underlying facts related to the investigation being commenced. 3301

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 3302
of this section and subject to division (C)(3) of this section, 3303
a physician assistant, professional association or society of 3304
physician assistants, physician, or professional association or 3305
society of physicians that believes a violation of any provision 3306
of this chapter, Chapter 4731. of the Revised Code, or rule of 3307
the board has occurred shall report to the board the information 3308
upon which the belief is based. 3309

(2) A physician assistant, professional association or 3310
society of physician assistants, physician, or professional 3311
association or society of physicians that believes that a 3312
violation of division (B)(4) or (5) of section 4730.25 of the 3313
Revised Code has occurred shall report the information upon 3314
which the belief is based to the monitoring organization 3315
conducting the confidential monitoring program established under 3316
section 4731.25 of the Revised Code. If any such report is made 3317
to the board, it shall be referred to the monitoring 3318
organization unless the board is aware that the individual who 3319
is the subject of the report does not meet the program 3320
eligibility requirements of section 4731.252 of the Revised 3321

Code. 3322

(3) If any individual authorized to practice under this 3323
chapter or any professional association or society of such 3324
individuals knows or has reasonable cause to suspect based on 3325
facts that would cause a reasonable person in a similar position 3326
to suspect that an individual authorized to practice under this 3327
chapter has committed or participated in criminal conduct or 3328
sexual misconduct, the information upon which the belief is 3329
based shall be reported to the board within thirty days. 3330

This division does not apply to a professional association 3331
or society whose staff interacts with members of the association 3332
or society only in advocacy, governance, or educational 3333
capacities and whose staff does not regularly interact with 3334
members in practice settings. 3335

(4) In addition to the self-reporting of criminal offenses 3336
that is required for license renewal, an individual authorized 3337
to practice under this chapter shall report to the board 3338
criminal charges regarding criminal conduct, sexual misconduct, 3339
or any conduct involving the use of a motor vehicle while under 3340
the influence of alcohol or drugs, including offenses that are 3341
equivalent offenses under division (A) of section 4511.181 of 3342
the Revised Code, violations of division (D) of section 4511.194 3343
of the Revised Code, and violations of division (C) of section 3344
4511.79 of the Revised Code. Reports under this division shall 3345
be made within thirty days of the criminal charge being filed. 3346

~~(C)~~(D) Any professional association or society composed 3347
primarily of physician assistants that suspends or revokes an 3348
individual's membership for violations of professional ethics, 3349
or for reasons of professional incompetence or professional 3350
malpractice, within ~~sixty~~thirty days after a final decision, 3351

shall report to the board, on forms prescribed and provided by 3352
the board, the name of the individual, the action taken by the 3353
professional organization, and a summary of the underlying facts 3354
leading to the action taken. 3355

The filing or nonfiling of a report with the board, 3356
investigation by the board, or any disciplinary action taken by 3357
the board, shall not preclude a professional organization from 3358
taking disciplinary action against a physician assistant. 3359

~~(D)~~ (E) Any insurer providing professional liability 3360
insurance to any person holding a valid license to practice as a 3361
physician assistant issued under this chapter or any other 3362
entity that seeks to indemnify the professional liability of a 3363
physician assistant shall notify the board within thirty days 3364
after the final disposition of any written claim for damages 3365
where such disposition results in a payment exceeding twenty- 3366
five thousand dollars. The notice shall contain the following 3367
information: 3368

(1) The name and address of the person submitting the 3369
notification; 3370

(2) The name and address of the insured who is the subject 3371
of the claim; 3372

(3) The name of the person filing the written claim; 3373

(4) The date of final disposition; 3374

(5) If applicable, the identity of the court in which the 3375
final disposition of the claim took place. 3376

~~(E)~~ (F) The board may investigate possible violations of 3377
this chapter or the rules adopted under it that are brought to 3378
its attention as a result of the reporting requirements of this 3379

section, except that the board shall conduct an investigation if 3380
a possible violation involves repeated malpractice. As used in 3381
this division, "repeated malpractice" means three or more claims 3382
for malpractice within the previous five-year period, each 3383
resulting in a judgment or settlement in excess of twenty-five 3384
thousand dollars in favor of the claimant, and each involving 3385
negligent conduct by the physician assistant. 3386

~~(F)-(G) All summaries, reports, and records received and 3387
maintained by the board pursuant to this section shall be held- 3388
in confidence and shall not be subject to discovery or 3389
introduction in evidence in any federal or state civil action- 3390
involving a physician assistant, supervising physician, or 3391
health care facility arising out of matters that are the subject 3392
of the reporting required by this section. The board may use the 3393
information obtained only as the basis for an investigation, as 3394
evidence in a disciplinary hearing against a physician assistant 3395
or supervising physician, or in any subsequent trial or appeal 3396
of a board action or order.- 3397~~

~~The board may disclose the summaries and reports it 3398
receives under this section only to health care facility 3399
committees within or outside this state that are involved in 3400
credentialing or recredentialing a physician assistant or 3401
supervising physician or reviewing their privilege to practice 3402
within a particular facility. The board shall indicate whether 3403
or not the information has been verified. Information 3404
transmitted by the board shall be subject to the same 3405
confidentiality provisions as when maintained by the 3406
board confidential pursuant to division (F) of section 4730.26 of 3407
the Revised Code. 3408~~

~~(G)-(H) Except for reports filed by an individual pursuant 3409~~

to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 3410
send a copy of any reports or summaries it receives pursuant to 3411
this section to the physician assistant. The physician assistant 3412
shall have the right to file a statement with the board 3413
concerning the correctness or relevance of the information. The 3414
statement shall at all times accompany that part of the record 3415
in contention. 3416

~~(H)~~ (I) An individual or entity that reports to the board, 3417
reports to the monitoring organization described in section 3418
4731.25 of the Revised Code, or refers an impaired physician 3419
assistant to a treatment provider approved under section 3420
4731.251 of the Revised Code shall not be subject to suit for 3421
civil damages as a result of the report, referral, or provision 3422
of the information. 3423

~~(I)~~ (J) In the absence of fraud or bad faith, a 3424
professional association or society of physician assistants that 3425
sponsors a committee or program to provide peer assistance to a 3426
physician assistant with substance abuse problems, a 3427
representative or agent of such a committee or program, a 3428
representative or agent of the monitoring organization described 3429
in section 4731.25 of the Revised Code, and a member of the 3430
state medical board shall not be held liable in damages to any 3431
person by reason of actions taken to refer a physician assistant 3432
to a treatment provider approved under section 4731.251 of the 3433
Revised Code for examination or treatment. 3434

Sec. 4730.99. (A) Whoever violates section 4730.02 of the 3435
Revised Code is guilty of a misdemeanor of the first degree on a 3436
first offense; on each subsequent offense, the person is guilty 3437
of a felony of the fourth degree. 3438

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 3439

(1), ~~or (C) (2), (D), or (E)~~ of section 4730.32 of the Revised 3440
Code is guilty of a minor misdemeanor on a first offense; on 3441
each subsequent offense the person is guilty of a misdemeanor of 3442
the fourth degree, except that an individual guilty of a 3443
subsequent offense shall not be subject to imprisonment, but to 3444
a fine alone of up to one thousand dollars for each offense. 3445

(2) Whoever violates division (B) (2) or (C) (3) of section 3446
4730.32 of the Revised Code is guilty of failure to report 3447
criminal conduct or sexual misconduct, a misdemeanor of the 3448
fourth degree. If the offender has previously been convicted of 3449
a violation of this division, the failure to report is a 3450
misdemeanor of the first degree. 3451

(C) Whoever violates division (F) of section 4730.26 of 3452
the Revised Code is guilty of disclosing confidential 3453
investigatory information, a misdemeanor of the first degree. 3454

Sec. 4731.22. (A) The state medical board, by an 3455
affirmative vote of not fewer than six of its members, may 3456
limit, revoke, or suspend a license or certificate to practice 3457
or certificate to recommend, refuse to grant a license or 3458
certificate, refuse to renew a license or certificate, refuse to 3459
reinstate a license or certificate, or reprimand or place on 3460
probation the holder of a license or certificate if the 3461
individual applying for or holding the license or certificate is 3462
found by the board to have committed fraud during the 3463
administration of the examination for a license or certificate 3464
to practice or to have committed fraud, misrepresentation, or 3465
deception in applying for, renewing, or securing any license or 3466
certificate to practice or certificate to recommend issued by 3467
the board. 3468

(B) Except as provided in division (P) of this section, 3469

the board, by an affirmative vote of not fewer than six members, 3470
shall, to the extent permitted by law, limit, revoke, or suspend 3471
a license or certificate to practice or certificate to 3472
recommend, refuse to issue a license or certificate, refuse to 3473
renew a license or certificate, refuse to reinstate a license or 3474
certificate, or reprimand or place on probation the holder of a 3475
license or certificate for one or more of the following reasons: 3476

(1) Permitting one's name or one's license or certificate 3477
to practice to be used by a person, group, or corporation when 3478
the individual concerned is not actually directing the treatment 3479
given; 3480

(2) Failure to maintain minimal standards applicable to 3481
the selection or administration of drugs, or failure to employ 3482
acceptable scientific methods in the selection of drugs or other 3483
modalities for treatment of disease; 3484

(3) Except as provided in section 4731.97 of the Revised 3485
Code, selling, giving away, personally furnishing, prescribing, 3486
or administering drugs for other than legal and legitimate 3487
therapeutic purposes or a plea of guilty to, a judicial finding 3488
of guilt of, or a judicial finding of eligibility for 3489
intervention in lieu of conviction of, a violation of any 3490
federal or state law regulating the possession, distribution, or 3491
use of any drug; 3492

(4) Willfully betraying a professional confidence. 3493

For purposes of this division, "willfully betraying a 3494
professional confidence" does not include providing any 3495
information, documents, or reports under sections 307.621 to 3496
307.629 of the Revised Code to a child fatality review board; 3497
does not include providing any information, documents, or 3498

reports under sections 307.631 to 307.6410 of the Revised Code 3499
to a drug overdose fatality review committee, a suicide fatality 3500
review committee, or hybrid drug overdose fatality and suicide 3501
fatality review committee; does not include providing any 3502
information, documents, or reports under sections 307.651 to 3503
307.659 of the Revised Code to a domestic violence fatality 3504
review board; does not include providing any information, 3505
documents, or reports to the director of health pursuant to 3506
guidelines established under section 3701.70 of the Revised 3507
Code; does not include written notice to a mental health 3508
professional under section 4731.62 of the Revised Code; does not 3509
include making a report as described in division (F) of section 3510
2921.22 and section 4731.224 of the Revised Code; and does not 3511
include the making of a report of an employee's use of a drug of 3512
abuse, or a report of a condition of an employee other than one 3513
involving the use of a drug of abuse, to the employer of the 3514
employee as described in division (B) of section 2305.33 of the 3515
Revised Code. Nothing in this division affects the immunity from 3516
civil liability conferred by section 2305.33 or 4731.62 of the 3517
Revised Code upon a physician who makes a report in accordance 3518
with section 2305.33 or notifies a mental health professional in 3519
accordance with section 4731.62 of the Revised Code. As used in 3520
this division, "employee," "employer," and "physician" have the 3521
same meanings as in section 2305.33 of the Revised Code. 3522

(5) Making a false, fraudulent, deceptive, or misleading 3523
statement in the solicitation of or advertising for patients; in 3524
relation to the practice of medicine and surgery, osteopathic 3525
medicine and surgery, podiatric medicine and surgery, or a 3526
limited branch of medicine; or in securing or attempting to 3527
secure any license or certificate to practice issued by the 3528
board. 3529

As used in this division, "false, fraudulent, deceptive, 3530
or misleading statement" means a statement that includes a 3531
misrepresentation of fact, is likely to mislead or deceive 3532
because of a failure to disclose material facts, is intended or 3533
is likely to create false or unjustified expectations of 3534
favorable results, or includes representations or implications 3535
that in reasonable probability will cause an ordinarily prudent 3536
person to misunderstand or be deceived. 3537

(6) A departure from, or the failure to conform to, 3538
minimal standards of care of similar practitioners under the 3539
same or similar circumstances, whether or not actual injury to a 3540
patient is established; 3541

(7) Representing, with the purpose of obtaining 3542
compensation or other advantage as personal gain or for any 3543
other person, that an incurable disease or injury, or other 3544
incurable condition, can be permanently cured; 3545

(8) The obtaining of, or attempting to obtain, money or 3546
anything of value by fraudulent misrepresentations in the course 3547
of practice; 3548

(9) A plea of guilty to, a judicial finding of guilt of, 3549
or a judicial finding of eligibility for intervention in lieu of 3550
conviction for, a felony; 3551

(10) Commission of an act that constitutes a felony in 3552
this state, regardless of the jurisdiction in which the act was 3553
committed; 3554

(11) A plea of guilty to, a judicial finding of guilt of, 3555
or a judicial finding of eligibility for intervention in lieu of 3556
conviction for, a misdemeanor committed in the course of 3557
practice; 3558

(12) Commission of an act in the course of practice that 3559
constitutes a misdemeanor in this state, regardless of the 3560
jurisdiction in which the act was committed; 3561

(13) A plea of guilty to, a judicial finding of guilt of, 3562
or a judicial finding of eligibility for intervention in lieu of 3563
conviction for, a misdemeanor involving moral turpitude; 3564

(14) Commission of an act involving moral turpitude that 3565
constitutes a misdemeanor in this state, regardless of the 3566
jurisdiction in which the act was committed; 3567

(15) Violation of the conditions of limitation placed by 3568
the board upon a license or certificate to practice; 3569

(16) Failure to pay license renewal fees specified in this 3570
chapter; 3571

(17) Except as authorized in section 4731.31 of the 3572
Revised Code, engaging in the division of fees for referral of 3573
patients, or the receiving of a thing of value in return for a 3574
specific referral of a patient to utilize a particular service 3575
or business; 3576

(18) Subject to section 4731.226 of the Revised Code, 3577
violation of any provision of a code of ethics of the American 3578
medical association, the American osteopathic association, the 3579
American podiatric medical association, or any other national 3580
professional organizations that the board specifies by rule. The 3581
state medical board shall obtain and keep on file current copies 3582
of the codes of ethics of the various national professional 3583
organizations. The individual whose license or certificate is 3584
being suspended or revoked shall not be found to have violated 3585
any provision of a code of ethics of an organization not 3586
appropriate to the individual's profession. 3587

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

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

In enforcing this division, the board, upon a showing of a possible violation, shall refer any individual who is authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due

to circumstances beyond the individual's control, and a default 3619
and final order may be entered without the taking of testimony 3620
or presentation of evidence. If the board finds an individual 3621
unable to practice because of the reasons set forth in this 3622
division, the board shall require the individual to submit to 3623
care, counseling, or treatment by physicians approved or 3624
designated by the board, as a condition for initial, continued, 3625
reinstated, or renewed authority to practice. An individual 3626
affected under this division shall be afforded an opportunity to 3627
demonstrate to the board the ability to resume practice in 3628
compliance with acceptable and prevailing standards under the 3629
provisions of the individual's license or certificate. For the 3630
purpose of this division, any individual who applies for or 3631
receives a license or certificate to practice under this chapter 3632
accepts the privilege of practicing in this state and, by so 3633
doing, shall be deemed to have given consent to submit to a 3634
mental or physical examination when directed to do so in writing 3635
by the board, and to have waived all objections to the 3636
admissibility of testimony or examination reports that 3637
constitute a privileged communication. 3638

(20) Except as provided in division (F)(1)(b) of section 3639
4731.282 of the Revised Code or when civil penalties are imposed 3640
under section 4731.225 of the Revised Code, and subject to 3641
section 4731.226 of the Revised Code, violating or attempting to 3642
violate, directly or indirectly, or assisting in or abetting the 3643
violation of, or conspiring to violate, any provisions of this 3644
chapter or any rule promulgated by the board. 3645

This division does not apply to a violation or attempted 3646
violation of, assisting in or abetting the violation of, or a 3647
conspiracy to violate, any provision of this chapter or any rule 3648
adopted by the board that would preclude the making of a report 3649

by a physician of an employee's use of a drug of abuse, or of a 3650
condition of an employee other than one involving the use of a 3651
drug of abuse, to the employer of the employee as described in 3652
division (B) of section 2305.33 of the Revised Code. Nothing in 3653
this division affects the immunity from civil liability 3654
conferred by that section upon a physician who makes either type 3655
of report in accordance with division (B) of that section. As 3656
used in this division, "employee," "employer," and "physician" 3657
have the same meanings as in section 2305.33 of the Revised 3658
Code. 3659

(21) The violation of section 3701.79 of the Revised Code 3660
or of any abortion rule adopted by the director of health 3661
pursuant to section 3701.341 of the Revised Code; 3662

(22) Any of the following actions taken by an agency 3663
responsible for authorizing, certifying, or regulating an 3664
individual to practice a health care occupation or provide 3665
health care services in this state or another jurisdiction, for 3666
any reason other than the nonpayment of fees: the limitation, 3667
revocation, or suspension of an individual's license to 3668
practice; acceptance of an individual's license surrender; 3669
denial of a license; refusal to renew or reinstate a license; 3670
imposition of probation; or issuance of an order of censure or 3671
other reprimand; 3672

(23) The violation of section 2919.12 of the Revised Code 3673
or the performance or inducement of an abortion upon a pregnant 3674
woman with actual knowledge that the conditions specified in 3675
division (B) of section 2317.56 of the Revised Code have not 3676
been satisfied or with a heedless indifference as to whether 3677
those conditions have been satisfied, unless an affirmative 3678
defense as specified in division (H) (2) of that section would 3679

apply in a civil action authorized by division (H) (1) of that section;

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

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

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

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

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under

section 4731.25 of the Revised Code. The board also may compel 3709
the individual to submit to a mental or physical examination, or 3710
both. The expense of the examination is the responsibility of 3711
the individual compelled to be examined. Any mental or physical 3712
examination required under this division shall be undertaken by 3713
a treatment provider or physician who is qualified to conduct 3714
the examination and who is approved under section 4731.251 of 3715
the Revised Code. 3716

Failure to submit to a mental or physical examination 3717
ordered by the board constitutes an admission of the allegations 3718
against the individual unless the failure is due to 3719
circumstances beyond the individual's control, and a default and 3720
final order may be entered without the taking of testimony or 3721
presentation of evidence. If the board determines that the 3722
individual's ability to practice is impaired, the board shall 3723
suspend the individual's license or certificate or deny the 3724
individual's application and shall require the individual, as a 3725
condition for initial, continued, reinstated, or renewed 3726
licensure or certification to practice, to submit to treatment. 3727

Before being eligible to apply for reinstatement of a 3728
license or certificate suspended under this division, the 3729
impaired practitioner shall demonstrate to the board the ability 3730
to resume practice in compliance with acceptable and prevailing 3731
standards of care under the provisions of the practitioner's 3732
license or certificate. The demonstration shall include, but 3733
shall not be limited to, the following: 3734

(a) Certification from a treatment provider approved under 3735
section 4731.251 of the Revised Code that the individual has 3736
successfully completed any required inpatient treatment; 3737

(b) Evidence of continuing full compliance with an 3738

aftercare contract or consent agreement; 3739

(c) Two written reports indicating that the individual's 3740
ability to practice has been assessed and that the individual 3741
has been found capable of practicing according to acceptable and 3742
prevailing standards of care. The reports shall be made by 3743
individuals or providers approved by the board for making the 3744
assessments and shall describe the basis for their 3745
determination. 3746

The board may reinstate a license or certificate suspended 3747
under this division after that demonstration and after the 3748
individual has entered into a written consent agreement. 3749

When the impaired practitioner resumes practice, the board 3750
shall require continued monitoring of the individual. The 3751
monitoring shall include, but not be limited to, compliance with 3752
the written consent agreement entered into before reinstatement 3753
or with conditions imposed by board order after a hearing, and, 3754
upon termination of the consent agreement, submission to the 3755
board for at least two years of annual written progress reports 3756
made under penalty of perjury stating whether the individual has 3757
maintained sobriety. 3758

(27) A second or subsequent violation of section 4731.66 3759
or 4731.69 of the Revised Code; 3760

(28) Except as provided in division (N) of this section: 3761

(a) Waiving the payment of all or any part of a deductible 3762
or copayment that a patient, pursuant to a health insurance or 3763
health care policy, contract, or plan that covers the 3764
individual's services, otherwise would be required to pay if the 3765
waiver is used as an enticement to a patient or group of 3766
patients to receive health care services from that individual; 3767

(b) Advertising that the individual will waive the payment 3768
of all or any part of a deductible or copayment that a patient, 3769
pursuant to a health insurance or health care policy, contract, 3770
or plan that covers the individual's services, otherwise would 3771
be required to pay. 3772

(29) Failure to use universal blood and body fluid 3773
precautions established by rules adopted under section 4731.051 3774
of the Revised Code; 3775

(30) Failure to provide notice to, and receive 3776
acknowledgment of the notice from, a patient when required by 3777
section 4731.143 of the Revised Code prior to providing 3778
nonemergency professional services, or failure to maintain that 3779
notice in the patient's medical record; 3780

(31) Failure of a physician supervising a physician 3781
assistant to maintain supervision in accordance with the 3782
requirements of Chapter 4730. of the Revised Code and the rules 3783
adopted under that chapter; 3784

(32) Failure of a physician or podiatrist to enter into a 3785
standard care arrangement with a clinical nurse specialist, 3786
certified nurse-midwife, or certified nurse practitioner with 3787
whom the physician or podiatrist is in collaboration pursuant to 3788
section 4731.27 of the Revised Code or failure to fulfill the 3789
responsibilities of collaboration after entering into a standard 3790
care arrangement; 3791

(33) Failure to comply with the terms of a consult 3792
agreement entered into with a pharmacist pursuant to section 3793
4729.39 of the Revised Code; 3794

(34) Failure to cooperate in an investigation conducted by 3795
the board under division (F) of this section, including failure 3796

to comply with a subpoena or order issued by the board or 3797
failure to answer truthfully a question presented by the board 3798
in an investigative interview, an investigative office 3799
conference, at a deposition, or in written interrogatories, 3800
except that failure to cooperate with an investigation shall not 3801
constitute grounds for discipline under this section if a court 3802
of competent jurisdiction has issued an order that either 3803
quashes a subpoena or permits the individual to withhold the 3804
testimony or evidence in issue; 3805

(35) Failure to supervise an anesthesiologist assistant in 3806
accordance with Chapter 4760. of the Revised Code and the 3807
board's rules for supervision of an anesthesiologist assistant; 3808

(36) Assisting suicide, as defined in section 3795.01 of 3809
the Revised Code; 3810

(37) Failure to comply with the requirements of section 3811
2317.561 of the Revised Code; 3812

(38) Failure to supervise a radiologist assistant in 3813
accordance with Chapter 4774. of the Revised Code and the 3814
board's rules for supervision of radiologist assistants; 3815

(39) Performing or inducing an abortion at an office or 3816
facility with knowledge that the office or facility fails to 3817
post the notice required under section 3701.791 of the Revised 3818
Code; 3819

(40) Failure to comply with the standards and procedures 3820
established in rules under section 4731.054 of the Revised Code 3821
for the operation of or the provision of care at a pain 3822
management clinic; 3823

(41) Failure to comply with the standards and procedures 3824
established in rules under section 4731.054 of the Revised Code 3825

for providing supervision, direction, and control of individuals 3826
at a pain management clinic; 3827

(42) Failure to comply with the requirements of section 3828
4729.79 or 4731.055 of the Revised Code, unless the state board 3829
of pharmacy no longer maintains a drug database pursuant to 3830
section 4729.75 of the Revised Code; 3831

(43) Failure to comply with the requirements of section 3832
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 3833
to submit to the department of health in accordance with a court 3834
order a complete report as described in section 2919.171 or 3835
2919.202 of the Revised Code; 3836

(44) Practicing at a facility that is subject to licensure 3837
as a category III terminal distributor of dangerous drugs with a 3838
pain management clinic classification unless the person 3839
operating the facility has obtained and maintains the license 3840
with the classification; 3841

(45) Owning a facility that is subject to licensure as a 3842
category III terminal distributor of dangerous drugs with a pain 3843
management clinic classification unless the facility is licensed 3844
with the classification; 3845

(46) Failure to comply with any of the requirements 3846
regarding making or maintaining medical records or documents 3847
described in division (A) of section 2919.192, division (C) of 3848
section 2919.193, division (B) of section 2919.195, or division 3849
(A) of section 2919.196 of the Revised Code; 3850

(47) Failure to comply with the requirements in section 3851
3719.061 of the Revised Code before issuing for a minor a 3852
prescription for an opioid analgesic, as defined in section 3853
3719.01 of the Revised Code; 3854

(48) Failure to comply with the requirements of section 3855
4731.30 of the Revised Code or rules adopted under section 3856
4731.301 of the Revised Code when recommending treatment with 3857
medical marijuana; 3858

(49) A pattern of continuous or repeated violations of 3859
division (E) (2) or (3) of section 3963.02 of the Revised Code; 3860

(50) Failure to fulfill the responsibilities of a 3861
collaboration agreement entered into with an athletic trainer as 3862
described in section 4755.621 of the Revised Code; 3863

(51) Failure to take the steps specified in section 3864
4731.911 of the Revised Code following an abortion or attempted 3865
abortion in an ambulatory surgical facility or other location 3866
that is not a hospital when a child is born alive. 3867

(C) Disciplinary actions taken by the board under 3868
divisions (A) and (B) of this section shall be taken pursuant to 3869
an adjudication under Chapter 119. of the Revised Code, except 3870
that in lieu of an adjudication, the board may enter into a 3871
consent agreement with an individual to resolve an allegation of 3872
a violation of this chapter or any rule adopted under it. A 3873
consent agreement, when ratified by an affirmative vote of not 3874
fewer than six members of the board, shall constitute the 3875
findings and order of the board with respect to the matter 3876
addressed in the agreement. If the board refuses to ratify a 3877
consent agreement, the admissions and findings contained in the 3878
consent agreement shall be of no force or effect. 3879

A telephone conference call may be utilized for 3880
ratification of a consent agreement that revokes or suspends an 3881
individual's license or certificate to practice or certificate 3882
to recommend. The telephone conference call shall be considered 3883

a special meeting under division (F) of section 121.22 of the Revised Code. 3884
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If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 or 2919.124 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. 3886
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(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds. 3902
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(E) The sealing or expungement of conviction records by any court shall have no effect upon a prior board order entered 3912
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under this section or upon the board's jurisdiction to take 3914
action under this section if, based upon a plea of guilty, a 3915
judicial finding of guilt, or a judicial finding of eligibility 3916
for intervention in lieu of conviction, the board issued a 3917
notice of opportunity for a hearing prior to the court's order 3918
to seal or expunge the records. The board shall not be required 3919
to seal, expunge, destroy, redact, or otherwise modify its 3920
records to reflect the court's sealing of conviction records. 3921

(F) (1) The board shall investigate evidence that appears 3922
to show that a person has violated any provision of this chapter 3923
or any rule adopted under it. Any person may report to the board 3924
in a signed writing any information that the person may have 3925
that appears to show a violation of any provision of this 3926
chapter or any rule adopted under it. In the absence of bad 3927
faith, any person who reports information of that nature or who 3928
testifies before the board in any adjudication conducted under 3929
Chapter 119. of the Revised Code shall not be liable in damages 3930
in a civil action as a result of the report or testimony. Each 3931
complaint or allegation of a violation received by the board 3932
shall be assigned a case number and shall be recorded by the 3933
board. 3934

(2) Investigations of alleged violations of this chapter 3935
or any rule adopted under it shall be supervised by the 3936
supervising member elected by the board in accordance with 3937
section 4731.02 of the Revised Code and by the secretary as 3938
provided in section 4731.39 of the Revised Code. The president 3939
may designate another member of the board to supervise the 3940
investigation in place of the supervising member. Upon a vote of 3941
the majority of the board to authorize the addition of a 3942
consumer member in the supervision of any part of any 3943
investigation, the president shall designate a consumer member 3944

for supervision of investigations as determined by the 3945
president. The authorization of consumer member participation in 3946
investigation supervision may be rescinded by a majority vote of 3947
the board. No member of the board who supervises the 3948
investigation of a case shall participate in further 3949
adjudication of the case. 3950

(3) In investigating a possible violation of this chapter 3951
or any rule adopted under this chapter, or in conducting an 3952
inspection under division (E) of section 4731.054 of the Revised 3953
Code, the board may question witnesses, conduct interviews, 3954
administer oaths, order the taking of depositions, inspect and 3955
copy any books, accounts, papers, records, or documents, issue 3956
subpoenas, and compel the attendance of witnesses and production 3957
of books, accounts, papers, records, documents, and testimony, 3958
except that a subpoena for patient record information shall not 3959
be issued without consultation with the attorney general's 3960
office and approval of the secretary of the board. 3961

(a) Before issuance of a subpoena for patient record 3962
information, the secretary shall determine whether there is 3963
probable cause to believe that the complaint filed alleges a 3964
violation of this chapter or any rule adopted under it and that 3965
the records sought are relevant to the alleged violation and 3966
material to the investigation. The subpoena may apply only to 3967
records that cover a reasonable period of time surrounding the 3968
alleged violation. 3969

(b) On failure to comply with any subpoena issued by the 3970
board and after reasonable notice to the person being 3971
subpoenaed, the board may move for an order compelling the 3972
production of persons or records pursuant to the Rules of Civil 3973
Procedure. 3974

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

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

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

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

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The

board shall not make public the names or any other identifying 4005
information about patients or complainants unless proper consent 4006
is given or, in the case of a patient, a waiver of the patient 4007
privilege exists under division (B) of section 2317.02 of the 4008
Revised Code, except that consent or a waiver of that nature is 4009
not required if the board possesses reliable and substantial 4010
evidence that no bona fide physician-patient relationship 4011
exists. 4012

The board may share any information it receives pursuant 4013
to an investigation or inspection, including patient records and 4014
patient record information, with law enforcement agencies, other 4015
licensing boards, and other governmental agencies that are 4016
prosecuting, adjudicating, or investigating alleged violations 4017
of statutes or administrative rules. An agency or board that 4018
receives the information shall comply with the same requirements 4019
regarding confidentiality as those with which the state medical 4020
board must comply, notwithstanding any conflicting provision of 4021
the Revised Code or procedure of the agency or board that 4022
applies when it is dealing with other information in its 4023
possession. In a judicial proceeding, the information may be 4024
admitted into evidence only in accordance with the Rules of 4025
Evidence, but the court shall require that appropriate measures 4026
are taken to ensure that confidentiality is maintained with 4027
respect to any part of the information that contains names or 4028
other identifying information about patients or complainants 4029
whose confidentiality was protected by the state medical board 4030
when the information was in the board's possession. Measures to 4031
ensure confidentiality that may be taken by the court include 4032
sealing its records or deleting specific information from its 4033
records. 4034

No person shall knowingly access, use, or disclose 4035

confidential investigatory information in a manner prohibited by 4036
law. 4037

(6) On a quarterly basis, the board shall prepare a report 4038
that documents the disposition of all cases during the preceding 4039
three months. The report shall contain the following information 4040
for each case with which the board has completed its activities: 4041

(a) The case number assigned to the complaint or alleged 4042
violation; 4043

(b) The type of license or certificate to practice, if 4044
any, held by the individual against whom the complaint is 4045
directed; 4046

(c) A description of the allegations contained in the 4047
complaint; 4048

(d) Whether witnesses were interviewed; 4049

(e) Whether the individual against whom the complaint is 4050
directed is the subject of any pending complaints; 4051

(f) The disposition of the case. 4052

The report shall state how many cases are still pending 4053
and shall be prepared in a manner that protects the identity of 4054
each person involved in each case. The report shall be a public 4055
record under section 149.43 of the Revised Code. 4056

(7) The board may provide a status update regarding an 4057
investigation to a complainant on request if the board verifies 4058
the complainant's identity. 4059

~~(G)(G) (1) If either of the following circumstances occur,~~ 4060
the secretary and supervising member ~~determine both of the~~ 4061
~~following, they may~~ recommend that the board suspend an 4062

individual's license or certificate to practice or certificate 4063
to recommend without a prior hearing: 4064

~~(1)~~ (a) The secretary and supervising member determine 4065
both of the following: 4066

(i) That there is clear and convincing evidence that an 4067
individual has violated division (B) of this section; 4068

~~(2)~~ (ii) That the individual's continued practice presents 4069
a danger of immediate and serious harm to the public. 4070

~~Written~~ (b) The board receives verifiable information that 4071
a licensee has been charged in any state or federal court with a 4072
crime classified as a felony under the charging court's law and 4073
the conduct constitutes a violation of division (B) of this 4074
section. 4075

(2) If a recommendation is made to suspend without a prior 4076
hearing pursuant to division (G)(1) of this section, written 4077
allegations shall be prepared for consideration by the board. 4078
The board, upon review of those allegations and by an 4079
affirmative vote of not fewer than six of its members, excluding 4080
the secretary and supervising member, may suspend a license or 4081
certificate without a prior hearing. A telephone conference call 4082
may be utilized for reviewing the allegations and taking the 4083
vote on the summary suspension. 4084

The board shall serve a written order of suspension in 4085
accordance with sections 119.05 and 119.07 of the Revised Code. 4086
The order shall not be subject to suspension by the court during 4087
pendency of any appeal filed under section 119.12 of the Revised 4088
Code. If the individual subject to the summary suspension 4089
requests an adjudicatory hearing by the board, the date set for 4090
the hearing shall be within fifteen days, but not earlier than 4091

seven days, after the individual requests the hearing, unless 4092
otherwise agreed to by both the board and the individual. 4093

(3) Any summary suspension imposed under this division 4094
shall remain in effect, unless reversed on appeal, until a final 4095
adjudicative order issued by the board pursuant to this section 4096
and Chapter 119. of the Revised Code becomes effective. The 4097
board shall issue its final adjudicative order within seventy- 4098
five days after completion of its hearing. A failure to issue 4099
the order within seventy-five days shall result in dissolution 4100
of the summary suspension order but shall not invalidate any 4101
subsequent, final adjudicative order. 4102

(H) If the board takes action under division (B) (9), (11), 4103
or (13) of this section and the judicial finding of guilt, 4104
guilty plea, or judicial finding of eligibility for intervention 4105
in lieu of conviction is overturned on appeal, upon exhaustion 4106
of the criminal appeal, a petition for reconsideration of the 4107
order may be filed with the board along with appropriate court 4108
documents. Upon receipt of a petition of that nature and 4109
supporting court documents, the board shall reinstate the 4110
individual's license or certificate to practice. The board may 4111
then hold an adjudication under Chapter 119. of the Revised Code 4112
to determine whether the individual committed the act in 4113
question. Notice of an opportunity for a hearing shall be given 4114
in accordance with Chapter 119. of the Revised Code. If the 4115
board finds, pursuant to an adjudication held under this 4116
division, that the individual committed the act or if no hearing 4117
is requested, the board may order any of the sanctions 4118
identified under division (B) of this section. 4119

(I) The license or certificate to practice issued to an 4120
individual under this chapter and the individual's practice in 4121

this state are automatically suspended as of the date of the 4122
individual's second or subsequent plea of guilty to, or judicial 4123
finding of guilt of, a violation of section 2919.123 or 2919.124 4124
of the Revised Code. In addition, the license or certificate to 4125
practice or certificate to recommend issued to an individual 4126
under this chapter and the individual's practice in this state 4127
are automatically suspended as of the date the individual pleads 4128
guilty to, is found by a judge or jury to be guilty of, or is 4129
subject to a judicial finding of eligibility for intervention in 4130
lieu of conviction in this state or treatment or intervention in 4131
lieu of conviction in another jurisdiction for any of the 4132
following criminal offenses in this state or a substantially 4133
equivalent criminal offense in another jurisdiction: aggravated 4134
murder, murder, voluntary manslaughter, felonious assault, 4135
trafficking in persons, kidnapping, rape, sexual battery, gross 4136
sexual imposition, aggravated arson, aggravated robbery, or 4137
aggravated burglary. Continued practice after suspension shall 4138
be considered practicing without a license or certificate. 4139

The board shall notify the individual subject to the 4140
suspension in accordance with sections 119.05 and 119.07 of the 4141
Revised Code. If an individual whose license or certificate is 4142
automatically suspended under this division fails to make a 4143
timely request for an adjudication under Chapter 119. of the 4144
Revised Code, the board shall do whichever of the following is 4145
applicable: 4146

(1) If the automatic suspension under this division is for 4147
a second or subsequent plea of guilty to, or judicial finding of 4148
guilt of, a violation of section 2919.123 or 2919.124 of the 4149
Revised Code, the board shall enter an order suspending the 4150
individual's license or certificate to practice for a period of 4151
at least one year or, if determined appropriate by the board, 4152

imposing a more serious sanction involving the individual's 4153
license or certificate to practice. 4154

(2) In all circumstances in which division (I)(1) of this 4155
section does not apply, enter a final order permanently revoking 4156
the individual's license or certificate to practice. 4157

(J) If the board is required by Chapter 119. of the 4158
Revised Code to give notice of an opportunity for a hearing and 4159
if the individual subject to the notice does not timely request 4160
a hearing in accordance with section 119.07 of the Revised Code, 4161
the board is not required to hold a hearing, but may adopt, by 4162
an affirmative vote of not fewer than six of its members, a 4163
final order that contains the board's findings. In that final 4164
order, the board may order any of the sanctions identified under 4165
division (A) or (B) of this section. 4166

(K) Any action taken by the board under division (B) of 4167
this section resulting in a suspension from practice shall be 4168
accompanied by a written statement of the conditions under which 4169
the individual's license or certificate to practice may be 4170
reinstated. The board shall adopt rules governing conditions to 4171
be imposed for reinstatement. Reinstatement of a license or 4172
certificate suspended pursuant to division (B) of this section 4173
requires an affirmative vote of not fewer than six members of 4174
the board. 4175

(L) When the board refuses to grant or issue a license or 4176
certificate to practice to an applicant, revokes an individual's 4177
license or certificate to practice, refuses to renew an 4178
individual's license or certificate to practice, or refuses to 4179
reinstate an individual's license or certificate to practice, 4180
the board may specify that its action is permanent. An 4181
individual subject to a permanent action taken by the board is 4182

forever thereafter ineligible to hold a license or certificate 4183
to practice and the board shall not accept an application for 4184
reinstatement of the license or certificate or for issuance of a 4185
new license or certificate. 4186

(M) Notwithstanding any other provision of the Revised 4187
Code, all of the following apply: 4188

(1) The surrender of a license or certificate issued under 4189
this chapter shall not be effective unless or until accepted by 4190
the board. A telephone conference call may be utilized for 4191
acceptance of the surrender of an individual's license or 4192
certificate to practice. The telephone conference call shall be 4193
considered a special meeting under division (F) of section 4194
121.22 of the Revised Code. Reinstatement of a license or 4195
certificate surrendered to the board requires an affirmative 4196
vote of not fewer than six members of the board. 4197

(2) An application for a license or certificate made under 4198
the provisions of this chapter may not be withdrawn without 4199
approval of the board. 4200

(3) Failure by an individual to renew a license or 4201
certificate to practice in accordance with this chapter or a 4202
certificate to recommend in accordance with rules adopted under 4203
section 4731.301 of the Revised Code does not remove or limit 4204
the board's jurisdiction to take any disciplinary action under 4205
this section against the individual. 4206

(4) The placement of an individual's license on retired 4207
status, as described in section 4731.283 of the Revised Code, 4208
does not remove or limit the board's jurisdiction to take any 4209
disciplinary action against the individual with regard to the 4210
license as it existed before being placed on retired status. 4211

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

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

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

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

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

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

(2) Select providers of educational and assessment

services, including a quality intervention program panel of case 4241
reviewers; 4242

(3) Make referrals to educational and assessment service 4243
providers and approve individual educational programs 4244
recommended by those providers. The board shall monitor the 4245
progress of each individual undertaking a recommended individual 4246
educational program. 4247

(4) Determine what constitutes successful completion of an 4248
individual educational program and require further monitoring of 4249
the individual who completed the program or other action that 4250
the board determines to be appropriate; 4251

(5) Adopt rules in accordance with Chapter 119. of the 4252
Revised Code to further implement the quality intervention 4253
program. 4254

An individual who participates in an individual 4255
educational program pursuant to this division shall pay the 4256
financial obligations arising from that educational program. 4257

(P) The board shall not refuse to issue a license to an 4258
applicant because of a conviction, plea of guilty, judicial 4259
finding of guilt, judicial finding of eligibility for 4260
intervention in lieu of conviction, or the commission of an act 4261
that constitutes a criminal offense, unless the refusal is in 4262
accordance with section 9.79 of the Revised Code. 4263

(Q) A license or certificate to practice or certificate to 4264
recommend issued to an individual under this chapter and an 4265
individual's practice under this chapter in this state are 4266
automatically suspended if the individual's license or 4267
certificate to practice a health care occupation or provide 4268
health care services is suspended, revoked, or surrendered or 4269

relinquished in lieu of discipline by an agency responsible for 4270
authorizing, certifying, or regulating an individual to practice 4271
a health care occupation or provide health care services in this 4272
state or another jurisdiction. The automatic suspension begins 4273
immediately upon entry of the order by the agency and lasts for 4274
ninety days to permit the board to investigate the basis for the 4275
action under this chapter. Continued practice during the 4276
automatic suspension shall be considered practicing without a 4277
license or certificate. 4278

The board shall notify the individual subject to the 4279
automatic suspension by certified mail or in person in 4280
accordance with section 119.07 of the Revised Code. If an 4281
individual subject to an automatic suspension under this 4282
division fails to make a timely request for an adjudication 4283
under Chapter 119. of the Revised Code, the board is not 4284
required to hold a hearing, but may adopt, by an affirmative 4285
vote of not fewer than six of its members, a final order that 4286
contains the board's findings. In that final order, the board 4287
may order any of the sanctions identified under division (A) or 4288
(B) of this section. 4289

Sec. 4731.224. (A) As used in this section: 4290

(1) "Criminal conduct" means any conduct that would 4291
constitute a felony, a misdemeanor committed in the course of 4292
medical practice, an offense of violence, or a sexually oriented 4293
offense, as defined in section 2950.01 of the Revised Code, 4294
regardless of whether a criminal charge has been filed or the 4295
location in this state where the conduct occurred. 4296

(2) "Sexual misconduct" means conduct that exploits the 4297
licensee-patient relationship in a sexual way, whether verbal or 4298
physical, and may include the expression of thoughts, feelings, 4299

or gestures that are sexual or that reasonably may be construed 4300
by a patient as sexual. Sexual misconduct includes sexual 4301
impropriety, sexual contact, and sexual interaction as defined 4302
by the state medical board in rules adopted in accordance with 4303
Chapter 119. of the Revised Code. 4304

(B) (1) ~~sixty~~thirty days after the imposition of 4305
any formal disciplinary action taken by any health care 4306
facility, including a hospital, health care facility operated by 4307
a health insuring corporation, ambulatory surgical center, or 4308
similar facility, against any individual holding a valid license 4309
or certificate to practice issued pursuant to this chapter, the 4310
chief administrator or executive officer of the facility shall 4311
report to the state medical board the name of the individual, 4312
the action taken by the facility, and a summary of the 4313
underlying facts leading to the action taken. Upon request, the 4314
board shall be provided certified copies of the patient records 4315
that were the basis for the facility's action. Prior to release 4316
to the board, the summary shall be approved by the peer review 4317
committee that reviewed the case or by the governing board of 4318
the facility. As used in this division, "formal disciplinary 4319
action" means any action resulting in the revocation, 4320
restriction, reduction, or termination of clinical privileges 4321
for violations of professional ethics, or for reasons of medical 4322
incompetence or medical malpractice. "Formal disciplinary 4323
action" includes a summary action, an action that takes effect 4324
notwithstanding any appeal rights that may exist, and an action 4325
that results in an individual surrendering clinical privileges 4326
while under investigation and during proceedings regarding the 4327
action being taken or in return for not being investigated or 4328
having proceedings held. "Formal disciplinary action" does not 4329
include any action taken for the sole reason of failure to 4330

maintain records on a timely basis or failure to attend staff or 4331
section meetings. 4332

The filing or nonfiling of a report with the board, 4333
investigation by the board, or any disciplinary action taken by 4334
the board, shall not preclude any action by a health care 4335
facility to suspend, restrict, or revoke the individual's 4336
clinical privileges. 4337

In the absence of fraud or bad faith, no individual or 4338
entity that provides patient records to the board shall be 4339
liable in damages to any person as a result of providing the 4340
records. 4341

(2) Within thirty days after commencing an investigation 4342
regarding criminal conduct or sexual misconduct against any 4343
individual holding a valid license or certificate to practice 4344
issued pursuant to this chapter, a health care facility, 4345
including a hospital, health care facility operated by a health 4346
insuring corporation, ambulatory surgical center, or similar 4347
facility, shall report to the board the name of the individual 4348
and a summary of the underlying facts related to the 4349
investigation being commenced. 4350

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 4351
of this section and subject to division (C)(3) of this section, 4352
if any individual authorized to practice under this chapter or 4353
any professional association or society of such individuals 4354
believes that a violation of any provision of this chapter, 4355
Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 4778. of 4356
the Revised Code, or any rule of the board has occurred, the 4357
individual, association, or society shall report to the board 4358
the information upon which the belief is based. 4359

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of division (B) (19) or (26) of section 4731.22 of the Revised Code has occurred, the individual, association, or society shall report the information upon which the belief is based to the monitoring organization conducting the confidential monitoring program established under section 4731.25 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(3) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct, the information upon which the belief is based shall be reported to the board within thirty days.

This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings.

(4) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct,

or any conduct involving the use of a motor vehicle while under 4390
the influence of alcohol or drugs, including offenses that are 4391
equivalent offenses under division (A) of section 4511.181 of 4392
the Revised Code, violations of division (D) of section 4511.194 4393
of the Revised Code, and violations of division (C) of section 4394
4511.79 of the Revised Code. Reports under this division shall 4395
be made within thirty days of the criminal charge being filed. 4396

~~(C)~~ (D) Any professional association or society composed 4397
primarily of doctors of medicine and surgery, doctors of 4398
osteopathic medicine and surgery, doctors of podiatric medicine 4399
and surgery, or practitioners of limited branches of medicine 4400
that suspends or revokes an individual's membership for 4401
violations of professional ethics, or for reasons of 4402
professional incompetence or professional malpractice, within 4403
~~sixty~~ thirty days after a final decision shall report to the 4404
board, on forms prescribed and provided by the board, the name 4405
of the individual, the action taken by the professional 4406
organization, and a summary of the underlying facts leading to 4407
the action taken. 4408

The filing of a report with the board or decision not to 4409
file a report, investigation by the board, or any disciplinary 4410
action taken by the board, does not preclude a professional 4411
organization from taking disciplinary action against an 4412
individual. 4413

~~(D)~~ (E) Any insurer providing professional liability 4414
insurance to an individual authorized to practice under this 4415
chapter, or any other entity that seeks to indemnify the 4416
professional liability of such an individual, shall notify the 4417
board within thirty days after the final disposition of any 4418
written claim for damages where such disposition results in a 4419

payment exceeding twenty-five thousand dollars. The notice shall 4420
contain the following information: 4421

(1) The name and address of the person submitting the 4422
notification; 4423

(2) The name and address of the insured who is the subject 4424
of the claim; 4425

(3) The name of the person filing the written claim; 4426

(4) The date of final disposition; 4427

(5) If applicable, the identity of the court in which the 4428
final disposition of the claim took place. 4429

~~(E)~~ (F) The board may investigate possible violations of 4430
this chapter or the rules adopted under it that are brought to 4431
its attention as a result of the reporting requirements of this 4432
section, except that the board shall conduct an investigation if 4433
a possible violation involves repeated malpractice. As used in 4434
this division, "repeated malpractice" means three or more claims 4435
for medical malpractice within the previous five-year period, 4436
each resulting in a judgment or settlement in excess of twenty- 4437
five thousand dollars in favor of the claimant, and each 4438
involving negligent conduct by the practicing individual. 4439

~~(F)~~ (G) All summaries, reports, and records received and 4440
maintained by the board pursuant to this section shall be held 4441
~~in confidence and shall not be subject to discovery or~~ 4442
~~introduction in evidence in any federal or state civil action~~ 4443
~~involving a health care professional or facility arising out of~~ 4444
~~matters that are the subject of the reporting required by this~~ 4445
~~section. The board may use the information obtained only as the~~ 4446
~~basis for an investigation, as evidence in a disciplinary~~ 4447
~~hearing against an individual whose practice is regulated under~~ 4448

~~this chapter, or in any subsequent trial or appeal of a board
action or order.~~ 4449
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~~The board may disclose the summaries and reports it
receives under this section only to health care facility
committees within or outside this state that are involved in
credentialing or recredentialing the individual or in reviewing
the individual's clinical privileges. The board shall indicate
whether or not the information has been verified. Information
transmitted by the board shall be subject to the same
confidentiality provisions as when maintained by the
board~~ confidential pursuant to division (F) (5) of section 4731.22
of the Revised Code. 4451
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~~(G)~~ (H) Except for reports filed by an individual pursuant
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall
send a copy of any reports or summaries it receives pursuant to
this section to the individual who is the subject of the reports
or summaries. The individual shall have the right to file a
statement with the board concerning the correctness or relevance
of the information. The statement shall at all times accompany
that part of the record in contention. 4461
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~~(H)~~ (I) An individual or entity that, pursuant to this
section, reports to the board, reports to the monitoring
organization described in section 4731.25 of the Revised Code,
or refers an impaired practitioner to a treatment provider
approved by the board under section 4731.251 of the Revised Code
shall not be subject to suit for civil damages as a result of
the report, referral, or provision of the information. 4469
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~~(I)~~ (J) In the absence of fraud or bad faith, no
professional association or society of individuals authorized to
practice under this chapter that sponsors a committee or program 4476
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to provide peer assistance to practitioners with substance abuse 4479
problems, no representative or agent of such a committee or 4480
program, no representative or agent of the monitoring 4481
organization described in section 4731.25 of the Revised Code, 4482
and no member of the state medical board shall be held liable in 4483
damages to any person by reason of actions taken to refer a 4484
practitioner to a treatment provider approved under section 4485
4731.251 of the Revised Code for examination or treatment. 4486

Sec. 4731.2210. (A) As used in this section: 4487

(1) "Key third party" means an individual closely involved 4488
in a patient's decision-making regarding health care services, 4489
including a patient's spouse or partner, parents, children, 4490
siblings, or guardians. An individual's status as a key third 4491
party ceases upon termination of a practitioner-patient 4492
relationship or termination of the relationship between a 4493
patient and the individual. 4494

(2) "Practitioner" means any of the following: 4495

(a) An individual authorized under this chapter to 4496
practice medicine and surgery, osteopathic medicine and surgery, 4497
podiatric medicine and surgery, or a limited branch of medicine; 4498

(b) An individual licensed under Chapter 4730. of the 4499
Revised Code to practice as a physician assistant; 4500

(c) An individual authorized under Chapter 4759. of the 4501
Revised Code to practice as a dietitian; 4502

(d) An individual authorized under Chapter 4760. of the 4503
Revised Code to practice as an anesthesiologist assistant; 4504

(e) An individual authorized under Chapter 4761. of the 4505
Revised Code to practice respiratory care; 4506

(f) An individual authorized under Chapter 4762. of the 4507
Revised Code to practice as an acupuncturist or oriental 4508
medicine practitioner; 4509

(g) An individual authorized under Chapter 4774. of the 4510
Revised Code to practice as a radiologist assistant; 4511

(h) An individual licensed under Chapter 4778. of the 4512
Revised Code to practice as a genetic counselor. 4513

(3) "Sexual misconduct" has the same meaning as in section 4514
4731.224 of the Revised Code. 4515

(B) Except as provided in division (D) of this section, 4516
the state medical board may require a practitioner that is 4517
subject to a probationary order of the board that is made on or 4518
after the effective date of this section, and that involves a 4519
circumstance described in division (C) of this section, to 4520
provide to each patient, or to the patient's guardian or a key 4521
third party, a written disclosure signed by the practitioner 4522
that includes all of the following: 4523

(1) The practitioner's probation status; 4524

(2) The total length of the probation; 4525

(3) The probation end date; 4526

(4) Practice restrictions placed on the practitioner by 4527
the board; 4528

(5) The board's telephone number; 4529

(6) An explanation of how the patient can find additional 4530
information regarding the probation on the practitioner's 4531
profile page on the board's internet web site. 4532

The written disclosure, if required by the board, shall be 4533

provided before the patient's first visit following the 4534
probationary order of the board. The practitioner shall obtain a 4535
copy of the disclosure signed by the patient, or the patient's 4536
guardian or a key third party, and maintain the signed copy in 4537
the patient's medical record. The signed copy shall be made 4538
available to the board immediately upon request. 4539

(C) The written disclosure described in division (B) of 4540
this section applies in both of the following circumstances: 4541

(1) Issuance by the board of a final order, final 4542
adjudicative order under Chapter 119. of the Revised Code, or a 4543
consent agreement that is ratified by an affirmative vote of not 4544
fewer than six members of the board establishing any of the 4545
following: 4546

(a) Commission of any act of sexual misconduct with a 4547
patient or key third party; 4548

(b) Drug or alcohol abuse directly resulting in patient 4549
harm, or that impairs the ability of the practitioner to 4550
practice safely; 4551

(c) Criminal conviction directly resulting in harm to 4552
patient health; 4553

(d) Inappropriate prescribing directly resulting in 4554
patient harm. 4555

(2) A statement of issues alleged that the practitioner 4556
committed any of the acts described in divisions (C) (1) (a) 4557
through (d) and, notwithstanding a lack of admission of guilt, a 4558
consent agreement ratified by an affirmative vote of not fewer 4559
than six members of the board includes express acknowledgement 4560
that the disclosure requirements of this section would serve to 4561
protect the public interest. 4562

(D) Written disclosure as described in this section is not 4563
required in the following circumstances: 4564

(1) The patient is unconscious or otherwise unable to 4565
comprehend the disclosure and sign it, and a guardian or a key 4566
third party is unavailable to comprehend and sign it; 4567

(2) The direct patient interaction occurs in an emergency 4568
department or otherwise occurs as an immediate result of a 4569
medical emergency; 4570

(3) The practitioner does not have a direct treatment 4571
relationship with the patient and does not have direct contact 4572
or direct communication with the patient. 4573

(E) The board shall provide the following information 4574
regarding practitioners on probation and those practicing under 4575
probationary status, in plain view on a practitioner's profile 4576
page on the board's internet web site: 4577

(1) Formal action documents detailing the citation, 4578
reports and recommendations, board order, and consent agreement; 4579

(2) The length of the probation and the end date; 4580

(3) Practice restrictions placed on the practitioner by 4581
the board. 4582

(F) The board shall provide a sample probation disclosure 4583
letter on its internet web site to be used by practitioners to 4584
comply with this section. 4585

Sec. 4731.99. (A) Whoever violates section 4731.41, 4586
4731.43, or 4731.60 of the Revised Code is guilty of a felony of 4587
the fifth degree on a first offense and a felony of the fourth 4588
degree on each subsequent offense. 4589

(B) Whoever violates section 4731.49, 4731.50, or 4731.81 4590
of the Revised Code is guilty of a misdemeanor of the fourth 4591
degree on a first offense and a misdemeanor of the first degree 4592
on each subsequent offense. 4593

(C) Whoever violates section 4731.46 or 4731.47 of the 4594
Revised Code is guilty of a felony of the fifth degree. 4595

(D) Whoever violates section 4731.48 of the Revised Code 4596
is guilty of a misdemeanor of the fourth degree. 4597

~~(E)~~ (E) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 4598
(1), ~~or (C) (2)~~, (D), or (E) of section 4731.224 of the Revised 4599
Code is guilty of a minor misdemeanor on a first offense and a 4600
misdemeanor of the fourth degree on each subsequent offense, 4601
except that an individual guilty of a subsequent offense shall 4602
not be subject to imprisonment, but to a fine alone of up to one 4603
thousand dollars for each offense. 4604

(2) Whoever violates division (B) (2) or (C) (3) of section 4605
4731.224 of the Revised Code is guilty of failure to report 4606
criminal conduct or sexual misconduct, a misdemeanor of the 4607
fourth degree. If the offender has previously been convicted of 4608
a violation of this division, the failure to report is a 4609
misdemeanor of the first degree. 4610

(F) Whoever violates section 4731.481 of the Revised Code 4611
is guilty of a misdemeanor of the first degree. 4612

(G) Whoever violates division (F) (5) of section 4731.22 of 4613
the Revised Code is guilty of disclosing confidential 4614
investigatory information, a misdemeanor of the first degree. 4615

Sec. 4759.05. (A) Except as provided in division (E) of 4616
this section, the state medical board shall adopt, amend, or 4617
rescind rules pursuant to Chapter 119. of the Revised Code to 4618

carry out the provisions of this chapter, including rules	4619
governing the following:	4620
(1) Selection and approval of a dietitian licensure	4621
examination offered by the commission on dietetic registration	4622
or any other examination;	4623
(2) The examination of applicants for licensure as a	4624
dietitian, as required under division (A) of section 4759.06 of	4625
the Revised Code;	4626
(3) Requirements for pre-professional dietetic experience	4627
of applicants for licensure as a dietitian that are at least	4628
equivalent to the requirements adopted by the commission on	4629
dietetic registration;	4630
(4) Requirements for a person holding a limited permit	4631
under division (G) of section 4759.06 of the Revised Code,	4632
including the duration of validity of a limited permit and	4633
procedures for renewal;	4634
(5) Continuing education requirements for renewal of a	4635
license, including rules providing for pro rata reductions by	4636
month of the number of hours of continuing education that must	4637
be completed for license holders who have been disabled by	4638
illness or accident or have been absent from the country. Rules	4639
adopted under this division shall be consistent with the	4640
continuing education requirements adopted by the commission on	4641
dietetic registration.	4642
(6) Any additional education requirements the board	4643
considers necessary, for applicants who have not practiced	4644
dietetics within five years of the initial date of application	4645
for licensure;	4646
(7) Standards of professional responsibility and practice	4647

for persons licensed under this chapter that are consistent with 4648
those standards of professional responsibility and practice 4649
adopted by the academy of nutrition and dietetics; 4650

(8) Formulation of an application form for licensure or 4651
license renewal; 4652

(9) Procedures for license renewal; 4653

(10) Requirements for criminal records checks of 4654
applicants under section 4776.03 of the Revised Code. 4655

(B) (1) The board shall investigate evidence that appears 4656
to show that a person has violated any provision of this chapter 4657
or any rule adopted under it. Any person may report to the board 4658
in a signed writing any information that the person may have 4659
that appears to show a violation of any provision of this 4660
chapter or any rule adopted under it. In the absence of bad 4661
faith, any person who reports information of that nature or who 4662
testifies before the board in any adjudication conducted under 4663
Chapter 119. of the Revised Code shall not be liable in damages 4664
in a civil action as a result of the report or testimony. Each 4665
complaint or allegation of a violation received by the board 4666
shall be assigned a case number and shall be recorded by the 4667
board. 4668

(2) Investigations of alleged violations of this chapter 4669
or any rule adopted under it shall be supervised by the 4670
supervising member elected by the board in accordance with 4671
section 4731.02 of the Revised Code and by the secretary as 4672
provided in section 4759.012 of the Revised Code. The president 4673
may designate another member of the board to supervise the 4674
investigation in place of the supervising member. Upon a vote of 4675
the majority of the board to authorize the addition of a 4676

consumer member in the supervision of any part of any 4677
investigation, the president shall designate a consumer member 4678
for supervision of investigations as determined by the 4679
president. The authorization of consumer member participation in 4680
investigation supervision may be rescinded by a majority vote of 4681
the board. No member of the board who supervises the 4682
investigation of a case shall participate in further 4683
adjudication of the case. 4684

(3) In investigating a possible violation of this chapter 4685
or any rule adopted under this chapter, the board may issue 4686
subpoenas, question witnesses, conduct interviews, administer 4687
oaths, order the taking of depositions, inspect and copy any 4688
books, accounts, papers, records, or documents, and compel the 4689
attendance of witnesses and the production of books, accounts, 4690
papers, records, documents, and testimony, except that a 4691
subpoena for patient record information shall not be issued 4692
without consultation with the attorney general's office and 4693
approval of the secretary of the board. 4694

Before issuance of a subpoena for patient record 4695
information, the secretary shall determine whether there is 4696
probable cause to believe that the complaint filed alleges a 4697
violation of this chapter or any rule adopted under it and that 4698
the records sought are relevant to the alleged violation and 4699
material to the investigation. The subpoena may apply only to 4700
records that cover a reasonable period of time surrounding the 4701
alleged violation. 4702

On failure to comply with any subpoena issued by the board 4703
and after reasonable notice to the person being subpoenaed, the 4704
board may move for an order compelling the production of persons 4705
or records pursuant to the Rules of Civil Procedure. 4706

A subpoena issued by the board may be served by a sheriff, 4707
the sheriff's deputy, or a board employee or agent designated by 4708
the board. Service of a subpoena issued by the board may be made 4709
by delivering a copy of the subpoena to the person named 4710
therein, reading it to the person, or leaving it at the person's 4711
usual place of residence, usual place of business, or address on 4712
file with the board. When serving a subpoena to an applicant for 4713
or the holder of a license or limited permit issued under this 4714
chapter, service of the subpoena may be made by certified mail, 4715
return receipt requested, and the subpoena shall be deemed 4716
served on the date delivery is made or the date the person 4717
refuses to accept delivery. If the person being served refuses 4718
to accept the subpoena or is not located, service may be made to 4719
an attorney who notifies the board that the attorney is 4720
representing the person. 4721

A sheriff's deputy who serves a subpoena shall receive the 4722
same fees as a sheriff. Each witness who appears before the 4723
board in obedience to a subpoena shall receive the fees and 4724
mileage provided for under section 119.094 of the Revised Code. 4725

(4) All hearings, investigations, and inspections of the 4726
board shall be considered civil actions for the purposes of 4727
section 2305.252 of the Revised Code. 4728

(5) A report required to be submitted to the board under 4729
this chapter, a complaint, or information received by the board 4730
pursuant to an investigation is confidential and not subject to 4731
discovery in any civil action. 4732

The board shall conduct all investigations or inspections 4733
and proceedings in a manner that protects the confidentiality of 4734
patients and persons who file complaints with the board. The 4735
board shall not make public the names or any other identifying 4736

information about patients or complainants unless proper consent 4737
is given. 4738

The board may share any information it receives pursuant 4739
to an investigation or inspection, including patient records and 4740
patient record information, with law enforcement agencies, other 4741
licensing boards, and other governmental agencies that are 4742
prosecuting, adjudicating, or investigating alleged violations 4743
of statutes or administrative rules. An agency or board that 4744
receives the information shall comply with the same requirements 4745
regarding confidentiality as those with which the state medical 4746
board must comply, notwithstanding any conflicting provision of 4747
the Revised Code or procedure of the agency or board that 4748
applies when it is dealing with other information in its 4749
possession. In a judicial proceeding, the information may be 4750
admitted into evidence only in accordance with the Rules of 4751
Evidence, but the court shall require that appropriate measures 4752
are taken to ensure that confidentiality is maintained with 4753
respect to any part of the information that contains names or 4754
other identifying information about patients or complainants 4755
whose confidentiality was protected by the state medical board 4756
when the information was in the board's possession. Measures to 4757
ensure confidentiality that may be taken by the court include 4758
sealing its records or deleting specific information from its 4759
records. 4760

No person shall knowingly access, use, or disclose 4761
confidential investigatory information in a manner prohibited by 4762
law. 4763

(6) On a quarterly basis, the board shall prepare a report 4764
that documents the disposition of all cases during the preceding 4765
three months. The report shall contain the following information 4766

for each case with which the board has completed its activities:	4767
(a) The case number assigned to the complaint or alleged violation;	4768 4769
(b) The type of license, if any, held by the individual against whom the complaint is directed;	4770 4771
(c) A description of the allegations contained in the complaint;	4772 4773
(d) <u>Whether witnesses were interviewed;</u>	4774
(e) <u>Whether the individual against whom the complaint is directed is the subject of any pending complaints;</u>	4775 4776
(f) <u>The disposition of the case.</u>	4777
The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.	4778 4779 4780 4781
<u>(7) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.</u>	4782 4783 4784
(C) The board shall keep records as are necessary to carry out the provisions of this chapter.	4785 4786
(D) The board shall maintain and publish on its internet web site the board's rules and requirements for licensure adopted under division (A) of this section.	4787 4788 4789
(E) The board shall issue a license or limited permit to practice dietetics in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following apply:	4790 4791 4792
(1) The applicant holds a license or permit in another	4793

state. 4794

(2) The applicant has satisfactory work experience, a 4795
government certification, or a private certification as 4796
described in that chapter as a dietitian in a state that does 4797
not issue that license. 4798

Sec. 4759.07. (A) The state medical board, by an 4799
affirmative vote of not fewer than six members, shall, except as 4800
provided in division (B) of this section, and to the extent 4801
permitted by law, limit, revoke, or suspend an individual's 4802
license or limited permit, refuse to issue a license or limited 4803
permit to an individual, refuse to renew a license or limited 4804
permit, refuse to reinstate a license or limited permit, or 4805
reprimand or place on probation the holder of a license or 4806
limited permit for one or more of the following reasons: 4807

(1) Except when civil penalties are imposed under section 4808
4759.071 of the Revised Code, violating or attempting to 4809
violate, directly or indirectly, or assisting in or abetting the 4810
violation of, or conspiring to violate, any provision of this 4811
chapter or the rules adopted by the board; 4812

(2) Making a false, fraudulent, deceptive, or misleading 4813
statement in the solicitation of or advertising for patients; in 4814
relation to the practice of dietetics; or in securing or 4815
attempting to secure any license or permit issued by the board 4816
under this chapter. 4817

As used in division (A) (2) of this section, "false, 4818
fraudulent, deceptive, or misleading statement" means a 4819
statement that includes a misrepresentation of fact, is likely 4820
to mislead or deceive because of a failure to disclose material 4821
facts, is intended or is likely to create false or unjustified 4822

expectations of favorable results, or includes representations 4823
or implications that in reasonable probability will cause an 4824
ordinarily prudent person to misunderstand or be deceived. 4825

(3) Committing fraud during the administration of the 4826
examination for a license to practice or committing fraud, 4827
misrepresentation, or deception in applying for, renewing, or 4828
securing any license or permit issued by the board; 4829

(4) A plea of guilty to, a judicial finding of guilt of, 4830
or a judicial finding of eligibility for intervention in lieu of 4831
conviction for, a felony; 4832

(5) Commission of an act that constitutes a felony in this 4833
state, regardless of the jurisdiction in which the act was 4834
committed; 4835

(6) A plea of guilty to, a judicial finding of guilt of, 4836
or a judicial finding of eligibility for intervention in lieu of 4837
conviction for, a misdemeanor committed in the course of 4838
practice; 4839

(7) Commission of an act in the course of practice that 4840
constitutes a misdemeanor in this state, regardless of the 4841
jurisdiction in which the act was committed; 4842

(8) A plea of guilty to, a judicial finding of guilt of, 4843
or a judicial finding of eligibility for intervention in lieu of 4844
conviction for, a misdemeanor involving moral turpitude; 4845

(9) Commission of an act involving moral turpitude that 4846
constitutes a misdemeanor in this state, regardless of the 4847
jurisdiction in which the act was committed; 4848

(10) A record of engaging in incompetent or negligent 4849
conduct in the practice of dietetics; 4850

(11) A departure from, or failure to conform to, minimal 4851
standards of care of similar practitioners under the same or 4852
similar circumstances, whether or not actual injury to a patient 4853
is established; 4854

(12) The obtaining of, or attempting to obtain, money or 4855
anything of value by fraudulent misrepresentations in the course 4856
of practice; 4857

(13) Violation of the conditions of limitation placed by 4858
the board on a license or permit; 4859

(14) Inability to practice according to acceptable and 4860
prevailing standards of care by reason of mental illness or 4861
physical illness, including, physical deterioration that 4862
adversely affects cognitive, motor, or perceptive skills; 4863

(15) Any of the following actions taken by an agency 4864
responsible for authorizing, certifying, or regulating an 4865
individual to practice a health care occupation or provide 4866
health care services in this state or another jurisdiction, for 4867
any reason other than the nonpayment of fees: the limitation, 4868
revocation, or suspension of an individual's license; acceptance 4869
of an individual's license surrender; denial of a license; 4870
refusal to renew or reinstate a license; imposition of 4871
probation; or issuance of an order of censure or other 4872
reprimand; 4873

(16) The revocation, suspension, restriction, reduction, 4874
or termination of practice privileges by the United States 4875
department of defense or department of veterans affairs; 4876

(17) Termination or suspension from participation in the 4877
medicare or medicaid programs by the department of health and 4878
human services or other responsible agency for any act or acts 4879

that also would constitute a violation of division (A) (11), 4880
(12), or (14) of this section; 4881

(18) Impairment of ability to practice according to 4882
acceptable and prevailing standards of care because of substance 4883
use disorder or excessive use or abuse of drugs, alcohol, or 4884
other substances that may impair ability to practice; 4885

(19) Failure to cooperate in an investigation conducted by 4886
the board under division (B) of section 4759.05 of the Revised 4887
Code, including failure to comply with a subpoena or order 4888
issued by the board or failure to answer truthfully a question 4889
presented by the board in an investigative interview, an 4890
investigative office conference, at a deposition, or in written 4891
interrogatories, except that failure to cooperate with an 4892
investigation shall not constitute grounds for discipline under 4893
this section if a court of competent jurisdiction has issued an 4894
order that either quashes a subpoena or permits the individual 4895
to withhold the testimony or evidence in issue; 4896

(20) Representing with the purpose of obtaining 4897
compensation or other advantage as personal gain or for any 4898
other person, that an incurable disease or injury, or other 4899
incurable condition, can be permanently cured. 4900

(B) The board shall not refuse to issue a license or 4901
limited permit to an applicant because of a plea of guilty to, a 4902
judicial finding of guilt of, or a judicial finding of 4903
eligibility for intervention in lieu of conviction for an 4904
offense unless the refusal is in accordance with section 9.79 of 4905
the Revised Code. 4906

(C) Any action taken by the board under division (A) of 4907
this section resulting in a suspension from practice shall be 4908

accompanied by a written statement of the conditions under which 4909
the individual's license or permit may be reinstated. The board 4910
shall adopt rules governing conditions to be imposed for 4911
reinstatement. Reinstatement of a license or permit suspended 4912
pursuant to division (A) of this section requires an affirmative 4913
vote of not fewer than six members of the board. 4914

(D) When the board refuses to grant or issue a license or 4915
permit to an applicant, revokes an individual's license or 4916
permit, refuses to renew an individual's license or permit, or 4917
refuses to reinstate an individual's license or permit, the 4918
board may specify that its action is permanent. An individual 4919
subject to a permanent action taken by the board is forever 4920
thereafter ineligible to hold a license or permit and the board 4921
shall not accept an application for reinstatement of the license 4922
or permit or for issuance of a new license or permit. 4923

(E) Disciplinary actions taken by the board under division 4924
(A) of this section shall be taken pursuant to an adjudication 4925
under Chapter 119. of the Revised Code, except that in lieu of 4926
an adjudication, the board may enter into a consent agreement 4927
with an individual to resolve an allegation of a violation of 4928
this chapter or any rule adopted under it. A consent agreement, 4929
when ratified by an affirmative vote of not fewer than six 4930
members of the board, shall constitute the findings and order of 4931
the board with respect to the matter addressed in the agreement. 4932
If the board refuses to ratify a consent agreement, the 4933
admissions and findings contained in the consent agreement shall 4934
be of no force or effect. 4935

A telephone conference call may be utilized for 4936
ratification of a consent agreement that revokes or suspends an 4937
individual's license or permit. The telephone conference call 4938

shall be considered a special meeting under division (F) of 4939
section 121.22 of the Revised Code. 4940

(F) In enforcing division (A)(14) of this section, the 4941
board, upon a showing of a possible violation, shall refer any 4942
individual authorized to practice by this chapter or who has 4943
submitted an application pursuant to this chapter to the 4944
monitoring organization that conducts the confidential 4945
monitoring program established under section 4731.25 of the 4946
Revised Code. The board also may compel the individual to submit 4947
to a mental examination, physical examination, including an HIV 4948
test, or both a mental and a physical examination. The expense 4949
of the examination is the responsibility of the individual 4950
compelled to be examined. Failure to submit to a mental or 4951
physical examination or consent to an HIV test ordered by the 4952
board constitutes an admission of the allegations against the 4953
individual unless the failure is due to circumstances beyond the 4954
individual's control, and a default and final order may be 4955
entered without the taking of testimony or presentation of 4956
evidence. If the board finds an individual unable to practice 4957
because of the reasons set forth in division (A)(14) of this 4958
section, the board shall require the individual to submit to 4959
care, counseling, or treatment by physicians approved or 4960
designated by the board, as a condition for initial, continued, 4961
reinstated, or renewed authority to practice. An individual 4962
affected under this division shall be afforded an opportunity to 4963
demonstrate to the board the ability to resume practice in 4964
compliance with acceptable and prevailing standards under the 4965
provisions of the individual's license or permit. For the 4966
purpose of division (A)(14) of this section, any individual who 4967
applies for or receives a license or permit under this chapter 4968
accepts the privilege of practicing in this state and, by so 4969

doing, shall be deemed to have given consent to submit to a 4970
mental or physical examination when directed to do so in writing 4971
by the board, and to have waived all objections to the 4972
admissibility of testimony or examination reports that 4973
constitute a privileged communication. 4974

(G) For the purposes of division (A)(18) of this section, 4975
any individual authorized to practice by this chapter accepts 4976
the privilege of practicing in this state subject to supervision 4977
by the board. By filing an application for or holding a license 4978
or permit under this chapter, an individual shall be deemed to 4979
have given consent to submit to a mental or physical examination 4980
when ordered to do so by the board in writing, and to have 4981
waived all objections to the admissibility of testimony or 4982
examination reports that constitute privileged communications. 4983

If it has reason to believe that any individual authorized 4984
to practice by this chapter or any applicant for a license or 4985
permit suffers such impairment, the board shall refer the 4986
individual to the monitoring organization that conducts the 4987
confidential monitoring program established under section 4988
4731.25 of the Revised Code. The board also may compel the 4989
individual to submit to a mental or physical examination, or 4990
both. The expense of the examination is the responsibility of 4991
the individual compelled to be examined. Any mental or physical 4992
examination required under this division shall be undertaken by 4993
a treatment provider or physician who is qualified to conduct 4994
the examination and who is approved under section 4731.251 of 4995
the Revised Code. 4996

Failure to submit to a mental or physical examination 4997
ordered by the board constitutes an admission of the allegations 4998
against the individual unless the failure is due to 4999

circumstances beyond the individual's control, and a default and 5000
final order may be entered without the taking of testimony or 5001
presentation of evidence. If the board determines that the 5002
individual's ability to practice is impaired, the board shall 5003
suspend the individual's license or permit or deny the 5004
individual's application and shall require the individual, as a 5005
condition for an initial, continued, reinstated, or renewed 5006
license or permit, to submit to treatment. 5007

Before being eligible to apply for reinstatement of a 5008
license or permit suspended under this division, the impaired 5009
practitioner shall demonstrate to the board the ability to 5010
resume practice in compliance with acceptable and prevailing 5011
standards of care under the provisions of the practitioner's 5012
license or permit. The demonstration shall include, but shall 5013
not be limited to, the following: 5014

(1) Certification from a treatment provider approved under 5015
section 4731.251 of the Revised Code that the individual has 5016
successfully completed any required inpatient treatment; 5017

(2) Evidence of continuing full compliance with an 5018
aftercare contract or consent agreement; 5019

(3) Two written reports indicating that the individual's 5020
ability to practice has been assessed and that the individual 5021
has been found capable of practicing according to acceptable and 5022
prevailing standards of care. The reports shall be made by 5023
individuals or providers approved by the board for making the 5024
assessments and shall describe the basis for their 5025
determination. 5026

The board may reinstate a license or permit suspended 5027
under this division after that demonstration and after the 5028

individual has entered into a written consent agreement. 5029

When the impaired practitioner resumes practice, the board 5030
shall require continued monitoring of the individual. The 5031
monitoring shall include, but not be limited to, compliance with 5032
the written consent agreement entered into before reinstatement 5033
or with conditions imposed by board order after a hearing, and, 5034
upon termination of the consent agreement, submission to the 5035
board for at least two years of annual written progress reports 5036
made under penalty of perjury stating whether the individual has 5037
maintained sobriety. 5038

~~(H)~~ (H) (1) If either of the following circumstances occur, 5039
the secretary and supervising member ~~determine both of the~~ 5040
~~following, they~~ may recommend that the board suspend an 5041
individual's license or permit without a prior hearing: 5042

~~(1)~~ (a) The secretary and supervising member determine 5043
both of the following: 5044

(i) That there is clear and convincing evidence that an 5045
individual has violated division (A) of this section; 5046

~~(2)~~ (ii) That the individual's continued practice presents 5047
a danger of immediate and serious harm to the public. 5048

~~Written~~ (b) The board receives verifiable information that 5049
a licensee has been charged in any state or federal court for a 5050
crime classified as a felony under the charging court's law and 5051
the conduct charged constitutes a violation of division (A) of 5052
this section. 5053

(2) If a recommendation is made to suspend without a prior 5054
hearing pursuant to division (H) (1) of this section, written 5055
allegations shall be prepared for consideration by the board. 5056

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

The board shall serve a written order of suspension in accordance with sections 119.05 and 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

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

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

final order that contains the board's findings. In the final 5087
order, the board may order any of the sanctions identified under 5088
division (A) of this section. 5089

(J) For purposes of divisions (A) (5), (7), and (9) of this 5090
section, the commission of the act may be established by a 5091
finding by the board, pursuant to an adjudication under Chapter 5092
119. of the Revised Code, that the individual committed the act. 5093
The board does not have jurisdiction under those divisions if 5094
the trial court renders a final judgment in the individual's 5095
favor and that judgment is based upon an adjudication on the 5096
merits. The board has jurisdiction under those divisions if the 5097
trial court issues an order of dismissal upon technical or 5098
procedural grounds. 5099

(K) The sealing or expungement of conviction records by 5100
any court shall have no effect upon a prior board order entered 5101
under this section or upon the board's jurisdiction to take 5102
action under this section if, based upon a plea of guilty, a 5103
judicial finding of guilt, or a judicial finding of eligibility 5104
for intervention in lieu of conviction, the board issued a 5105
notice of opportunity for a hearing prior to the court's order 5106
to seal or expunge the records. The board shall not be required 5107
to seal, destroy, redact, or otherwise modify its records to 5108
reflect the court's sealing or expungement of conviction 5109
records. 5110

(L) If the board takes action under division (A) (4), (6), 5111
or (8) of this section, and the judicial finding of guilt, 5112
guilty plea, or judicial finding of eligibility for intervention 5113
in lieu of conviction is overturned on appeal, upon exhaustion 5114
of the criminal appeal, a petition for reconsideration of the 5115
order may be filed with the board along with appropriate court 5116

documents. Upon receipt of a petition for reconsideration and 5117
supporting court documents, the board shall reinstate the 5118
individual's license or permit. The board may then hold an 5119
adjudication under Chapter 119. of the Revised Code to determine 5120
whether the individual committed the act in question. Notice of 5121
an opportunity for a hearing shall be given in accordance with 5122
Chapter 119. of the Revised Code. If the board finds, pursuant 5123
to an adjudication held under this division, that the individual 5124
committed the act or if no hearing is requested, the board may 5125
order any of the sanctions identified under division (A) of this 5126
section. 5127

(M) The license or permit issued to an individual under 5128
this chapter and the individual's practice in this state are 5129
automatically suspended as of the date the individual pleads 5130
guilty to, is found by a judge or jury to be guilty of, or is 5131
subject to a judicial finding of eligibility for intervention in 5132
lieu of conviction in this state or treatment or intervention in 5133
lieu of conviction in another jurisdiction for any of the 5134
following criminal offenses in this state or a substantially 5135
equivalent criminal offense in another jurisdiction: aggravated 5136
murder, murder, voluntary manslaughter, felonious assault, 5137
trafficking in persons, kidnapping, rape, sexual battery, gross 5138
sexual imposition, aggravated arson, aggravated robbery, or 5139
aggravated burglary. Continued practice after suspension shall 5140
be considered practicing without a license or permit. 5141

The board shall serve the individual subject to the 5142
suspension in accordance with sections 119.05 and 119.07 of the 5143
Revised Code. If an individual whose license or permit is 5144
automatically suspended under this division fails to make a 5145
timely request for an adjudication under Chapter 119. of the 5146
Revised Code, the board shall enter a final order permanently 5147

revoking the individual's license or permit. 5148

(N) Notwithstanding any other provision of the Revised 5149
Code, all of the following apply: 5150

(1) The surrender of a license or permit issued under this 5151
chapter shall not be effective unless or until accepted by the 5152
board. A telephone conference call may be utilized for 5153
acceptance of the surrender of an individual's license or 5154
permit. The telephone conference call shall be considered a 5155
special meeting under division (F) of section 121.22 of the 5156
Revised Code. Reinstatement of a license or permit surrendered 5157
to the board requires an affirmative vote of not fewer than six 5158
members of the board. 5159

(2) An application for a license or permit made under the 5160
provisions of this chapter may not be withdrawn without approval 5161
of the board. 5162

(3) Failure by an individual to renew a license or permit 5163
in accordance with this chapter does not remove or limit the 5164
board's jurisdiction to take any disciplinary action under this 5165
section against the individual. 5166

(4) The placement of an individual's license on retired 5167
status, as described in section 4759.064 of the Revised Code, 5168
does not remove or limit the board's jurisdiction to take any 5169
disciplinary action against the individual with regard to the 5170
license as it existed before being placed on retired status. 5171

(5) At the request of the board, a license or permit 5172
holder shall immediately surrender to the board a license or 5173
permit that the board has suspended, revoked, or permanently 5174
revoked. 5175

Sec. 4759.14. (A) As used in this section, "criminal 5176

conduct" and "sexual misconduct" have the same meanings as in 5177
section 4731.224 of the Revised Code. 5178

(B)(1) Within thirty days after commencing an 5179
investigation regarding criminal conduct or sexual misconduct 5180
against any individual holding a valid license to practice 5181
issued pursuant to this chapter, a health care facility, 5182
including a hospital, health care facility operated by a health 5183
insuring corporation, ambulatory surgical facility, or similar 5184
facility, shall report to the board the name of the individual 5185
and a summary of the underlying facts related to the 5186
investigation being commenced. 5187

(2) If any individual authorized to practice under this 5188
chapter or any professional association or society of such 5189
individuals knows or has reasonable cause to suspect based on 5190
facts that would cause a reasonable person in a similar position 5191
to suspect that an individual authorized to practice under this 5192
chapter has committed or participated in criminal conduct or 5193
sexual misconduct the information upon which the belief is based 5194
shall be reported to the board within thirty days. 5195

This division does not apply to a professional association 5196
or society whose staff interacts with members of the association 5197
or society only in advocacy, governance, or educational 5198
capacities and whose staff does not regularly interact with 5199
members in practice settings. 5200

(3) In addition to the self-reporting of criminal offenses 5201
that is required for license renewal, an individual authorized 5202
to practice under this chapter shall report to the board 5203
criminal charges regarding criminal conduct, sexual misconduct, 5204
or any conduct involving the use of a motor vehicle while under 5205
the influence of alcohol or drugs, including offenses that are 5206

equivalent offenses under division (A) of section 4511.181 of 5207
the Revised Code, violations of division (D) of section 4511.194 5208
of the Revised Code, and violations of division (C) of section 5209
4511.79 of the Revised Code. Reports under this division shall 5210
be made within thirty days of the criminal charge being filed. 5211

Sec. 4759.99. Whoever violates section 4759.02 of the 5212
Revised Code is guilty of a minor misdemeanor. If the offender 5213
has been previously convicted once of a violation of the 5214
section, then the violation is a misdemeanor of the fourth 5215
degree. If the offender has been previously convicted more than 5216
once of a violation of the section, then the violation is a 5217
misdemeanor of the first degree. 5218

Whoever violates division (B) (1) or (2) of section 4759.14 5219
of the Revised Code is guilty of failure to report criminal 5220
conduct or sexual misconduct, a misdemeanor of the fourth 5221
degree. If the offender has previously been convicted of a 5222
violation of this division, the failure to report is a 5223
misdemeanor of the first degree. 5224

Whoever violates division (B) of section 4759.05 of the 5225
Revised Code is guilty of disclosing confidential investigatory 5226
information, a misdemeanor of the first degree. 5227

Sec. 4760.13. (A) The state medical board, by an 5228
affirmative vote of not fewer than six members, may refuse to 5229
grant a license to practice as an anesthesiologist assistant to, 5230
or may revoke the license held by, an individual found by the 5231
board to have committed fraud, misrepresentation, or deception 5232
in applying for or securing the license. 5233

(B) The board, by an affirmative vote of not fewer than 5234
six members, shall, except as provided in division (C) of this 5235

section, and to the extent permitted by law, limit, revoke, or 5236
suspend an individual's license to practice as an 5237
anesthesiologist assistant, refuse to issue a license to an 5238
applicant, refuse to renew a license, refuse to reinstate a 5239
license, or reprimand or place on probation the holder of a 5240
license for any of the following reasons: 5241

(1) Permitting the holder's name or license to be used by 5242
another person; 5243

(2) Failure to comply with the requirements of this 5244
chapter, Chapter 4731. of the Revised Code, or any rules adopted 5245
by the board; 5246

(3) Violating or attempting to violate, directly or 5247
indirectly, or assisting in or abetting the violation of, or 5248
conspiring to violate, any provision of this chapter, Chapter 5249
4731. of the Revised Code, or the rules adopted by the board; 5250

(4) A departure from, or failure to conform to, minimal 5251
standards of care of similar practitioners under the same or 5252
similar circumstances whether or not actual injury to the 5253
patient is established; 5254

(5) Inability to practice according to acceptable and 5255
prevailing standards of care by reason of mental illness or 5256
physical illness, including physical deterioration that 5257
adversely affects cognitive, motor, or perceptive skills; 5258

(6) Impairment of ability to practice according to 5259
acceptable and prevailing standards of care because of substance 5260
use disorder or excessive use or abuse of drugs, alcohol, or 5261
other substances that may impair ability to practice; 5262

(7) Willfully betraying a professional confidence; 5263

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as an anesthesiologist assistant.

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

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

(10) 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;

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

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

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

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

jurisdiction in which the act was committed;	5293
(15) Commission of an act involving moral turpitude that	5294
constitutes a misdemeanor in this state, regardless of the	5295
jurisdiction in which the act was committed;	5296
(16) A plea of guilty to, a judicial finding of guilt of,	5297
or a judicial finding of eligibility for intervention in lieu of	5298
conviction for violating any state or federal law regulating the	5299
possession, distribution, or use of any drug, including	5300
trafficking in drugs;	5301
(17) Any of the following actions taken by the state	5302
agency responsible for regulating the practice of	5303
anesthesiologist assistants in another jurisdiction, for any	5304
reason other than the nonpayment of fees: the limitation,	5305
revocation, or suspension of an individual's license to	5306
practice; acceptance of an individual's license surrender;	5307
denial of a license; refusal to renew or reinstate a license;	5308
imposition of probation; or issuance of an order of censure or	5309
other reprimand;	5310
(18) Violation of the conditions placed by the board on a	5311
license to practice;	5312
(19) Failure to use universal blood and body fluid	5313
precautions established by rules adopted under section 4731.051	5314
of the Revised Code;	5315
(20) Failure to cooperate in an investigation conducted by	5316
the board under section 4760.14 of the Revised Code, including	5317
failure to comply with a subpoena or order issued by the board	5318
or failure to answer truthfully a question presented by the	5319
board at a deposition or in written interrogatories, except that	5320
failure to cooperate with an investigation shall not constitute	5321

grounds for discipline under this section if a court of 5322
competent jurisdiction has issued an order that either quashes a 5323
subpoena or permits the individual to withhold the testimony or 5324
evidence in issue; 5325

(21) Failure to comply with any code of ethics established 5326
by the national commission for the certification of 5327
anesthesiologist assistants; 5328

(22) Failure to notify the state medical board of the 5329
revocation or failure to maintain certification from the 5330
national commission for certification of anesthesiologist 5331
assistants. 5332

(C) The board shall not refuse to issue a certificate to 5333
an applicant because of a plea of guilty to, a judicial finding 5334
of guilt of, or a judicial finding of eligibility for 5335
intervention in lieu of conviction for an offense unless the 5336
refusal is in accordance with section 9.79 of the Revised Code. 5337

(D) Disciplinary actions taken by the board under 5338
divisions (A) and (B) of this section shall be taken pursuant to 5339
an adjudication under Chapter 119. of the Revised Code, except 5340
that in lieu of an adjudication, the board may enter into a 5341
consent agreement with an anesthesiologist assistant or 5342
applicant to resolve an allegation of a violation of this 5343
chapter or any rule adopted under it. A consent agreement, when 5344
ratified by an affirmative vote of not fewer than six members of 5345
the board, shall constitute the findings and order of the board 5346
with respect to the matter addressed in the agreement. If the 5347
board refuses to ratify a consent agreement, the admissions and 5348
findings contained in the consent agreement shall be of no force 5349
or effect. 5350

(E) For purposes of divisions (B) (11), (14), and (15) of 5351
this section, the commission of the act may be established by a 5352
finding by the board, pursuant to an adjudication under Chapter 5353
119. of the Revised Code, that the applicant or license holder 5354
committed the act in question. The board shall have no 5355
jurisdiction under these divisions in cases where the trial 5356
court renders a final judgment in the license holder's favor and 5357
that judgment is based upon an adjudication on the merits. The 5358
board shall have jurisdiction under these divisions in cases 5359
where the trial court issues an order of dismissal on technical 5360
or procedural grounds. 5361

(F) The sealing or expungement of conviction records by 5362
any court shall have no effect on a prior board order entered 5363
under the provisions of this section or on the board's 5364
jurisdiction to take action under the provisions of this section 5365
if, based upon a plea of guilty, a judicial finding of guilt, or 5366
a judicial finding of eligibility for intervention in lieu of 5367
conviction, the board issued a notice of opportunity for a 5368
hearing prior to the court's order to seal or expunge the 5369
records. The board shall not be required to seal, destroy, 5370
redact, or otherwise modify its records to reflect the court's 5371
sealing or expungement of conviction records. 5372

(G) For purposes of this division, any individual who 5373
holds a license to practice issued under this chapter, or 5374
applies for a license to practice, shall be deemed to have given 5375
consent to submit to a mental or physical examination when 5376
directed to do so in writing by the board and to have waived all 5377
objections to the admissibility of testimony or examination 5378
reports that constitute a privileged communication. 5379

(1) In enforcing division (B) (5) of this section, the 5380

board, on a showing of a possible violation, shall refer any 5381
individual who holds, or has applied for, a license issued under 5382
this chapter to the monitoring organization that conducts the 5383
confidential monitoring program established under section 5384
4731.25 of the Revised Code. The board also may compel the 5385
individual to this chapter to submit to a mental or physical 5386
examination, or both. A physical examination may include an HIV 5387
test. The expense of the examination is the responsibility of 5388
the individual compelled to be examined. Failure to submit to a 5389
mental or physical examination or consent to an HIV test ordered 5390
by the board constitutes an admission of the allegations against 5391
the individual unless the failure is due to circumstances beyond 5392
the individual's control, and a default and final order may be 5393
entered without the taking of testimony or presentation of 5394
evidence. If the board finds an anesthesiologist assistant 5395
unable to practice because of the reasons set forth in division 5396
(B) (5) of this section, the board shall require the 5397
anesthesiologist assistant to submit to care, counseling, or 5398
treatment by physicians approved or designated by the board, as 5399
a condition for an initial, continued, reinstated, or renewed 5400
license to practice. An individual affected by this division 5401
shall be afforded an opportunity to demonstrate to the board the 5402
ability to resume practicing in compliance with acceptable and 5403
prevailing standards of care. 5404

(2) For purposes of division (B) (6) of this section, if 5405
the board has reason to believe that any individual who holds a 5406
license to practice issued under this chapter or any applicant 5407
for a license to practice suffers such impairment, the board 5408
shall report the individual to the monitoring organization that 5409
conducts the confidential monitoring program established under 5410
section 4731.25 of the Revised Code. The board also may compel 5411

the individual to submit to a mental or physical examination, or 5412
both. The expense of the examination is the responsibility of 5413
the individual compelled to be examined. Any mental or physical 5414
examination required under this division shall be undertaken by 5415
a treatment provider or physician qualified to conduct such 5416
examination and approved under section 4731.251 of the Revised 5417
Code. 5418

Failure to submit to a mental or physical examination 5419
ordered by the board constitutes an admission of the allegations 5420
against the individual unless the failure is due to 5421
circumstances beyond the individual's control, and a default and 5422
final order may be entered without the taking of testimony or 5423
presentation of evidence. If the board determines that the 5424
individual's ability to practice is impaired, the board shall 5425
suspend the individual's license or deny the individual's 5426
application and shall require the individual, as a condition for 5427
an initial, continued, reinstated, or renewed license to 5428
practice, to submit to treatment. 5429

Before being eligible to apply for reinstatement of a 5430
license suspended under this division, the anesthesiologist 5431
assistant shall demonstrate to the board the ability to resume 5432
practice in compliance with acceptable and prevailing standards 5433
of care. The demonstration shall include the following: 5434

(a) Certification from a treatment provider approved under 5435
section 4731.251 of the Revised Code that the individual has 5436
successfully completed any required inpatient treatment; 5437

(b) Evidence of continuing full compliance with an 5438
aftercare contract or consent agreement; 5439

(c) Two written reports indicating that the individual's 5440

ability to practice has been assessed and that the individual 5441
has been found capable of practicing according to acceptable and 5442
prevailing standards of care. The reports shall be made by 5443
individuals or providers approved by the board for making such 5444
assessments and shall describe the basis for their 5445
determination. 5446

The board may reinstate a license suspended under this 5447
division after such demonstration and after the individual has 5448
entered into a written consent agreement. 5449

When the impaired anesthesiologist assistant resumes 5450
practice, the board shall require continued monitoring of the 5451
anesthesiologist assistant. The monitoring shall include 5452
monitoring of compliance with the written consent agreement 5453
entered into before reinstatement or with conditions imposed by 5454
board order after a hearing, and, on termination of the consent 5455
agreement, submission to the board for at least two years of 5456
annual written progress reports made under penalty of 5457
falsification stating whether the anesthesiologist assistant has 5458
maintained sobriety. 5459

~~(H)~~ (H) (1) If either of the following circumstances occur, 5460
the secretary and supervising member ~~determine may recommend~~ 5461
that the board suspend the individual's license without a prior 5462
hearing: 5463

(a) The secretary and supervising member determine that 5464
there is clear and convincing evidence that an anesthesiologist 5465
assistant has violated division (B) of this section and that the 5466
individual's continued practice presents a danger of immediate 5467
and serious harm to the public, ~~they may recommend that the~~ 5468
~~board suspend the individual's license without a prior hearing.~~ 5469

(b) The board receives verifiable information that a 5470
licensee has been charged in any state or federal court for a 5471
crime classified as a felony under the charging court's law and 5472
the conduct charged constitutes a violation of division (B) of 5473
this section. ~~Written~~ 5474

(2) If a recommendation is made to suspend without a prior 5475
hearing pursuant to division (H) (1) of this section, written 5476
allegations shall be prepared for consideration by the board. 5477

The board, on review of the allegations and by an 5478
affirmative vote of not fewer than six of its members, excluding 5479
the secretary and supervising member, may suspend a license 5480
without a prior hearing. A telephone conference call may be 5481
utilized for reviewing the allegations and taking the vote on 5482
the summary suspension. 5483

The board shall serve a written order of suspension in 5484
accordance with sections 119.05 and 119.07 of the Revised Code. 5485
The order shall not be subject to suspension by the court during 5486
pendency of any appeal filed under section 119.12 of the Revised 5487
Code. If the anesthesiologist assistant requests an adjudicatory 5488
hearing by the board, the date set for the hearing shall be 5489
within fifteen days, but not earlier than seven days, after the 5490
anesthesiologist assistant requests the hearing, unless 5491
otherwise agreed to by both the board and the license holder. 5492

(3) A summary suspension imposed under this division shall 5493
remain in effect, unless reversed on appeal, until a final 5494
adjudicative order issued by the board pursuant to this section 5495
and Chapter 119. of the Revised Code becomes effective. The 5496
board shall issue its final adjudicative order within sixty days 5497
after completion of its hearing. Failure to issue the order 5498
within sixty days shall result in dissolution of the summary 5499

suspension order, but shall not invalidate any subsequent, final 5500
adjudicative order. 5501

(I) If the board takes action under division (B) (11), 5502
(13), or (14) of this section, and the judicial finding of 5503
guilt, guilty plea, or judicial finding of eligibility for 5504
intervention in lieu of conviction is overturned on appeal, on 5505
exhaustion of the criminal appeal, a petition for 5506
reconsideration of the order may be filed with the board along 5507
with appropriate court documents. On receipt of a petition and 5508
supporting court documents, the board shall reinstate the 5509
license to practice. The board may then hold an adjudication 5510
under Chapter 119. of the Revised Code to determine whether the 5511
individual committed the act in question. Notice of opportunity 5512
for hearing shall be given in accordance with Chapter 119. of 5513
the Revised Code. If the board finds, pursuant to an 5514
adjudication held under this division, that the individual 5515
committed the act, or if no hearing is requested, it may order 5516
any of the sanctions specified in division (B) of this section. 5517

(J) The license to practice of an anesthesiologist 5518
assistant and the assistant's practice in this state are 5519
automatically suspended as of the date the anesthesiologist 5520
assistant pleads guilty to, is found by a judge or jury to be 5521
guilty of, or is subject to a judicial finding of eligibility 5522
for intervention in lieu of conviction in this state or 5523
treatment ~~of~~ or intervention in lieu of conviction in another 5524
jurisdiction for any of the following criminal offenses in this 5525
state or a substantially equivalent criminal offense in another 5526
jurisdiction: aggravated murder, murder, voluntary manslaughter, 5527
felonious assault, trafficking in persons, kidnapping, rape, 5528
sexual battery, gross sexual imposition, aggravated arson, 5529
aggravated robbery, or aggravated burglary. Continued practice 5530

after the suspension shall be considered practicing without a 5531
license. 5532

The board shall serve the individual subject to the 5533
suspension in accordance with sections 119.05 and 119.07 of the 5534
Revised Code. If an individual whose license is suspended under 5535
this division fails to make a timely request for an adjudication 5536
under Chapter 119. of the Revised Code, the board shall enter a 5537
final order permanently revoking the individual's license to 5538
practice. 5539

(K) In any instance in which the board is required by 5540
Chapter 119. of the Revised Code to give notice of opportunity 5541
for hearing and the individual subject to the notice does not 5542
timely request a hearing in accordance with section 119.07 of 5543
the Revised Code, the board is not required to hold a hearing, 5544
but may adopt, by an affirmative vote of not fewer than six of 5545
its members, a final order that contains the board's findings. 5546
In the final order, the board may order any of the sanctions 5547
identified under division (A) or (B) of this section. 5548

(L) Any action taken by the board under division (B) of 5549
this section resulting in a suspension shall be accompanied by a 5550
written statement of the conditions under which the 5551
anesthesiologist assistant's license may be reinstated. The 5552
board shall adopt rules in accordance with Chapter 119. of the 5553
Revised Code governing conditions to be imposed for 5554
reinstatement. Reinstatement of a license suspended pursuant to 5555
division (B) of this section requires an affirmative vote of not 5556
fewer than six members of the board. 5557

(M) When the board refuses to grant or issue a license to 5558
practice as an anesthesiologist assistant to an applicant, 5559
revokes an individual's license, refuses to renew an 5560

individual's license, or refuses to reinstate an individual's 5561
license, the board may specify that its action is permanent. An 5562
individual subject to a permanent action taken by the board is 5563
forever thereafter ineligible to hold a license to practice as 5564
an anesthesiologist assistant and the board shall not accept an 5565
application for reinstatement of the license or for issuance of 5566
a new license. 5567

(N) Notwithstanding any other provision of the Revised 5568
Code, all of the following apply: 5569

(1) The surrender of a license to practice issued under 5570
this chapter is not effective unless or until accepted by the 5571
board. Reinstatement of a license surrendered to the board 5572
requires an affirmative vote of not fewer than six members of 5573
the board. 5574

(2) An application made under this chapter for a license 5575
to practice may not be withdrawn without approval of the board. 5576

(3) Failure by an individual to renew a license to 5577
practice in accordance with section 4760.06 of the Revised Code 5578
does not remove or limit the board's jurisdiction to take 5579
disciplinary action under this section against the individual. 5580

(4) The placement of an individual's license on retired 5581
status, as described in section 4760.062 of the Revised Code, 5582
does not remove or limit the board's jurisdiction to take any 5583
disciplinary action against the individual with regard to the 5584
license as it existed before being placed on retired status. 5585

Sec. 4760.14. (A) The state medical board shall 5586
investigate evidence that appears to show that any person has 5587
violated this chapter or the rules adopted under it. Any person 5588
may report to the board in a signed writing any information the 5589

person has that appears to show a violation of any provision of 5590
this chapter or the rules adopted under it. In the absence of 5591
bad faith, a person who reports such information or testifies 5592
before the board in an adjudication conducted under Chapter 119. 5593
of the Revised Code shall not be liable for civil damages as a 5594
result of reporting the information or providing testimony. Each 5595
complaint or allegation of a violation received by the board 5596
shall be assigned a case number and be recorded by the board. 5597

(B) Investigations of alleged violations of this chapter 5598
or rules adopted under it shall be supervised by the supervising 5599
member elected by the board in accordance with section 4731.02 5600
of the Revised Code and by the secretary as provided in section 5601
4760.15 of the Revised Code. The board's president may designate 5602
another member of the board to supervise the investigation in 5603
place of the supervising member. Upon a vote of the majority of 5604
the board to authorize the addition of a consumer member in the 5605
supervision of any part of any investigation, the president 5606
shall designate a consumer member for supervision of 5607
investigations as determined by the president. The authorization 5608
of consumer member participation in investigation supervision 5609
may be rescinded by a majority vote of the board. A member of 5610
the board who supervises the investigation of a case shall not 5611
participate in further adjudication of the case. 5612

(C) In investigating a possible violation of this chapter 5613
or the rules adopted under it, the board may administer oaths, 5614
order the taking of depositions, issue subpoenas, and compel the 5615
attendance of witnesses and production of books, accounts, 5616
papers, records, documents, and testimony, except that a 5617
subpoena for patient record information shall not be issued 5618
without consultation with the attorney general's office and 5619
approval of the secretary of the board. Before issuance of a 5620

subpoena for patient record information, the secretary shall 5621
determine whether there is probable cause to believe that the 5622
complaint filed alleges a violation of this chapter or the rules 5623
adopted under it and that the records sought are relevant to the 5624
alleged violation and material to the investigation. The 5625
subpoena may apply only to records that cover a reasonable 5626
period of time surrounding the alleged violation. 5627

On failure to comply with any subpoena issued by the board 5628
and after reasonable notice to the person being subpoenaed, the 5629
board may move for an order compelling the production of persons 5630
or records pursuant to the Rules of Civil Procedure. 5631

A subpoena issued by the board may be served by a sheriff, 5632
the sheriff's deputy, or a board employee designated by the 5633
board. Service of a subpoena issued by the board may be made by 5634
delivering a copy of the subpoena to the person named therein, 5635
reading it to the person, or leaving it at the person's usual 5636
place of residence. When the person being served is an 5637
anesthesiologist assistant, service of the subpoena may be made 5638
by certified mail, restricted delivery, return receipt 5639
requested, and the subpoena shall be deemed served on the date 5640
delivery is made or the date the person refuses to accept 5641
delivery. 5642

A sheriff's deputy who serves a subpoena shall receive the 5643
same fees as a sheriff. Each witness who appears before the 5644
board in obedience to a subpoena shall receive the fees and 5645
mileage provided for under section 119.094 of the Revised Code. 5646

(D) All hearings and investigations of the board shall be 5647
considered civil actions for the purposes of section 2305.252 of 5648
the Revised Code. 5649

(E) Information received by the board pursuant to an 5650
investigation is confidential and not subject to discovery in 5651
any civil action. 5652

The board shall conduct all investigations and proceedings 5653
in a manner that protects the confidentiality of patients and 5654
persons who file complaints with the board. The board shall not 5655
make public the names or any other identifying information about 5656
patients or complainants unless proper consent is given. 5657

The board may share any information it receives pursuant 5658
to an investigation, including patient records and patient 5659
record information, with law enforcement agencies, other 5660
licensing boards, and other governmental agencies that are 5661
prosecuting, adjudicating, or investigating alleged violations 5662
of statutes or administrative rules. An agency or board that 5663
receives the information shall comply with the same requirements 5664
regarding confidentiality as those with which the state medical 5665
board must comply, notwithstanding any conflicting provision of 5666
the Revised Code or procedure of the agency or board that 5667
applies when it is dealing with other information in its 5668
possession. In a judicial proceeding, the information may be 5669
admitted into evidence only in accordance with the Rules of 5670
Evidence, but the court shall require that appropriate measures 5671
are taken to ensure that confidentiality is maintained with 5672
respect to any part of the information that contains names or 5673
other identifying information about patients or complainants 5674
whose confidentiality was protected by the state medical board 5675
when the information was in the board's possession. Measures to 5676
ensure confidentiality that may be taken by the court include 5677
sealing its records or deleting specific information from its 5678
records. 5679

No person shall knowingly access, use, or disclose 5680
confidential investigatory information in a manner prohibited by 5681
law. 5682

(F) The state medical board shall develop requirements for 5683
and provide appropriate initial training and continuing 5684
education for investigators employed by the board to carry out 5685
its duties under this chapter. The training and continuing 5686
education may include enrollment in courses operated or approved 5687
by the Ohio peace officer training commission that the board 5688
considers appropriate under conditions set forth in section 5689
109.79 of the Revised Code. 5690

(G) On a quarterly basis, the board shall prepare a report 5691
that documents the disposition of all cases during the preceding 5692
three months. The report shall contain the following information 5693
for each case with which the board has completed its activities: 5694

(1) The case number assigned to the complaint or alleged 5695
violation; 5696

(2) The type of license to practice, if any, held by the 5697
individual against whom the complaint is directed; 5698

(3) A description of the allegations contained in the 5699
complaint; 5700

(4) Whether witnesses were interviewed; 5701

(5) Whether the individual against whom the complaint is 5702
directed is the subject of any pending complaints; 5703

(6) The disposition of the case. 5704

The report shall state how many cases are still pending, 5705
and shall be prepared in a manner that protects the identity of 5706
each person involved in each case. The report is a public record 5707

for purposes of section 149.43 of the Revised Code. 5708

(H) The board may provide a status update regarding an 5709
investigation to a complainant on request if the board verifies 5710
the complainant's identity. 5711

Sec. 4760.16. (A) As used in this section, "criminal 5712
conduct" and "sexual misconduct" have the same meanings as in 5713
section 4731.224 of the Revised Code. 5714

(B) (1) Within ~~sixty~~ thirty days after the imposition of 5715
any formal disciplinary action taken by any health care 5716
facility, including a hospital, health care facility operated by 5717
a health insuring corporation, ambulatory surgical facility, or 5718
similar facility, against any individual holding a valid license 5719
to practice as an anesthesiologist assistant, the chief 5720
administrator or executive officer of the facility shall report 5721
to the state medical board the name of the individual, the 5722
action taken by the facility, and a summary of the underlying 5723
facts leading to the action taken. On request, the board shall 5724
be provided certified copies of the patient records that were 5725
the basis for the facility's action. Prior to release to the 5726
board, the summary shall be approved by the peer review 5727
committee that reviewed the case or by the governing board of 5728
the facility. 5729

The filing of a report with the board or decision not to 5730
file a report, investigation by the board, or any disciplinary 5731
action taken by the board, does not preclude a health care 5732
facility from taking disciplinary action against an 5733
anesthesiologist assistant. 5734

In the absence of fraud or bad faith, no individual or 5735
entity that provides patient records to the board shall be 5736

liable in damages to any person as a result of providing the 5737
records. 5738

(2) Within thirty days after commencing an investigation 5739
regarding criminal conduct or sexual misconduct against any 5740
individual holding a valid license to practice issued pursuant 5741
to this chapter, a health care facility, including a hospital, 5742
health care facility operated by a health insuring corporation, 5743
ambulatory surgical center, or similar facility, shall report to 5744
the board the name of the individual and a summary of the 5745
underlying facts related to the investigation being commenced. 5746

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 5747
of this section and subject to division (C)(3) of this section, 5748
an anesthesiologist assistant, professional association or 5749
society of anesthesiologist assistants, physician, or 5750
professional association or society of physicians that believes 5751
a violation of any provision of this chapter, Chapter 4731. of 5752
the Revised Code, or rule of the board has occurred shall report 5753
to the board the information on which the belief is based. 5754

(2) An anesthesiologist assistant, professional 5755
association or society of anesthesiologist assistants, 5756
physician, or professional association or society of physicians 5757
that believes that a violation of division (B)(5) or (6) of 5758
section 4760.13 of the Revised Code has occurred shall report 5759
the information upon which the belief is based to the monitoring 5760
organization conducting the confidential monitoring program 5761
established under section 4731.25 of the Revised Code. If any 5762
such report is made to the board, it shall be referred to the 5763
monitoring organization unless the board is aware that the 5764
individual who is the subject of the report does not meet the 5765
program eligibility requirements of section 4731.252 of the 5766

Revised Code. 5767

(3) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct, the information upon which the belief is based shall be reported to the board within thirty days. 5768
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This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings. 5776
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(4) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are equivalent offenses under division (A) of section 4511.181 of the Revised Code, violations of division (D) of section 4511.194 of the Revised Code, and violations of division (C) of section 4511.79 of the Revised Code. Reports under this division shall be made within thirty days of the criminal charge being filed. 5781
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~~(C)~~(D) Any professional association or society composed primarily of anesthesiologist assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within ~~sixty~~thirty days after a 5792
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final decision, shall report to the board, on forms prescribed 5797
and provided by the board, the name of the individual, the 5798
action taken by the professional organization, and a summary of 5799
the underlying facts leading to the action taken. 5800

The filing of a report with the board or decision not to 5801
file a report, investigation by the board, or any disciplinary 5802
action taken by the board, does not preclude a professional 5803
organization from taking disciplinary action against an 5804
anesthesiologist assistant. 5805

~~(D)~~ (E) Any insurer providing professional liability 5806
insurance to any person holding a valid license to practice as 5807
an anesthesiologist assistant or any other entity that seeks to 5808
indemnify the professional liability of an anesthesiologist 5809
assistant shall notify the board within thirty days after the 5810
final disposition of any written claim for damages where such 5811
disposition results in a payment exceeding twenty-five thousand 5812
dollars. The notice shall contain the following information: 5813

(1) The name and address of the person submitting the 5814
notification; 5815

(2) The name and address of the insured who is the subject 5816
of the claim; 5817

(3) The name of the person filing the written claim; 5818

(4) The date of final disposition; 5819

(5) If applicable, the identity of the court in which the 5820
final disposition of the claim took place. 5821

~~(E)~~ (F) The board may investigate possible violations of 5822
this chapter or the rules adopted under it that are brought to 5823
its attention as a result of the reporting requirements of this 5824

section, except that the board shall conduct an investigation if 5825
a possible violation involves repeated malpractice. As used in 5826
this division, "repeated malpractice" means three or more claims 5827
for malpractice within the previous five-year period, each 5828
resulting in a judgment or settlement in excess of twenty-five 5829
thousand dollars in favor of the claimant, and each involving 5830
negligent conduct by the anesthesiologist assistant. 5831

~~(F)-(G) All summaries, reports, and records received and 5832
maintained by the board pursuant to this section shall be held- 5833
in confidence and shall not be subject to discovery or 5834
introduction in evidence in any federal or state civil action 5835
involving an anesthesiologist assistant, supervising physician, 5836
or health care facility arising out of matters that are the 5837
subject of the reporting required by this section. The board may 5838
use the information obtained only as the basis for an 5839
investigation, as evidence in a disciplinary hearing against an 5840
anesthesiologist assistant or supervising physician, or in any 5841
subsequent trial or appeal of a board action or order. 5842~~

~~The board may disclose the summaries and reports it 5843
receives under this section only to health care facility 5844
committees within or outside this state that are involved in 5845
credentialing or recredentialing an anesthesiologist assistant 5846
or supervising physician or reviewing their privilege to 5847
practice within a particular facility. The board shall indicate 5848
whether or not the information has been verified. Information 5849
transmitted by the board shall be subject to the same 5850
confidentiality provisions as when maintained by the 5851
board confidential pursuant to division (E) of section 4760.14 of 5852
the Revised Code. 5853~~

~~(G)-(H) Except for reports filed by an individual pursuant 5854~~

to division ~~(B)~~(B) (2) or (C) of this section, the board shall 5855
send a copy of any reports or summaries it receives pursuant to 5856
this section to the anesthesiologist assistant. The 5857
anesthesiologist assistant shall have the right to file a 5858
statement with the board concerning the correctness or relevance 5859
of the information. The statement shall at all times accompany 5860
that part of the record in contention. 5861

~~(H)~~(I) An individual or entity that reports to the board, 5862
reports to the monitoring organization described in section 5863
4731.25 of the Revised Code, or refers an impaired 5864
anesthesiologist assistant to a treatment provider approved 5865
under section 4731.251 of the Revised Code shall not be subject 5866
to suit for civil damages as a result of the report, referral, 5867
or provision of the information. 5868

~~(I)~~(J) In the absence of fraud or bad faith, a 5869
professional association or society of anesthesiologist 5870
assistants that sponsors a committee or program to provide peer 5871
assistance to an anesthesiologist assistant with substance abuse 5872
problems, a representative or agent of such a committee or 5873
program, a representative or agent of the monitoring 5874
organization described in section 4731.25 of the Revised Code, 5875
and a member of the state medical board shall not be held liable 5876
in damages to any person by reason of actions taken to refer an 5877
anesthesiologist assistant to a treatment provider approved 5878
under section 4731.251 of the Revised Code for examination or 5879
treatment. 5880

Sec. 4760.99. (A) Whoever violates section 4760.02 of the 5881
Revised Code is guilty of a misdemeanor of the first degree on a 5882
first offense; on each subsequent offense, the person is guilty 5883
of a felony of the fourth degree. 5884

~~(B)(1)~~ Whoever violates division ~~(A), (B)(1), (C)(1),~~ ~~or (C)(2), (D), or (E)~~ of section 4760.16 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B)(2) or (C)(3) of section 4760.16 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

(C) Whoever violates division (E) of section 4760.14 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

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

(B) The board shall adopt, and may rescind or amend, rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter, including rules prescribing the

following:	5915
(1) The form and manner for filing applications under sections 4761.05 and 4761.06 of the Revised Code;	5916 5917
(2) Standards for the approval of examinations and reexaminations administered by national organizations for licensure, license renewal, and license reinstatement;	5918 5919 5920
(3) Standards for the approval of educational programs required to qualify for licensure and approval of continuing education programs required for license renewal;	5921 5922 5923
(4) Continuing education courses and the number of hour requirements necessary for license renewal under section 4761.06 of the Revised Code, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country;	5924 5925 5926 5927 5928 5929 5930
(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees;	5931 5932 5933
(6) Procedures for the limitation, suspension, and revocation of licenses and limited permits, the refusal to issue, renew, or reinstate licenses and limited permits, and the imposition of a reprimand or probation under section 4761.09 of the Revised Code;	5934 5935 5936 5937 5938
(7) Standards of ethical conduct for the practice of respiratory care;	5939 5940
(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist	5941 5942

pursuant to division (B) (3) of section 4761.10 of the Revised Code; 5943
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(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code. 5945
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(C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit. 5947
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(D) The board shall determine the respiratory care educational programs that are acceptable for fulfilling the requirements of division (A) of section 4761.04 of the Revised Code. 5951
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(E) (1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board. 5955
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(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as 5968
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provided in section 4761.012 of the Revised Code. The president 5972
may designate another member of the board to supervise the 5973
investigation in place of the supervising member. Upon a vote of 5974
the majority of the board to authorize the addition of a 5975
consumer member in the supervision of any part of any 5976
investigation, the president shall designate a consumer member 5977
for supervision of investigations as determined by the 5978
president. The authorization of consumer member participation in 5979
investigation supervision may be rescinded by a majority vote of 5980
the board. No member of the board who supervises the 5981
investigation of a case shall participate in further 5982
adjudication of the case. 5983

(3) In investigating a possible violation of this chapter 5984
or any rule adopted under it, the board may issue subpoenas, 5985
administer oaths, question witnesses, conduct interviews, order 5986
the taking of depositions, inspect and copy any books, accounts, 5987
papers, records, or documents, and compel the attendance of 5988
witnesses and production of books, accounts, papers, records, 5989
documents, and testimony, except that a subpoena for patient 5990
record information shall not be issued without consultation with 5991
the attorney general's office and approval of the secretary of 5992
the board. 5993

Before issuance of a subpoena for patient record 5994
information, the secretary shall determine whether there is 5995
probable cause to believe that the complaint filed alleges a 5996
violation of this chapter or any rule adopted under it and that 5997
the records sought are relevant to the alleged violation and 5998
material to the investigation. The subpoena may apply only to 5999
records that cover a reasonable period of time surrounding the 6000
alleged violation. 6001

On failure to comply with any subpoena issued by the board 6002
and after reasonable notice to the person being subpoenaed, the 6003
board may move for an order compelling the production of persons 6004
or records pursuant to the Rules of Civil Procedure. 6005

A subpoena issued by the board may be served by a sheriff, 6006
the sheriff's deputy, or a board employee or agent designated by 6007
the board. Service of a subpoena issued by the board may be made 6008
by delivering a copy of the subpoena to the person named 6009
therein, reading it to the person, or leaving it at the person's 6010
usual place of residence, usual place of business, or address on 6011
file with the board. When serving a subpoena to an applicant for 6012
or the holder of a license or limited permit issued under this 6013
chapter, service of the subpoena may be made by certified mail, 6014
return receipt requested, and the subpoena shall be deemed 6015
served on the date delivery is made or the date the person 6016
refuses to accept delivery. If the person being served refuses 6017
to accept the subpoena or is not located, service may be made to 6018
an attorney who notifies the board that the attorney is 6019
representing the person. 6020

A sheriff's deputy who serves a subpoena shall receive the 6021
same fees as a sheriff. Each witness who appears before the 6022
board in obedience to a subpoena shall receive the fees and 6023
mileage provided for under section 119.094 of the Revised Code. 6024

(4) All hearings, investigations, and inspections of the 6025
board shall be considered civil actions for the purposes of 6026
section 2305.252 of the Revised Code. 6027

(5) A report required to be submitted to the board under 6028
this chapter, a complaint, or information received by the board 6029
pursuant to an investigation is confidential and not subject to 6030
discovery in any civil action. 6031

The board shall conduct all investigations or inspections 6032
and proceedings in a manner that protects the confidentiality of 6033
patients and persons who file complaints with the board. The 6034
board shall not make public the names or any other identifying 6035
information about patients or complainants unless proper consent 6036
is given. 6037

The board may share any information it receives pursuant 6038
to an investigation or inspection, including patient records and 6039
patient record information, with law enforcement agencies, other 6040
licensing boards, and other governmental agencies that are 6041
prosecuting, adjudicating, or investigating alleged violations 6042
of statutes or administrative rules. An agency or board that 6043
receives the information shall comply with the same requirements 6044
regarding confidentiality as those with which the state medical 6045
board must comply, notwithstanding any conflicting provision of 6046
the Revised Code or procedure of the agency or board that 6047
applies when it is dealing with other information in its 6048
possession. In a judicial proceeding, the information may be 6049
admitted into evidence only in accordance with the Rules of 6050
Evidence, but the court shall require that appropriate measures 6051
are taken to ensure that confidentiality is maintained with 6052
respect to any part of the information that contains names or 6053
other identifying information about patients or complainants 6054
whose confidentiality was protected by the state medical board 6055
when the information was in the board's possession. Measures to 6056
ensure confidentiality that may be taken by the court include 6057
sealing its records or deleting specific information from its 6058
records. 6059

No person shall knowingly access, use, or disclose 6060
confidential investigatory information in a manner prohibited by 6061
law. 6062

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

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

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

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

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;

(f) The disposition of the case.

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

(7) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

(F) The board shall keep records of its proceedings and do other things as are necessary and proper to carry out and enforce the provisions of this chapter.

(G) The board shall maintain and publish on its internet web site all of the following:

(1) The requirements for the issuance of licenses and

limited permits under this chapter and rules adopted by the 6090
board; 6091

(2) A list of the names and locations of the institutions 6092
that each year granted degrees or certificates of completion in 6093
respiratory care. 6094

Sec. 4761.09. (A) The state medical board, by an 6095
affirmative vote of not fewer than six members, shall, except as 6096
provided in division (B) of this section, and to the extent 6097
permitted by law, limit, revoke, or suspend an individual's 6098
license or limited permit, refuse to issue a license or limited 6099
permit to an individual, refuse to renew a license or limited 6100
permit, refuse to reinstate a license or limited permit, or 6101
reprimand or place on probation the holder of a license or 6102
limited permit for one or more of the following reasons: 6103

(1) A plea of guilty to, a judicial finding of guilt of, 6104
or a judicial finding of eligibility for intervention in lieu of 6105
conviction for, a felony; 6106

(2) Commission of an act that constitutes a felony in this 6107
state, regardless of the jurisdiction in which the act was 6108
committed; 6109

(3) A plea of guilty to, a judicial finding of guilt of, 6110
or a judicial finding of eligibility for intervention in lieu of 6111
conviction for, a misdemeanor committed in the course of 6112
practice; 6113

(4) Commission of an act in the course of practice that 6114
constitutes a misdemeanor in this state, regardless of the 6115
jurisdiction in which the act was committed; 6116

(5) A plea of guilty to, a judicial finding of guilt of, 6117
or a judicial finding of eligibility for intervention in lieu of 6118

conviction for, a misdemeanor involving moral turpitude; 6119

(6) Commission of an act involving moral turpitude that 6120
constitutes a misdemeanor in this state, regardless of the 6121
jurisdiction in which the act was committed; 6122

(7) Except when civil penalties are imposed under section 6123
4761.091 of the Revised Code, violating or attempting to 6124
violate, directly or indirectly, or assisting in or abetting the 6125
violation of, or conspiring to violate, any provision of this 6126
chapter or the rules adopted by the board; 6127

(8) Making a false, fraudulent, deceptive, or misleading 6128
statement in the solicitation of or advertising for patients; in 6129
relation to the practice of respiratory care; or in securing or 6130
attempting to secure any license or permit issued by the board 6131
under this chapter. 6132

As used in division (A) (8) of this section, "false, 6133
fraudulent, deceptive, or misleading statement" means a 6134
statement that includes a misrepresentation of fact, is likely 6135
to mislead or deceive because of a failure to disclose material 6136
facts, is intended or is likely to create false or unjustified 6137
expectations of favorable results, or includes representations 6138
or implications that in reasonable probability will cause an 6139
ordinarily prudent person to misunderstand or be deceived. 6140

(9) Committing fraud during the administration of the 6141
examination for a license to practice or committing fraud, 6142
misrepresentation, or deception in applying for, renewing, or 6143
securing any license or permit issued by the board; 6144

(10) A departure from, or failure to conform to, minimal 6145
standards of care of similar practitioners under the same or 6146
similar circumstances, whether or not actual injury to a patient 6147

is established; 6148

(11) Violating the standards of ethical conduct adopted by 6149
the board, in the practice of respiratory care; 6150

(12) The obtaining of, or attempting to obtain, money or 6151
anything of value by fraudulent misrepresentations in the course 6152
of practice; 6153

(13) Violation of the conditions of limitation placed by 6154
the board upon a license or permit; 6155

(14) Inability to practice according to acceptable and 6156
prevailing standards of care by reason of mental illness or 6157
physical illness, including physical deterioration that 6158
adversely affects cognitive, motor, or perceptive skills; 6159

(15) Any of the following actions taken by an agency 6160
responsible for authorizing, certifying, or regulating an 6161
individual to practice a health care occupation or provide 6162
health care services in this state or another jurisdiction, for 6163
any reason other than the nonpayment of fees: the limitation, 6164
revocation, or suspension of an individual's license; acceptance 6165
of an individual's license surrender; denial of a license; 6166
refusal to renew or reinstate a license; imposition of 6167
probation; or issuance of an order of censure or other 6168
reprimand; 6169

(16) The revocation, suspension, restriction, reduction, 6170
or termination of practice privileges by the United States 6171
department of defense or department of veterans affairs; 6172

(17) Termination or suspension from participation in the 6173
medicare or medicaid programs by the department of health and 6174
human services or other responsible agency for any act or acts 6175
that also would constitute a violation of division (A) (10), 6176

- (12), or (14) of this section; 6177
- (18) Impairment of ability to practice according to 6178
acceptable and prevailing standards of care because of substance 6179
use disorder or excessive use or abuse of drugs, alcohol, or 6180
other substances that may impair ability to practice; 6181
- (19) Failure to cooperate in an investigation conducted by 6182
the board under division (E) of section 4761.03 of the Revised 6183
Code, including failure to comply with a subpoena or order 6184
issued by the board or failure to answer truthfully a question 6185
presented by the board in an investigative interview, an 6186
investigative office conference, at a deposition, or in written 6187
interrogatories, except that failure to cooperate with an 6188
investigation shall not constitute grounds for discipline under 6189
this section if a court of competent jurisdiction has issued an 6190
order that either quashes a subpoena or permits the individual 6191
to withhold the testimony or evidence in issue; 6192
- (20) Practicing in an area of respiratory care for which 6193
the person is clearly untrained or incompetent or practicing in 6194
a manner that conflicts with section 4761.17 of the Revised 6195
Code; 6196
- (21) Employing, directing, or supervising a person who is 6197
not authorized to practice respiratory care under this chapter 6198
in the performance of respiratory care procedures; 6199
- (22) Misrepresenting educational attainments or authorized 6200
functions for the purpose of obtaining some benefit related to 6201
the practice of respiratory care; 6202
- (23) Assisting suicide as defined in section 3795.01 of 6203
the Revised Code; 6204
- (24) Representing, with the purpose of obtaining 6205

compensation or other advantage as personal gain or for any 6206
other person, that an incurable disease or injury, or other 6207
incurable condition, can be permanently cured. 6208

Disciplinary actions taken by the board under division (A) 6209
of this section shall be taken pursuant to an adjudication under 6210
Chapter 119. of the Revised Code, except that in lieu of an 6211
adjudication, the board may enter into a consent agreement with 6212
an individual to resolve an allegation of a violation of this 6213
chapter or any rule adopted under it. A consent agreement, when 6214
ratified by an affirmative vote of not fewer than six members of 6215
the board, shall constitute the findings and order of the board 6216
with respect to the matter addressed in the agreement. If the 6217
board refuses to ratify a consent agreement, the admissions and 6218
findings contained in the consent agreement shall be of no 6219
effect. 6220

A telephone conference call may be utilized for 6221
ratification of a consent agreement that revokes or suspends an 6222
individual's license or permit. The telephone conference call 6223
shall be considered a special meeting under division (F) of 6224
section 121.22 of the Revised Code. 6225

(B) The board shall not refuse to issue a license or 6226
limited permit to an applicant because of a plea of guilty to, a 6227
judicial finding of guilt of, or a judicial finding of 6228
eligibility for intervention in lieu of conviction for an 6229
offense unless the refusal is in accordance with section 9.79 of 6230
the Revised Code. 6231

(C) Any action taken by the board under division (A) of 6232
this section resulting in a suspension from practice shall be 6233
accompanied by a written statement of the conditions under which 6234
the individual's license or permit may be reinstated. The board 6235

shall adopt rules governing conditions to be imposed for 6236
reinstatement. Reinstatement of a license or permit suspended 6237
pursuant to division (A) of this section requires an affirmative 6238
vote of not fewer than six members of the board. 6239

(D) When the board refuses to grant or issue a license or 6240
permit to an applicant, revokes an individual's license or 6241
permit, refuses to renew an individual's license or permit, or 6242
refuses to reinstate an individual's license or permit, the 6243
board may specify that its action is permanent. An individual 6244
subject to a permanent action taken by the board is forever 6245
thereafter ineligible to hold a license or permit and the board 6246
shall not accept an application for reinstatement of the license 6247
or permit or for issuance of a new license or permit. 6248

(E) If the board is required by Chapter 119. of the 6249
Revised Code to give notice of an opportunity for a hearing and 6250
if the individual subject to the notice does not timely request 6251
a hearing in accordance with section 119.07 of the Revised Code, 6252
the board is not required to hold a hearing, but may adopt, by 6253
an affirmative vote of not fewer than six of its members, a 6254
final order that contains the board's findings. In the final 6255
order, the board may order any of the sanctions identified under 6256
division (A) of this section. 6257

(F) In enforcing division (A)(14) of this section, the 6258
board, upon a showing of a possible violation, shall refer any 6259
individual authorized to practice by this chapter or who has 6260
submitted an application pursuant to this chapter to the 6261
monitoring organization that conducts the confidential 6262
monitoring program established under section 4731.25 of the 6263
Revised Code. The board also may compel the individual to submit 6264
to a mental examination, physical examination, including an HIV 6265

test, or both a mental and a physical examination. The expense 6266
of the examination is the responsibility of the individual 6267
compelled to be examined. Failure to submit to a mental or 6268
physical examination or consent to an HIV test ordered by the 6269
board constitutes an admission of the allegations against the 6270
individual unless the failure is due to circumstances beyond the 6271
individual's control, and a default and final order may be 6272
entered without the taking of testimony or presentation of 6273
evidence. If the board finds an individual unable to practice 6274
because of the reasons set forth in division (A) (14) of this 6275
section, the board shall require the individual to submit to 6276
care, counseling, or treatment by physicians approved or 6277
designated by the board, as a condition for initial, continued, 6278
reinstated, or renewed authority to practice. An individual 6279
affected under this division shall be afforded an opportunity to 6280
demonstrate to the board the ability to resume practice in 6281
compliance with acceptable and prevailing standards under the 6282
provisions of the individual's license or permit. For the 6283
purpose of division (A) (14) of this section, any individual who 6284
applies for or receives a license or permit to practice under 6285
this chapter accepts the privilege of practicing in this state 6286
and, by so doing, shall be deemed to have given consent to 6287
submit to a mental or physical examination when directed to do 6288
so in writing by the board, and to have waived all objections to 6289
the admissibility of testimony or examination reports that 6290
constitute a privileged communication. 6291

(G) For the purposes of division (A) (18) of this section, 6292
any individual authorized to practice by this chapter accepts 6293
the privilege of practicing in this state subject to supervision 6294
by the board. By filing an application for or holding a license 6295
or permit under this chapter, an individual shall be deemed to 6296

have given consent to submit to a mental or physical examination 6297
when ordered to do so by the board in writing, and to have 6298
waived all objections to the admissibility of testimony or 6299
examination reports that constitute privileged communications. 6300

If it has reason to believe that any individual authorized 6301
to practice by this chapter or any applicant for a license or 6302
permit suffers such impairment, the board shall refer the 6303
individual to the monitoring organization that conducts the 6304
confidential monitoring program established under section 6305
4731.25 of the Revised Code. The board also may compel the 6306
individual to submit to a mental or physical examination, or 6307
both. The expense of the examination is the responsibility of 6308
the individual compelled to be examined. Any mental or physical 6309
examination required under this division shall be undertaken by 6310
a treatment provider or physician who is qualified to conduct 6311
the examination and who is approved under section 4731.251 of 6312
the Revised Code. 6313

Failure to submit to a mental or physical examination 6314
ordered by the board constitutes an admission of the allegations 6315
against the individual unless the failure is due to 6316
circumstances beyond the individual's control, and a default and 6317
final order may be entered without the taking of testimony or 6318
presentation of evidence. If the board determines that the 6319
individual's ability to practice is impaired, the board shall 6320
suspend the individual's license or permit or deny the 6321
individual's application and shall require the individual, as a 6322
condition for an initial, continued, reinstated, or renewed 6323
license or permit, to submit to treatment. 6324

Before being eligible to apply for reinstatement of a 6325
license or permit suspended under this division, the impaired 6326

practitioner shall demonstrate to the board the ability to 6327
resume practice in compliance with acceptable and prevailing 6328
standards of care under the provisions of the practitioner's 6329
license or permit. The demonstration shall include, but shall 6330
not be limited to, the following: 6331

(1) Certification from a treatment provider approved under 6332
section 4731.251 of the Revised Code that the individual has 6333
successfully completed any required inpatient treatment; 6334

(2) Evidence of continuing full compliance with an 6335
aftercare contract or consent agreement; 6336

(3) Two written reports indicating that the individual's 6337
ability to practice has been assessed and that the individual 6338
has been found capable of practicing according to acceptable and 6339
prevailing standards of care. The reports shall be made by 6340
individuals or providers approved by the board for making the 6341
assessments and shall describe the basis for their 6342
determination. 6343

The board may reinstate a license or permit suspended 6344
under this division after that demonstration and after the 6345
individual has entered into a written consent agreement. 6346

When the impaired practitioner resumes practice, the board 6347
shall require continued monitoring of the individual. The 6348
monitoring shall include, but not be limited to, compliance with 6349
the written consent agreement entered into before reinstatement 6350
or with conditions imposed by board order after a hearing, and, 6351
upon termination of the consent agreement, submission to the 6352
board for at least two years of annual written progress reports 6353
made under penalty of perjury stating whether the individual has 6354
maintained sobriety. 6355

~~(H)~~ (H) (1) If either of the following circumstances occur, 6356
the secretary and supervising member ~~determine both of the~~ 6357
~~following, they may~~ recommend that the board suspend an 6358
individual's license or permit without a prior hearing: 6359

~~(1)~~ (a) The secretary and supervising member determine 6360
both of the following: 6361

(i) That there is clear and convincing evidence that an 6362
individual has violated division (A) of this section; 6363

~~(2)~~ (ii) That the individual's continued practice presents 6364
a danger of immediate and serious harm to the public. 6365

~~Written~~ (b) The board receives verifiable information that 6366
a licensee has been charged in any state or federal court for a 6367
crime classified as a felony under the charging court's law and 6368
the conduct charged constitutes a violation of division (A) of 6369
this section. 6370

(2) If a recommendation is made to suspend without a prior 6371
hearing pursuant to division (H) (1) of this section, written 6372
allegations shall be prepared for consideration by the board. 6373
The board, upon review of those allegations and by an 6374
affirmative vote of not fewer than six of its members, excluding 6375
the secretary and supervising member, may suspend a license or 6376
permit without a prior hearing. A telephone conference call may 6377
be utilized for reviewing the allegations and taking the vote on 6378
the summary suspension. 6379

The board shall serve a written order of suspension in 6380
accordance with sections 119.05 and 119.07 of the Revised Code. 6381
The order shall not be subject to suspension by the court during 6382
pendency of any appeal filed under section 119.12 of the Revised 6383
Code. If the individual subject to the summary suspension 6384

requests an adjudicatory hearing by the board, the date set for 6385
the hearing shall be within fifteen days, but not earlier than 6386
seven days, after the individual requests the hearing, unless 6387
otherwise agreed to by both the board and the individual. 6388

(3) Any summary suspension imposed under this division 6389
shall remain in effect, unless reversed on appeal, until a final 6390
adjudicative order issued by the board pursuant to this section 6391
and Chapter 119. of the Revised Code becomes effective. The 6392
board shall issue its final adjudicative order within seventy- 6393
five days after completion of its hearing. A failure to issue 6394
the order within seventy-five days shall result in dissolution 6395
of the summary suspension order but shall not invalidate any 6396
subsequent, final adjudicative order. 6397

(I) For purposes of divisions (A) (2), (4), and (6) of this 6398
section, the commission of the act may be established by a 6399
finding by the board, pursuant to an adjudication under Chapter 6400
119. of the Revised Code, that the individual committed the act. 6401
The board does not have jurisdiction under those divisions if 6402
the trial court renders a final judgment in the individual's 6403
favor and that judgment is based upon an adjudication on the 6404
merits. The board has jurisdiction under those divisions if the 6405
trial court issues an order of dismissal upon technical or 6406
procedural grounds. 6407

(J) The sealing or expungement of conviction records by 6408
any court shall have no effect upon a prior board order entered 6409
under this section or upon the board's jurisdiction to take 6410
action under this section if, based upon a plea of guilty, a 6411
judicial finding of guilt, or a judicial finding of eligibility 6412
for intervention in lieu of conviction, the board issued a 6413
notice of opportunity for a hearing prior to the court's order 6414

to seal or expunge the records. The board shall not be required 6415
to seal, destroy, redact, or otherwise modify its records to 6416
reflect the court's sealing or expungement of conviction 6417
records. 6418

(K) If the board takes action under division (A) (1), (3), 6419
or (5) of this section, and the judicial finding of guilt, 6420
guilty plea, or judicial finding of eligibility for intervention 6421
in lieu of conviction is overturned on appeal, upon exhaustion 6422
of the criminal appeal, a petition for reconsideration of the 6423
order may be filed with the board along with appropriate court 6424
documents. Upon receipt of a petition for reconsideration and 6425
supporting court documents, the board shall reinstate the 6426
individual's license or permit. The board may then hold an 6427
adjudication under Chapter 119. of the Revised Code to determine 6428
whether the individual committed the act in question. Notice of 6429
an opportunity for a hearing shall be given in accordance with 6430
Chapter 119. of the Revised Code. If the board finds, pursuant 6431
to an adjudication held under this division, that the individual 6432
committed the act or if no hearing is requested, the board may 6433
order any of the sanctions identified under division (A) of this 6434
section. 6435

(L) The license or permit issued to an individual under 6436
this chapter and the individual's practice in this state are 6437
automatically suspended as of the date the individual pleads 6438
guilty to, is found by a judge or jury to be guilty of, or is 6439
subject to a judicial finding of eligibility for intervention in 6440
lieu of conviction in this state or treatment or intervention in 6441
lieu of conviction in another jurisdiction for any of the 6442
following criminal offenses in this state or a substantially 6443
equivalent criminal offense in another jurisdiction: aggravated 6444
murder, murder, voluntary manslaughter, felonious assault, _ 6445

trafficking in persons, kidnapping, rape, sexual battery, gross 6446
sexual imposition, aggravated arson, aggravated robbery, or 6447
aggravated burglary. Continued practice after suspension shall 6448
be considered practicing without a license or permit. 6449

The board shall serve the individual subject to the 6450
suspension in accordance with sections 119.05 and 119.07 of the 6451
Revised Code. If an individual whose license or permit is 6452
automatically suspended under this division fails to make a 6453
timely request for an adjudication under Chapter 119. of the 6454
Revised Code, the board shall enter a final order permanently 6455
revoking the individual's license or permit. 6456

(M) Notwithstanding any other provision of the Revised 6457
Code, all of the following apply: 6458

(1) The surrender of a license or permit issued under this 6459
chapter shall not be effective unless or until accepted by the 6460
board. A telephone conference call may be utilized for 6461
acceptance of the surrender of an individual's license or 6462
permit. The telephone conference call shall be considered a 6463
special meeting under division (F) of section 121.22 of the 6464
Revised Code. Reinstatement of a license or permit surrendered 6465
to the board requires an affirmative vote of not fewer than six 6466
members of the board. 6467

(2) An application for a license or permit made under the 6468
provisions of this chapter may not be withdrawn without approval 6469
of the board. 6470

(3) Failure by an individual to renew a license or permit 6471
in accordance with this chapter does not remove or limit the 6472
board's jurisdiction to take any disciplinary action under this 6473
section against the individual. 6474

(4) The placement of an individual's license on retired status, as described in section 4761.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

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

Sec. 4761.14. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B) (1) An employer that disciplines or terminates the employment of a respiratory care professional or individual holding a limited permit issued under this chapter because of conduct that would be grounds for disciplinary action under section 4761.09 of the Revised Code shall, not later than ~~sixty~~ thirty days after the discipline or termination, report the action to the state medical board. The report shall state the name of the respiratory care professional or individual holding the limited permit and the reason the employer took the action. If an employer fails to report to the board, the board may seek an order from the Franklin county court of common pleas, or any other court of competent jurisdiction, compelling submission of the report.

(2) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license or limited permit issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring

corporation, ambulatory surgical center, or similar facility or 6505
employer, shall report to the board the name of the individual 6506
and a summary of the underlying facts related to the 6507
investigation being commenced. 6508

(C) If any individual authorized to practice under this 6509
chapter or any professional association or society of such 6510
individuals knows or has reasonable cause to suspect based on 6511
facts that would cause a reasonable person in a similar position 6512
to suspect that an individual authorized to practice under this 6513
chapter has committed or participated in criminal conduct or 6514
sexual misconduct the information upon which the belief is based 6515
shall be reported to the board within thirty days. 6516

This division does not apply to a professional association 6517
or society whose staff interacts with members of the association 6518
or society only in advocacy, governance, or educational 6519
capacities and whose staff does not regularly interact with 6520
members in practice settings. 6521

(D) In addition to the self-reporting of criminal offenses 6522
that is required for license renewal, an individual authorized 6523
to practice under this chapter shall report to the board 6524
criminal charges regarding criminal conduct, sexual misconduct, 6525
or any conduct involving the use of a motor vehicle while under 6526
the influence of alcohol or drugs, including offenses that are 6527
equivalent offenses under division (A) of section 4511.181 of 6528
the Revised Code, violations of division (D) of section 4511.194 6529
of the Revised Code, and violations of division (C) of section 6530
4511.79 of the Revised Code. Reports under this division shall 6531
be made within thirty days of the criminal charge being filed. 6532

Sec. 4761.99. Whoever violates division (A) of section 6533
4761.10 of the Revised Code is guilty of a minor misdemeanor on 6534

a first offense. On a second offense, the person is guilty of a
misdemeanor of the fourth degree. On each subsequent offense,
the person is guilty of a misdemeanor of the first degree.

Whoever violates division (B) (2) or (C) of section 4761.14
of the Revised Code is guilty of failure to report criminal
conduct or sexual misconduct, a misdemeanor of the fourth
degree. If the offender has previously been convicted of a
violation of this division, the failure to report is a
misdemeanor of the first degree.

Whoever violates division (E) (5) of section 4761.03 of the
Revised Code is guilty of disclosing confidential investigatory
information, a misdemeanor of the first degree.

Sec. 4762.13. (A) The state medical board, by an
affirmative vote of not fewer than six members, may refuse to
grant a license to practice as an oriental medicine practitioner
or license to practice as an acupuncturist to, or may revoke the
license held by, an individual found by the board to have
committed fraud, misrepresentation, or deception in applying for
or securing the license.

(B) The board, by an affirmative vote of not fewer than
six members, shall, except as provided in division (C) of this
section, and to the extent permitted by law, limit, revoke, or
suspend an individual's license to practice, refuse to issue a
license to an applicant, refuse to renew a license, refuse to
reinstate a license, or reprimand or place on probation the
holder of a license for any of the following reasons:

(1) Permitting the holder's name or license to be used by
another person;

(2) Failure to comply with the requirements of this

chapter, Chapter 4731. of the Revised Code, or any rules adopted 6564
by the board; 6565

(3) Violating or attempting to violate, directly or 6566
indirectly, or assisting in or abetting the violation of, or 6567
conspiring to violate, any provision of this chapter, Chapter 6568
4731. of the Revised Code, or the rules adopted by the board; 6569

(4) A departure from, or failure to conform to, minimal 6570
standards of care of similar practitioners under the same or 6571
similar circumstances whether or not actual injury to the 6572
patient is established; 6573

(5) Inability to practice according to acceptable and 6574
prevailing standards of care by reason of mental illness or 6575
physical illness, including physical deterioration that 6576
adversely affects cognitive, motor, or perceptive skills; 6577

(6) Impairment of ability to practice according to 6578
acceptable and prevailing standards of care because of substance 6579
use disorder or excessive use or abuse of drugs, alcohol, or 6580
other substances that may impair ability to practice; 6581

(7) Willfully betraying a professional confidence; 6582

(8) Making a false, fraudulent, deceptive, or misleading 6583
statement in soliciting or advertising for patients or in 6584
securing or attempting to secure a license to practice as an 6585
oriental medicine practitioner or license to practice as an 6586
acupuncturist. 6587

As used in this division, "false, fraudulent, deceptive, 6588
or misleading statement" means a statement that includes a 6589
misrepresentation of fact, is likely to mislead or deceive 6590
because of a failure to disclose material facts, is intended or 6591
is likely to create false or unjustified expectations of 6592

favorable results, or includes representations or implications 6593
that in reasonable probability will cause an ordinarily prudent 6594
person to misunderstand or be deceived. 6595

(9) Representing, with the purpose of obtaining 6596
compensation or other advantage personally or for any other 6597
person, that an incurable disease or injury, or other incurable 6598
condition, can be permanently cured; 6599

(10) The obtaining of, or attempting to obtain, money or a 6600
thing of value by fraudulent misrepresentations in the course of 6601
practice; 6602

(11) A plea of guilty to, a judicial finding of guilt of, 6603
or a judicial finding of eligibility for intervention in lieu of 6604
conviction for, a felony; 6605

(12) Commission of an act that constitutes a felony in 6606
this state, regardless of the jurisdiction in which the act was 6607
committed; 6608

(13) A plea of guilty to, a judicial finding of guilt of, 6609
or a judicial finding of eligibility for intervention in lieu of 6610
conviction for, a misdemeanor committed in the course of 6611
practice; 6612

(14) A plea of guilty to, a judicial finding of guilt of, 6613
or a judicial finding of eligibility for intervention in lieu of 6614
conviction for, a misdemeanor involving moral turpitude; 6615

(15) Commission of an act in the course of practice that 6616
constitutes a misdemeanor in this state, regardless of the 6617
jurisdiction in which the act was committed; 6618

(16) Commission of an act involving moral turpitude that 6619
constitutes a misdemeanor in this state, regardless of the 6620

jurisdiction in which the act was committed; 6621

(17) A plea of guilty to, a judicial finding of guilt of, 6622
or a judicial finding of eligibility for intervention in lieu of 6623
conviction for violating any state or federal law regulating the 6624
possession, distribution, or use of any drug, including 6625
trafficking in drugs; 6626

(18) Any of the following actions taken by the state 6627
agency responsible for regulating the practice of oriental 6628
medicine or acupuncture in another jurisdiction, for any reason 6629
other than the nonpayment of fees: the limitation, revocation, 6630
or suspension of an individual's license to practice; acceptance 6631
of an individual's license surrender; denial of a license; 6632
refusal to renew or reinstate a license; imposition of 6633
probation; or issuance of an order of censure or other 6634
reprimand; 6635

(19) Violation of the conditions placed by the board on a 6636
license to practice as an oriental medicine practitioner or 6637
license to practice as an acupuncturist; 6638

(20) Failure to use universal blood and body fluid 6639
precautions established by rules adopted under section 4731.051 6640
of the Revised Code; 6641

(21) Failure to cooperate in an investigation conducted by 6642
the board under section 4762.14 of the Revised Code, including 6643
failure to comply with a subpoena or order issued by the board 6644
or failure to answer truthfully a question presented by the 6645
board at a deposition or in written interrogatories, except that 6646
failure to cooperate with an investigation shall not constitute 6647
grounds for discipline under this section if a court of 6648
competent jurisdiction has issued an order that either quashes a 6649

subpoena or permits the individual to withhold the testimony or 6650
evidence in issue; 6651

(22) Failure to comply with the standards of the national 6652
certification commission for acupuncture and oriental medicine 6653
regarding professional ethics, commitment to patients, 6654
commitment to the profession, and commitment to the public; 6655

(23) Failure to have adequate professional liability 6656
insurance coverage in accordance with section 4762.22 of the 6657
Revised Code; 6658

(24) Failure to maintain a current and active designation 6659
as a diplomate in oriental medicine, diplomate of acupuncture 6660
and Chinese herbology, or diplomate in acupuncture, as 6661
applicable, from the national certification commission for 6662
acupuncture and oriental medicine, including revocation by the 6663
commission of the individual's designation, failure by the 6664
individual to meet the commission's requirements for 6665
redesignation, or failure to notify the board that the 6666
appropriate designation has not been maintained. 6667

(C) The board shall not refuse to issue a certificate to 6668
an applicant because of a plea of guilty to, a judicial finding 6669
of guilt of, or a judicial finding of eligibility for 6670
intervention in lieu of conviction for an offense unless the 6671
refusal is in accordance with section 9.79 of the Revised Code. 6672

(D) Disciplinary actions taken by the board under 6673
divisions (A) and (B) of this section shall be taken pursuant to 6674
an adjudication under Chapter 119. of the Revised Code, except 6675
that in lieu of an adjudication, the board may enter into a 6676
consent agreement with an oriental medicine practitioner or 6677
acupuncturist or applicant to resolve an allegation of a 6678

violation of this chapter or any rule adopted under it. A 6679
consent agreement, when ratified by an affirmative vote of not 6680
fewer than six members of the board, shall constitute the 6681
findings and order of the board with respect to the matter 6682
addressed in the agreement. If the board refuses to ratify a 6683
consent agreement, the admissions and findings contained in the 6684
consent agreement shall be of no force or effect. 6685

(E) For purposes of divisions (B) (12), (15), and (16) of 6686
this section, the commission of the act may be established by a 6687
finding by the board, pursuant to an adjudication under Chapter 6688
119. of the Revised Code, that the applicant or license holder 6689
committed the act in question. The board shall have no 6690
jurisdiction under these divisions in cases where the trial 6691
court renders a final judgment in the license holder's favor and 6692
that judgment is based upon an adjudication on the merits. The 6693
board shall have jurisdiction under these divisions in cases 6694
where the trial court issues an order of dismissal upon 6695
technical or procedural grounds. 6696

(F) The sealing or expungement of conviction records by 6697
any court shall have no effect upon a prior board order entered 6698
under the provisions of this section or upon the board's 6699
jurisdiction to take action under the provisions of this section 6700
if, based upon a plea of guilty, a judicial finding of guilt, or 6701
a judicial finding of eligibility for intervention in lieu of 6702
conviction, the board issued a notice of opportunity for a 6703
hearing or entered into a consent agreement prior to the court's 6704
order to seal or expunge the records. The board shall not be 6705
required to seal, destroy, redact, or otherwise modify its 6706
records to reflect the court's sealing or expungement of 6707
conviction records. 6708

(G) For purposes of this division, any individual who 6709
holds a license to practice issued under this chapter, or 6710
applies for a license to practice, shall be deemed to have given 6711
consent to submit to a mental or physical examination when 6712
directed to do so in writing by the board and to have waived all 6713
objections to the admissibility of testimony or examination 6714
reports that constitute a privileged communication. 6715

(1) In enforcing division (B)(5) of this section, the 6716
board, upon a showing of a possible violation, shall refer any 6717
individual who holds, or has applied for, a license under this 6718
chapter to the monitoring organization that conducts the 6719
confidential monitoring program established under section 6720
4731.25 of the Revised Code. The board also may compel the 6721
individual to submit to a mental examination, physical 6722
examination, including an HIV test, or both a mental and 6723
physical examination. The expense of the examination is the 6724
responsibility of the individual compelled to be examined. 6725
Failure to submit to a mental or physical examination or consent 6726
to an HIV test ordered by the board constitutes an admission of 6727
the allegations against the individual unless the failure is due 6728
to circumstances beyond the individual's control, and a default 6729
and final order may be entered without the taking of testimony 6730
or presentation of evidence. If the board finds an oriental 6731
medicine practitioner or acupuncturist unable to practice 6732
because of the reasons set forth in division (B)(5) of this 6733
section, the board shall require the individual to submit to 6734
care, counseling, or treatment by physicians approved or 6735
designated by the board, as a condition for an initial, 6736
continued, reinstated, or renewed license to practice. An 6737
individual affected by this division shall be afforded an 6738
opportunity to demonstrate to the board the ability to resume 6739

practicing in compliance with acceptable and prevailing 6740
standards of care. 6741

(2) For purposes of division (B)(6) of this section, if 6742
the board has reason to believe that any individual who holds a 6743
license to practice issued under this chapter or any applicant 6744
for a license suffers such impairment, the board shall refer the 6745
individual to the monitoring organization that conducts the 6746
confidential monitoring program established under section 6747
4731.25 of the Revised Code. The board also may compel the 6748
individual to submit to a mental or physical examination, or 6749
both. The expense of the examination is the responsibility of 6750
the individual compelled to be examined. Any mental or physical 6751
examination required under this division shall be undertaken by 6752
a treatment provider or physician qualified to conduct such 6753
examination and approved under section 4731.251 of the Revised 6754
Code. 6755

Failure to submit to a mental or physical examination 6756
ordered by the board constitutes an admission of the allegations 6757
against the individual unless the failure is due to 6758
circumstances beyond the individual's control, and a default and 6759
final order may be entered without the taking of testimony or 6760
presentation of evidence. If the board determines that the 6761
individual's ability to practice is impaired, the board shall 6762
suspend the individual's license or deny the individual's 6763
application and shall require the individual, as a condition for 6764
an initial, continued, reinstated, or renewed license, to submit 6765
to treatment. 6766

Before being eligible to apply for reinstatement of a 6767
license suspended under this division, the oriental medicine 6768
practitioner or acupuncturist shall demonstrate to the board the 6769

ability to resume practice in compliance with acceptable and 6770
prevailing standards of care. The demonstration shall include 6771
the following: 6772

(a) Certification from a treatment provider approved under 6773
section 4731.251 of the Revised Code that the individual has 6774
successfully completed any required inpatient treatment; 6775

(b) Evidence of continuing full compliance with an 6776
aftercare contract or consent agreement; 6777

(c) Two written reports indicating that the individual's 6778
ability to practice has been assessed and that the individual 6779
has been found capable of practicing according to acceptable and 6780
prevailing standards of care. The reports shall be made by 6781
individuals or providers approved by the board for making such 6782
assessments and shall describe the basis for their 6783
determination. 6784

The board may reinstate a license suspended under this 6785
division after such demonstration and after the individual has 6786
entered into a written consent agreement. 6787

When the impaired individual resumes practice, the board 6788
shall require continued monitoring of the individual. The 6789
monitoring shall include monitoring of compliance with the 6790
written consent agreement entered into before reinstatement or 6791
with conditions imposed by board order after a hearing, and, 6792
upon termination of the consent agreement, submission to the 6793
board for at least two years of annual written progress reports 6794
made under penalty of falsification stating whether the 6795
individual has maintained sobriety. 6796

~~(H)~~ (H) (1) If either of the following circumstances occur, 6797
the secretary and supervising member ~~determine both of the~~ 6798

following, they may recommend that the board suspend an 6799
individual's license to practice without a prior hearing: 6800

~~(1)~~ (a) The secretary and supervising member determine 6801
both of the following: 6802

(i) That there is clear and convincing evidence that an 6803
oriental medicine practitioner or acupuncturist has violated 6804
division (B) of this section; 6805

~~(2)~~ (ii) That the individual's continued practice presents 6806
a danger of immediate and serious harm to the public. 6807

~~Written~~ (b) The board receives verifiable information that 6808
a licensee has been charged in any state or federal court for a 6809
crime classified as a felony under the charging court's law and 6810
the conduct charged constitutes a violation of division (B) of 6811
this section. 6812

(2) If a recommendation is made to suspend without a prior 6813
hearing pursuant to division (H) (1) of this section, written 6814
allegations shall be prepared for consideration by the board. 6815
The board, upon review of the allegations and by an affirmative 6816
vote of not fewer than six of its members, excluding the 6817
secretary and supervising member, may suspend a license without 6818
a prior hearing. A telephone conference call may be utilized for 6819
reviewing the allegations and taking the vote on the summary 6820
suspension. 6821

The board shall serve a written order of suspension in 6822
accordance with sections 119.05 and 119.07 of the Revised Code. 6823
The order shall not be subject to suspension by the court during 6824
pendency of any appeal filed under section 119.12 of the Revised 6825
Code. If the oriental medicine practitioner or acupuncturist 6826
requests an adjudicatory hearing by the board, the date set for 6827

the hearing shall be within fifteen days, but not earlier than 6828
seven days, after the hearing is requested, unless otherwise 6829
agreed to by both the board and the license holder. 6830

(3) A summary suspension imposed under this division shall 6831
remain in effect, unless reversed on appeal, until a final 6832
adjudicative order issued by the board pursuant to this section 6833
and Chapter 119. of the Revised Code becomes effective. The 6834
board shall issue its final adjudicative order within sixty days 6835
after completion of its hearing. Failure to issue the order 6836
within sixty days shall result in dissolution of the summary 6837
suspension order, but shall not invalidate any subsequent, final 6838
adjudicative order. 6839

(I) If the board takes action under division (B) (11), 6840
(13), or (14) of this section, and the judicial finding of 6841
guilt, guilty plea, or judicial finding of eligibility for 6842
intervention in lieu of conviction is overturned on appeal, upon 6843
exhaustion of the criminal appeal, a petition for 6844
reconsideration of the order may be filed with the board along 6845
with appropriate court documents. Upon receipt of a petition and 6846
supporting court documents, the board shall reinstate the 6847
license. The board may then hold an adjudication under Chapter 6848
119. of the Revised Code to determine whether the individual 6849
committed the act in question. Notice of opportunity for hearing 6850
shall be given in accordance with Chapter 119. of the Revised 6851
Code. If the board finds, pursuant to an adjudication held under 6852
this division, that the individual committed the act, or if no 6853
hearing is requested, it may order any of the sanctions 6854
specified in division (B) of this section. 6855

(J) The license to practice of an oriental medicine 6856
practitioner or acupuncturist and the practitioner's or 6857

acupuncturist's practice in this state are automatically 6858
suspended as of the date the practitioner or acupuncturist 6859
pleads guilty to, is found by a judge or jury to be guilty of, 6860
or is subject to a judicial finding of eligibility for 6861
intervention in lieu of conviction in this state or treatment or 6862
intervention in lieu of conviction in another jurisdiction for 6863
any of the following criminal offenses in this state or a 6864
substantially equivalent criminal offense in another 6865
jurisdiction: aggravated murder, murder, voluntary manslaughter, 6866
felonious assault, trafficking in persons, kidnapping, rape, 6867
sexual battery, gross sexual imposition, aggravated arson, 6868
aggravated robbery, or aggravated burglary. Continued practice 6869
after the suspension shall be considered practicing without a 6870
license. 6871

The board shall serve the individual subject to the 6872
suspension in accordance with sections 119.05 and 119.07 of the 6873
Revised Code. If an individual whose license is suspended under 6874
this division fails to make a timely request for an adjudication 6875
under Chapter 119. of the Revised Code, the board shall enter a 6876
final order permanently revoking the individual's license. 6877

(K) In any instance in which the board is required by 6878
Chapter 119. of the Revised Code to give notice of opportunity 6879
for hearing and the individual subject to the notice does not 6880
timely request a hearing in accordance with section 119.07 of 6881
the Revised Code, the board is not required to hold a hearing, 6882
but may adopt, by an affirmative vote of not fewer than six of 6883
its members, a final order that contains the board's findings. 6884
In the final order, the board may order any of the sanctions 6885
identified under division (A) or (B) of this section. 6886

(L) Any action taken by the board under division (B) of 6887

this section resulting in a suspension shall be accompanied by a 6888
written statement of the conditions under which the license may 6889
be reinstated. The board shall adopt rules in accordance with 6890
Chapter 119. of the Revised Code governing conditions to be 6891
imposed for reinstatement. Reinstatement of a license suspended 6892
pursuant to division (B) of this section requires an affirmative 6893
vote of not fewer than six members of the board. 6894

(M) When the board refuses to grant or issue a license to 6895
an applicant, revokes an individual's license, refuses to renew 6896
an individual's license, or refuses to reinstate an individual's 6897
license, the board may specify that its action is permanent. An 6898
individual subject to a permanent action taken by the board is 6899
forever thereafter ineligible to hold a license to practice as 6900
an oriental medicine practitioner or license to practice as an 6901
acupuncturist and the board shall not accept an application for 6902
reinstatement of the license or for issuance of a new license. 6903

(N) Notwithstanding any other provision of the Revised 6904
Code, all of the following apply: 6905

(1) The surrender of a license to practice as an oriental 6906
medicine practitioner or license to practice as an acupuncturist 6907
issued under this chapter is not effective unless or until 6908
accepted by the board. Reinstatement of a license surrendered to 6909
the board requires an affirmative vote of not fewer than six 6910
members of the board. 6911

(2) An application made under this chapter for a license 6912
may not be withdrawn without approval of the board. 6913

(3) Failure by an individual to renew a license in 6914
accordance with section 4762.06 of the Revised Code does not 6915
remove or limit the board's jurisdiction to take disciplinary 6916

action under this section against the individual. 6917

(4) The placement of an individual's license on retired 6918
status, as described in section 4762.062 of the Revised Code, 6919
does not remove or limit the board's jurisdiction to take any 6920
disciplinary action against the individual with regard to the 6921
license as it existed before being placed on retired status. 6922

Sec. 4762.14. (A) The state medical board shall 6923
investigate evidence that appears to show that any person has 6924
violated this chapter or the rules adopted under it. Any person 6925
may report to the board in a signed writing any information the 6926
person has that appears to show a violation of any provision of 6927
this chapter or the rules adopted under it. In the absence of 6928
bad faith, a person who reports such information or testifies 6929
before the board in an adjudication conducted under Chapter 119. 6930
of the Revised Code shall not be liable for civil damages as a 6931
result of reporting the information or providing testimony. Each 6932
complaint or allegation of a violation received by the board 6933
shall be assigned a case number and be recorded by the board. 6934

(B) Investigations of alleged violations of this chapter 6935
or rules adopted under it shall be supervised by the supervising 6936
member elected by the board in accordance with section 4731.02 6937
of the Revised Code and by the secretary as provided in section 6938
4762.17 of the Revised Code. The board's president may designate 6939
another member of the board to supervise the investigation in 6940
place of the supervising member. Upon a vote of the majority of 6941
the board to authorize the addition of a consumer member in the 6942
supervision of any part of any investigation, the president 6943
shall designate a consumer member for supervision of 6944
investigations as determined by the president. The authorization 6945
of consumer member participation in investigation supervision 6946

may be rescinded by a majority vote of the board. A member of 6947
the board who supervises the investigation of a case shall not 6948
participate in further adjudication of the case. 6949

(C) In investigating a possible violation of this chapter 6950
or the rules adopted under it, the board may administer oaths, 6951
order the taking of depositions, issue subpoenas, and compel the 6952
attendance of witnesses and production of books, accounts, 6953
papers, records, documents, and testimony, except that a 6954
subpoena for patient record information shall not be issued 6955
without consultation with the attorney general's office and 6956
approval of the secretary of the board. Before issuance of a 6957
subpoena for patient record information, the secretary shall 6958
determine whether there is probable cause to believe that the 6959
complaint filed alleges a violation of this chapter or the rules 6960
adopted under it and that the records sought are relevant to the 6961
alleged violation and material to the investigation. The 6962
subpoena may apply only to records that cover a reasonable 6963
period of time surrounding the alleged violation. 6964

On failure to comply with any subpoena issued by the board 6965
and after reasonable notice to the person being subpoenaed, the 6966
board may move for an order compelling the production of persons 6967
or records pursuant to the Rules of Civil Procedure. 6968

A subpoena issued by the board may be served by a sheriff, 6969
the sheriff's deputy, or a board employee designated by the 6970
board. Service of a subpoena issued by the board may be made by 6971
delivering a copy of the subpoena to the person named therein, 6972
reading it to the person, or leaving it at the person's usual 6973
place of residence. When the person being served is an oriental 6974
medicine practitioner or acupuncturist, service of the subpoena 6975
may be made by certified mail, restricted delivery, return 6976

receipt requested, and the subpoena shall be deemed served on 6977
the date delivery is made or the date the person refuses to 6978
accept delivery. 6979

A sheriff's deputy who serves a subpoena shall receive the 6980
same fees as a sheriff. Each witness who appears before the 6981
board in obedience to a subpoena shall receive the fees and 6982
mileage provided for under section 119.094 of the Revised Code. 6983

(D) All hearings and investigations of the board shall be 6984
considered civil actions for the purposes of section 2305.252 of 6985
the Revised Code. 6986

(E) Information received by the board pursuant to an 6987
investigation is confidential and not subject to discovery in 6988
any civil action. 6989

The board shall conduct all investigations and proceedings 6990
in a manner that protects the confidentiality of patients and 6991
persons who file complaints with the board. The board shall not 6992
make public the names or any other identifying information about 6993
patients or complainants unless proper consent is given. 6994

The board may share any information it receives pursuant 6995
to an investigation, including patient records and patient 6996
record information, with law enforcement agencies, other 6997
licensing boards, and other governmental agencies that are 6998
prosecuting, adjudicating, or investigating alleged violations 6999
of statutes or administrative rules. An agency or board that 7000
receives the information shall comply with the same requirements 7001
regarding confidentiality as those with which the state medical 7002
board must comply, notwithstanding any conflicting provision of 7003
the Revised Code or procedure of the agency or board that 7004
applies when it is dealing with other information in its 7005

possession. In a judicial proceeding, the information may be 7006
admitted into evidence only in accordance with the Rules of 7007
Evidence, but the court shall require that appropriate measures 7008
are taken to ensure that confidentiality is maintained with 7009
respect to any part of the information that contains names or 7010
other identifying information about patients or complainants 7011
whose confidentiality was protected by the state medical board 7012
when the information was in the board's possession. Measures to 7013
ensure confidentiality that may be taken by the court include 7014
sealing its records or deleting specific information from its 7015
records. 7016

No person shall knowingly access, use, or disclose 7017
confidential investigatory information in a manner prohibited by 7018
law. 7019

(F) The state medical board shall develop requirements for 7020
and provide appropriate initial training and continuing 7021
education for investigators employed by the board to carry out 7022
its duties under this chapter. The training and continuing 7023
education may include enrollment in courses operated or approved 7024
by the Ohio peace officer training commission that the board 7025
considers appropriate under conditions set forth in section 7026
109.79 of the Revised Code. 7027

(G) On a quarterly basis, the board shall prepare a report 7028
that documents the disposition of all cases during the preceding 7029
three months. The report shall contain the following information 7030
for each case with which the board has completed its activities: 7031

(1) The case number assigned to the complaint or alleged 7032
violation; 7033

(2) The type of license, if any, held by the individual 7034

against whom the complaint is directed; 7035

(3) A description of the allegations contained in the 7036
complaint; 7037

(4) Whether witnesses were interviewed; 7038

(5) Whether the individual against whom the complaint is 7039
directed is the subject of any pending complaints; 7040

(6) The disposition of the case. 7041

The report shall state how many cases are still pending, 7042
and shall be prepared in a manner that protects the identity of 7043
each person involved in each case. The report is a public record 7044
for purposes of section 149.43 of the Revised Code. 7045

(H) The board may provide a status update regarding an 7046
investigation to a complainant on request if the board verifies 7047
the complainant's identity. 7048

Sec. 4762.16. (A) As used in this section, "criminal 7049
conduct" and "sexual misconduct" have the same meanings as in 7050
section 4731.224 of the Revised Code. 7051

(B) (1) Within ~~sixty~~ thirty days after the imposition of 7052
any formal disciplinary action taken by any health care 7053
facility, including a hospital, health care facility operated by 7054
a health insuring corporation, ambulatory surgical center, or 7055
similar facility, against any individual holding a valid license 7056
to practice as an oriental medicine practitioner or valid 7057
license to practice as an acupuncturist, the chief administrator 7058
or executive officer of the facility shall report to the state 7059
medical board the name of the individual, the action taken by 7060
the facility, and a summary of the underlying facts leading to 7061
the action taken. Upon request, the board shall be provided 7062

certified copies of the patient records that were the basis for 7063
the facility's action. Prior to release to the board, the 7064
summary shall be approved by the peer review committee that 7065
reviewed the case or by the governing board of the facility. 7066

The filing of a report with the board or decision not to 7067
file a report, investigation by the board, or any disciplinary 7068
action taken by the board, does not preclude a health care 7069
facility from taking disciplinary action against an oriental 7070
medicine practitioner or acupuncturist. 7071

In the absence of fraud or bad faith, no individual or 7072
entity that provides patient records to the board shall be 7073
liable in damages to any person as a result of providing the 7074
records. 7075

(2) Within thirty days after commencing an investigation 7076
regarding criminal conduct or sexual misconduct against any 7077
individual holding a valid license to practice issued pursuant 7078
to this chapter, a health care facility, including a hospital, 7079
health care facility operated by a health insuring corporation, 7080
ambulatory surgical center, or similar facility, shall report to 7081
the board the name of the individual and a summary of the 7082
underlying facts related to the investigation being commenced. 7083

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 7084
of this section and subject to division (C) (3) of this section, 7085
an oriental medicine practitioner or acupuncturist, professional 7086
association or society of oriental medicine practitioners or 7087
acupuncturists, physician, or professional association or 7088
society of physicians that believes a violation of any provision 7089
of this chapter, Chapter 4731. of the Revised Code, or rule of 7090
the board has occurred shall report to the board the information 7091
upon which the belief is based. 7092

(2) An oriental medicine practitioner or acupuncturist, 7093
professional association or society of oriental medicine 7094
practitioners or acupuncturists, physician, or professional 7095
association or society of physicians that believes a violation 7096
of division (B) (5) or (6) of section 4762.13 of the Revised Code 7097
has occurred shall report the information upon which the belief 7098
is based to the monitoring organization conducting the 7099
confidential monitoring program established under section 7100
4731.25 of the Revised Code. If any such report is made to the 7101
board, it shall be referred to the monitoring organization 7102
unless the board is aware that the individual who is the subject 7103
of the report does not meet the program eligibility requirements 7104
of section 4731.252 of the Revised Code. 7105

(3) If any individual authorized to practice under this 7106
chapter or any professional association or society of such 7107
individuals knows or has reasonable cause to suspect based on 7108
facts that would cause a reasonable person in a similar position 7109
to suspect that an individual authorized to practice under this 7110
chapter has committed or participated in criminal conduct or 7111
sexual misconduct, the information upon which the belief is 7112
based shall be reported to the board within thirty days. 7113

This division does not apply to a professional association 7114
or society whose staff interacts with members of the association 7115
or society only in advocacy, governance, or educational 7116
capacities and whose staff does not regularly interact with 7117
members in practice settings. 7118

(4) In addition to the self-reporting of criminal offenses 7119
that is required for license renewal, an individual authorized 7120
to practice under this chapter shall report to the board 7121
criminal charges regarding criminal conduct, sexual misconduct, 7122

or any conduct involving the use of a motor vehicle while under 7123
the influence of alcohol or drugs, including offenses that are 7124
equivalent offenses under division (A) of section 4511.181 of 7125
the Revised Code, violations of division (D) of section 4511.194 7126
of the Revised Code, and violations of division (C) of section 7127
4511.79 of the Revised Code. Reports under this division shall 7128
be made within thirty days of the criminal charge being filed. 7129

~~(C)~~(D) Any professional association or society composed 7130
primarily of oriental medicine practitioners or acupuncturists 7131
that suspends or revokes an individual's membership for 7132
violations of professional ethics, or for reasons of 7133
professional incompetence or professional malpractice, within 7134
~~sixty~~thirty days after a final decision, shall report to the 7135
board, on forms prescribed and provided by the board, the name 7136
of the individual, the action taken by the professional 7137
organization, and a summary of the underlying facts leading to 7138
the action taken. 7139

The filing of a report with the board or decision not to 7140
file a report, investigation by the board, or any disciplinary 7141
action taken by the board, does not preclude a professional 7142
organization from taking disciplinary action against an 7143
individual. 7144

~~(D)~~(E) Any insurer providing professional liability 7145
insurance to any person holding a valid license to practice as 7146
an oriental medicine practitioner or valid license to practice 7147
as an acupuncturist or any other entity that seeks to indemnify 7148
the professional liability of an oriental medicine practitioner 7149
or acupuncturist shall notify the board within thirty days after 7150
the final disposition of any written claim for damages where 7151
such disposition results in a payment exceeding twenty-five 7152

thousand dollars. The notice shall contain the following 7153
information: 7154

(1) The name and address of the person submitting the 7155
notification; 7156

(2) The name and address of the insured who is the subject 7157
of the claim; 7158

(3) The name of the person filing the written claim; 7159

(4) The date of final disposition; 7160

(5) If applicable, the identity of the court in which the 7161
final disposition of the claim took place. 7162

~~(E)~~ (F) The board may investigate possible violations of 7163
this chapter or the rules adopted under it that are brought to 7164
its attention as a result of the reporting requirements of this 7165
section, except that the board shall conduct an investigation if 7166
a possible violation involves repeated malpractice. As used in 7167
this division, "repeated malpractice" means three or more claims 7168
for malpractice within the previous five-year period, each 7169
resulting in a judgment or settlement in excess of twenty-five 7170
thousand dollars in favor of the claimant, and each involving 7171
negligent conduct by the oriental medicine practitioner or 7172
acupuncturist. 7173

~~(F)~~ (G) All summaries, reports, and records received and 7174
maintained by the board pursuant to this section shall be held 7175
~~in confidence and shall not be subject to discovery or~~ 7176
~~introduction in evidence in any federal or state civil action~~ 7177
~~involving an oriental medicine practitioner, acupuncturist,~~ 7178
~~supervising physician, or health care facility arising out of~~ 7179
~~matters that are the subject of the reporting required by this~~ 7180
~~section. The board may use the information obtained only as the~~ 7181

~~basis for an investigation, as evidence in a disciplinary hearing against an oriental medicine practitioner, acupuncturist, or supervising physician, or in any subsequent trial or appeal of a board action or order.~~ 7182
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~~The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing an oriental medicine practitioner, acupuncturist, or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board~~ 7186
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confidential pursuant to division (E) of section 4762.14 of the Revised Code. 7196

~~(G)~~ (H) Except for reports filed by an individual pursuant to division ~~(B)~~ (B) (2) or (C) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the acupuncturist. The oriental medicine practitioner or acupuncturist shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention. 7197
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~~(H)~~ (I) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.25 of the Revised Code, or refers an impaired oriental medicine practitioner or impaired acupuncturist to a treatment provider approved under section 4731.251 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information. 7205
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~~(I)~~ (J) In the absence of fraud or bad faith, a 7212
professional association or society of oriental medicine 7213
practitioners or acupuncturists that sponsors a committee or 7214
program to provide peer assistance to an oriental medicine 7215
practitioner or acupuncturist with substance abuse problems, a 7216
representative or agent of such a committee or program, a 7217
representative or agent of the monitoring organization described 7218
in section 4731.25 of the Revised Code, and a member of the 7219
state medical board shall not be held liable in damages to any 7220
person by reason of actions taken to refer an oriental medicine 7221
practitioner or acupuncturist to a treatment provider approved 7222
under section 4731.251 of the Revised Code for examination or 7223
treatment. 7224

Sec. 4762.99. (A) Whoever violates section 4762.02 of the 7225
Revised Code is guilty of a misdemeanor of the first degree on a 7226
first offense; on each subsequent offense, the person is guilty 7227
of a felony of the fourth degree. 7228

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 7229
(1), ~~or (C) (2)~~, (D), or (E) of section 4762.16 of the Revised 7230
Code is guilty of a minor misdemeanor on a first offense; on 7231
each subsequent offense the person is guilty of a misdemeanor of 7232
the fourth degree, except that an individual guilty of a 7233
subsequent offense shall not be subject to imprisonment, but to 7234
a fine alone of up to one thousand dollars for each offense. 7235

(2) Whoever violates division (B) (2) or (C) (3) of section 7236
4762.16 of the Revised Code is guilty of failure to report 7237
criminal conduct or sexual misconduct, a misdemeanor of the 7238
fourth degree. If the offender has previously been convicted of 7239
a violation of this division, the failure to report is a 7240
misdemeanor of the first degree. 7241

(C) Whoever violates division (E) of section 4762.14 of 7242
the Revised Code is guilty of disclosing confidential 7243
investigatory information, a misdemeanor of the first degree. 7244

Sec. 4774.13. (A) The state medical board, by an 7245
affirmative vote of not fewer than six members, may refuse to 7246
grant a license to practice as a radiologist assistant to, or 7247
may revoke the license held by, an individual found by the board 7248
to have committed fraud, misrepresentation, or deception in 7249
applying for or securing the license. 7250

(B) The board, by an affirmative vote of not fewer than 7251
six members, shall, except as provided in division (C) of this 7252
section, and to the extent permitted by law, limit, revoke, or 7253
suspend an individual's license to practice as a radiologist 7254
assistant, refuse to issue a license to an applicant, refuse to 7255
renew a license, refuse to reinstate a license, or reprimand or 7256
place on probation the holder of a license for any of the 7257
following reasons: 7258

(1) Permitting the holder's name or license to be used by 7259
another person; 7260

(2) Failure to comply with the requirements of this 7261
chapter, Chapter 4731. of the Revised Code, or any rules adopted 7262
by the board; 7263

(3) Violating or attempting to violate, directly or 7264
indirectly, or assisting in or abetting the violation of, or 7265
conspiring to violate, any provision of this chapter, Chapter 7266
4731. of the Revised Code, or the rules adopted by the board; 7267

(4) A departure from, or failure to conform to, minimal 7268
standards of care of similar practitioners under the same or 7269
similar circumstances whether or not actual injury to the 7270

patient is established;	7271
(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	7272 7273 7274 7275
(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;	7276 7277 7278 7279
(7) Willfully betraying a professional confidence;	7280
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a radiologist assistant.	7281 7282 7283
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.	7284 7285 7286 7287 7288 7289 7290 7291
(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;	7292 7293 7294
(10) 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;	7295 7296 7297
(11) Commission of an act that constitutes a felony in	7298

this state, regardless of the jurisdiction in which the act was committed; 7299
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(12) A plea of guilty to, a judicial finding of guilt of, 7301
or a judicial finding of eligibility for intervention in lieu of 7302
conviction for, a misdemeanor committed in the course of 7303
practice; 7304

(13) A plea of guilty to, a judicial finding of guilt of, 7305
or a judicial finding of eligibility for intervention in lieu of 7306
conviction for, a misdemeanor involving moral turpitude; 7307

(14) Commission of an act in the course of practice that 7308
constitutes a misdemeanor in this state, regardless of the 7309
jurisdiction in which the act was committed; 7310

(15) Commission of an act involving moral turpitude that 7311
constitutes a misdemeanor in this state, regardless of the 7312
jurisdiction in which the act was committed; 7313

(16) A plea of guilty to, a judicial finding of guilt of, 7314
or a judicial finding of eligibility for intervention in lieu of 7315
conviction for violating any state or federal law regulating the 7316
possession, distribution, or use of any drug, including 7317
trafficking in drugs; 7318

(17) Any of the following actions taken by the state 7319
agency responsible for regulating the practice of radiologist 7320
assistants in another jurisdiction, for any reason other than 7321
the nonpayment of fees: the limitation, revocation, or 7322
suspension of an individual's license to practice; acceptance of 7323
an individual's license surrender; denial of a license; refusal 7324
to renew or reinstate a license; imposition of probation; or 7325
issuance of an order of censure or other reprimand; 7326

(18) Violation of the conditions placed by the board on a 7327

license to practice as a radiologist assistant; 7328

(19) Failure to use universal blood and body fluid 7329
precautions established by rules adopted under section 4731.051 7330
of the Revised Code; 7331

(20) Failure to cooperate in an investigation conducted by 7332
the board under section 4774.14 of the Revised Code, including 7333
failure to comply with a subpoena or order issued by the board 7334
or failure to answer truthfully a question presented by the 7335
board at a deposition or in written interrogatories, except that 7336
failure to cooperate with an investigation shall not constitute 7337
grounds for discipline under this section if a court of 7338
competent jurisdiction has issued an order that either quashes a 7339
subpoena or permits the individual to withhold the testimony or 7340
evidence in issue; 7341

(21) Failure to maintain a license as a radiographer under 7342
Chapter 4773. of the Revised Code; 7343

(22) Failure to maintain certification as a registered 7344
radiologist assistant from the American registry of radiologic 7345
technologists, including revocation by the registry of the 7346
assistant's certification or failure by the assistant to meet 7347
the registry's requirements for annual registration, or failure 7348
to notify the board that the certification as a registered 7349
radiologist assistant has not been maintained; 7350

(23) Failure to comply with any of the rules of ethics 7351
included in the standards of ethics established by the American 7352
registry of radiologic technologists, as those rules apply to an 7353
individual who holds the registry's certification as a 7354
registered radiologist assistant. 7355

(C) The board shall not refuse to issue a license to an 7356

applicant because of a plea of guilty to, a judicial finding of 7357
guilt of, or a judicial finding of eligibility for intervention 7358
in lieu of conviction for an offense unless the refusal is in 7359
accordance with section 9.79 of the Revised Code. 7360

(D) Disciplinary actions taken by the board under 7361
divisions (A) and (B) of this section shall be taken pursuant to 7362
an adjudication under Chapter 119. of the Revised Code, except 7363
that in lieu of an adjudication, the board may enter into a 7364
consent agreement with a radiologist assistant or applicant to 7365
resolve an allegation of a violation of this chapter or any rule 7366
adopted under it. A consent agreement, when ratified by an 7367
affirmative vote of not fewer than six members of the board, 7368
shall constitute the findings and order of the board with 7369
respect to the matter addressed in the agreement. If the board 7370
refuses to ratify a consent agreement, the admissions and 7371
findings contained in the consent agreement shall be of no force 7372
or effect. 7373

(E) For purposes of divisions (B) (11), (14), and (15) of 7374
this section, the commission of the act may be established by a 7375
finding by the board, pursuant to an adjudication under Chapter 7376
119. of the Revised Code, that the applicant or license holder 7377
committed the act in question. The board shall have no 7378
jurisdiction under these divisions in cases where the trial 7379
court renders a final judgment in the license holder's favor and 7380
that judgment is based upon an adjudication on the merits. The 7381
board shall have jurisdiction under these divisions in cases 7382
where the trial court issues an order of dismissal on technical 7383
or procedural grounds. 7384

(F) The sealing or expungement of conviction records by 7385
any court shall have no effect on a prior board order entered 7386

under the provisions of this section or on the board's 7387
jurisdiction to take action under the provisions of this section 7388
if, based upon a plea of guilty, a judicial finding of guilt, or 7389
a judicial finding of eligibility for intervention in lieu of 7390
conviction, the board issued a notice of opportunity for a 7391
hearing prior to the court's order to seal or expunge the 7392
records. The board shall not be required to seal, destroy, 7393
redact, or otherwise modify its records to reflect the court's 7394
sealing or expungement of conviction records. 7395

(G) For purposes of this division, any individual who 7396
holds a license to practice as a radiologist assistant issued 7397
under this chapter, or applies for a license, shall be deemed to 7398
have given consent to submit to a mental or physical examination 7399
when directed to do so in writing by the board and to have 7400
waived all objections to the admissibility of testimony or 7401
examination reports that constitute a privileged communication. 7402

(1) In enforcing division (B) (5) of this section, the 7403
board, on a showing of a possible violation, shall refer any 7404
individual who holds, or has applied for, a license to practice 7405
as a radiologist assistant issued under this chapter to the 7406
monitoring organization that conducts the confidential 7407
monitoring program established under section 4731.25 of the 7408
Revised Code. The board also may compel the individual to submit 7409
to a mental or physical examination, or both. A physical 7410
examination may include an HIV test. The expense of the 7411
examination is the responsibility of the individual compelled to 7412
be examined. Failure to submit to a mental or physical 7413
examination or consent to an HIV test ordered by the board 7414
constitutes an admission of the allegations against the 7415
individual unless the failure is due to circumstances beyond the 7416
individual's control, and a default and final order may be 7417

entered without the taking of testimony or presentation of 7418
evidence. If the board finds a radiologist assistant unable to 7419
practice because of the reasons set forth in division (B) (5) of 7420
this section, the board shall require the radiologist assistant 7421
to submit to care, counseling, or treatment by physicians 7422
approved or designated by the board, as a condition for an 7423
initial, continued, reinstated, or renewed license. An 7424
individual affected by this division shall be afforded an 7425
opportunity to demonstrate to the board the ability to resume 7426
practicing in compliance with acceptable and prevailing 7427
standards of care. 7428

(2) For purposes of division (B) (6) of this section, if 7429
the board has reason to believe that any individual who holds a 7430
license to practice as a radiologist assistant issued under this 7431
chapter or any applicant for a license suffers such impairment, 7432
the board shall refer the individual to the monitoring 7433
organization that conducts the confidential monitoring program 7434
established under section 4731.25 of the Revised Code. The board 7435
also may compel the individual to submit to a mental or physical 7436
examination, or both. The expense of the examination is the 7437
responsibility of the individual compelled to be examined. Any 7438
mental or physical examination required under this division 7439
shall be undertaken by a treatment provider or physician 7440
qualified to conduct such examination and approved under section 7441
4731.251 of the Revised Code. 7442

Failure to submit to a mental or physical examination 7443
ordered by the board constitutes an admission of the allegations 7444
against the individual unless the failure is due to 7445
circumstances beyond the individual's control, and a default and 7446
final order may be entered without the taking of testimony or 7447
presentation of evidence. If the board determines that the 7448

individual's ability to practice is impaired, the board shall 7449
suspend the individual's license or deny the individual's 7450
application and shall require the individual, as a condition for 7451
an initial, continued, reinstated, or renewed license to 7452
practice, to submit to treatment. 7453

Before being eligible to apply for reinstatement of a 7454
license suspended under this division, the radiologist assistant 7455
shall demonstrate to the board the ability to resume practice in 7456
compliance with acceptable and prevailing standards of care. The 7457
demonstration shall include the following: 7458

(a) Certification from a treatment provider approved under 7459
section 4731.251 of the Revised Code that the individual has 7460
successfully completed any required inpatient treatment; 7461

(b) Evidence of continuing full compliance with an 7462
aftercare contract or consent agreement; 7463

(c) Two written reports indicating that the individual's 7464
ability to practice has been assessed and that the individual 7465
has been found capable of practicing according to acceptable and 7466
prevailing standards of care. The reports shall be made by 7467
individuals or providers approved by the board for making such 7468
assessments and shall describe the basis for their 7469
determination. 7470

The board may reinstate a license suspended under this 7471
division after such demonstration and after the individual has 7472
entered into a written consent agreement. 7473

When the impaired radiologist assistant resumes practice, 7474
the board shall require continued monitoring of the radiologist 7475
assistant. The monitoring shall include monitoring of compliance 7476
with the written consent agreement entered into before 7477

reinstatement or with conditions imposed by board order after a 7478
hearing, and, on termination of the consent agreement, 7479
submission to the board for at least two years of annual written 7480
progress reports made under penalty of falsification stating 7481
whether the radiologist assistant has maintained sobriety. 7482

~~(H)~~ (H) (1) If either of the following circumstances occur, 7483
the secretary and supervising member ~~determine~~ may recommend 7484
that the board suspend the individual's license to practice 7485
without a prior hearing: 7486

(a) The secretary and supervising member determine that 7487
there is clear and convincing evidence that a radiologist 7488
assistant has violated division (B) of this section and that the 7489
individual's continued practice presents a danger of immediate 7490
and serious harm to the public, ~~they may recommend that the~~ 7491
~~board suspend the individual's license to practice without a~~ 7492
~~prior hearing.~~ 7493

(b) The board receives verifiable information that a 7494
licensee has been charged in any state or federal court for a 7495
crime classified as a felony under the charging court's law and 7496
the conduct charged constitutes a violation of division (B) of 7497
this section. ~~Written~~ 7498

(2) If a recommendation is made to suspend without a prior 7499
hearing pursuant to division (H) (1) of this section, written 7500
allegations shall be prepared for consideration by the board. 7501

The board, on review of the allegations and by an 7502
affirmative vote of not fewer than six of its members, excluding 7503
the secretary and supervising member, may suspend a license 7504
without a prior hearing. A telephone conference call may be 7505
utilized for reviewing the allegations and taking the vote on 7506

the summary suspension.

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The board shall serve a written order of suspension in accordance with sections 119.05 and 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the radiologist assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the radiologist assistant requests the hearing, unless otherwise agreed to by both the board and the license holder.

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

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(I) If the board takes action under division (B) (10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the license to practice as a radiologist assistant. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in

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question. Notice of opportunity for hearing shall be given in 7537
accordance with Chapter 119. of the Revised Code. If the board 7538
finds, pursuant to an adjudication held under this division, 7539
that the individual committed the act, or if no hearing is 7540
requested, it may order any of the sanctions specified in 7541
division (B) of this section. 7542

(J) The license to practice of a radiologist assistant and 7543
the assistant's practice in this state are automatically 7544
suspended as of the date the radiologist assistant pleads guilty 7545
to, is found by a judge or jury to be guilty of, or is subject 7546
to a judicial finding of eligibility for intervention in lieu of 7547
conviction in this state or treatment ~~of or~~ intervention in lieu 7548
of conviction in another jurisdiction for any of the following 7549
criminal offenses in this state or a substantially equivalent 7550
criminal offense in another jurisdiction: aggravated murder, 7551
murder, voluntary manslaughter, felonious assault, trafficking 7552
in persons, kidnapping, rape, sexual battery, gross sexual 7553
imposition, aggravated arson, aggravated robbery, or aggravated 7554
burglary. Continued practice after the suspension shall be 7555
considered practicing without a license. 7556

The board shall serve the individual subject to the 7557
suspension in accordance with sections 119.05 and 119.07 of the 7558
Revised Code. If an individual whose license is suspended under 7559
this division fails to make a timely request for an adjudication 7560
under Chapter 119. of the Revised Code, the board shall enter a 7561
final order permanently revoking the individual's license. 7562

(K) In any instance in which the board is required by 7563
Chapter 119. of the Revised Code to give notice of opportunity 7564
for hearing and the individual subject to the notice does not 7565
timely request a hearing in accordance with section 119.07 of 7566

the Revised Code, the board is not required to hold a hearing, 7567
but may adopt, by an affirmative vote of not fewer than six of 7568
its members, a final order that contains the board's findings. 7569
In the final order, the board may order any of the sanctions 7570
identified under division (A) or (B) of this section. 7571

(L) Any action taken by the board under division (B) of 7572
this section resulting in a suspension shall be accompanied by a 7573
written statement of the conditions under which the radiologist 7574
assistant's license may be reinstated. The board shall adopt 7575
rules in accordance with Chapter 119. of the Revised Code 7576
governing conditions to be imposed for reinstatement. 7577
Reinstatement of a license suspended pursuant to division (B) of 7578
this section requires an affirmative vote of not fewer than six 7579
members of the board. 7580

(M) When the board refuses to grant or issue a license to 7581
practice as a radiologist assistant to an applicant, revokes an 7582
individual's license, refuses to renew an individual's license, 7583
or refuses to reinstate an individual's license, the board may 7584
specify that its action is permanent. An individual subject to a 7585
permanent action taken by the board is forever thereafter 7586
ineligible to hold a license to practice as a radiologist 7587
assistant and the board shall not accept an application for 7588
reinstatement of the license or for issuance of a new license. 7589

(N) Notwithstanding any other provision of the Revised 7590
Code, all of the following apply: 7591

(1) The surrender of a license to practice as a 7592
radiologist assistant issued under this chapter is not effective 7593
unless or until accepted by the board. Reinstatement of a 7594
license surrendered to the board requires an affirmative vote of 7595
not fewer than six members of the board. 7596

(2) An application made under this chapter for a license 7597
to practice may not be withdrawn without approval of the board. 7598

(3) Failure by an individual to renew a license to 7599
practice in accordance with section 4774.06 of the Revised Code 7600
does not remove or limit the board's jurisdiction to take 7601
disciplinary action under this section against the individual. 7602

(4) The placement of an individual's license on retired 7603
status, as described in section 4774.062 of the Revised Code, 7604
does not remove or limit the board's jurisdiction to take any 7605
disciplinary action against the individual with regard to the 7606
license as it existed before being placed on retired status. 7607

Sec. 4774.14. (A) The state medical board shall 7608
investigate evidence that appears to show that any person has 7609
violated this chapter or the rules adopted under it. Any person 7610
may report to the board in a signed writing any information the 7611
person has that appears to show a violation of any provision of 7612
this chapter or the rules adopted under it. In the absence of 7613
bad faith, a person who reports such information or testifies 7614
before the board in an adjudication conducted under Chapter 119. 7615
of the Revised Code shall not be liable for civil damages as a 7616
result of reporting the information or providing testimony. Each 7617
complaint or allegation of a violation received by the board 7618
shall be assigned a case number and be recorded by the board. 7619

(B) Investigations of alleged violations of this chapter 7620
or rules adopted under it shall be supervised by the supervising 7621
member elected by the board in accordance with section 4731.02 7622
of the Revised Code and by the secretary as provided in section 7623
4774.17 of the Revised Code. The board's president may designate 7624
another member of the board to supervise the investigation in 7625
place of the supervising member. Upon a vote of the majority of 7626

the board to authorize the addition of a consumer member in the 7627
supervision of any part of any investigation, the president 7628
shall designate a consumer member for supervision of 7629
investigations as determined by the president. The authorization 7630
of consumer member participation in investigation supervision 7631
may be rescinded by a majority vote of the board. A member of 7632
the board who supervises the investigation of a case shall not 7633
participate in further adjudication of the case. 7634

(C) In investigating a possible violation of this chapter 7635
or the rules adopted under it, the board may administer oaths, 7636
order the taking of depositions, issue subpoenas, and compel the 7637
attendance of witnesses and production of books, accounts, 7638
papers, records, documents, and testimony, except that a 7639
subpoena for patient record information shall not be issued 7640
without consultation with the attorney general's office and 7641
approval of the secretary of the board. Before issuance of a 7642
subpoena for patient record information, the secretary shall 7643
determine whether there is probable cause to believe that the 7644
complaint filed alleges a violation of this chapter or the rules 7645
adopted under it and that the records sought are relevant to the 7646
alleged violation and material to the investigation. The 7647
subpoena may apply only to records that cover a reasonable 7648
period of time surrounding the alleged violation. 7649

On failure to comply with any subpoena issued by the board 7650
and after reasonable notice to the person being subpoenaed, the 7651
board may move for an order compelling the production of persons 7652
or records pursuant to the Rules of Civil Procedure. 7653

A subpoena issued by the board may be served by a sheriff, 7654
the sheriff's deputy, or a board employee designated by the 7655
board. Service of a subpoena issued by the board may be made by 7656

delivering a copy of the subpoena to the person named therein, 7657
reading it to the person, or leaving it at the person's usual 7658
place of residence. When the person being served is a 7659
radiologist assistant, service of the subpoena may be made by 7660
certified mail, restricted delivery, return receipt requested, 7661
and the subpoena shall be deemed served on the date delivery is 7662
made or the date the person refuses to accept delivery. 7663

A sheriff's deputy who serves a subpoena shall receive the 7664
same fees as a sheriff. Each witness who appears before the 7665
board in obedience to a subpoena shall receive the fees and 7666
mileage provided for witnesses in civil cases in the courts of 7667
common pleas. 7668

(D) All hearings and investigations of the board shall be 7669
considered civil actions for the purposes of section 2305.252 of 7670
the Revised Code. 7671

(E) Information received by the board pursuant to an 7672
investigation is confidential and not subject to discovery in 7673
any civil action. 7674

The board shall conduct all investigations and proceedings 7675
in a manner that protects the confidentiality of patients and 7676
persons who file complaints with the board. The board shall not 7677
make public the names or any other identifying information about 7678
patients or complainants unless proper consent is given. 7679

The board may share any information it receives pursuant 7680
to an investigation, including patient records and patient 7681
record information, with law enforcement agencies, other 7682
licensing boards, and other governmental agencies that are 7683
prosecuting, adjudicating, or investigating alleged violations 7684
of statutes or administrative rules. An agency or board that 7685

receives the information shall comply with the same requirements 7686
regarding confidentiality as those with which the state medical 7687
board must comply, notwithstanding any conflicting provision of 7688
the Revised Code or procedure of the agency or board that 7689
applies when it is dealing with other information in its 7690
possession. In a judicial proceeding, the information may be 7691
admitted into evidence only in accordance with the Rules of 7692
Evidence, but the court shall require that appropriate measures 7693
are taken to ensure that confidentiality is maintained with 7694
respect to any part of the information that contains names or 7695
other identifying information about patients or complainants 7696
whose confidentiality was protected by the state medical board 7697
when the information was in the board's possession. Measures to 7698
ensure confidentiality that may be taken by the court include 7699
sealing its records or deleting specific information from its 7700
records. 7701

No person shall knowingly access, use, or disclose 7702
confidential investigatory information in a manner prohibited by 7703
law. 7704

(F) The state medical board shall develop requirements for 7705
and provide appropriate initial training and continuing 7706
education for investigators employed by the board to carry out 7707
its duties under this chapter. The training and continuing 7708
education may include enrollment in courses operated or approved 7709
by the Ohio peace officer training commission that the board 7710
considers appropriate under conditions set forth in section 7711
109.79 of the Revised Code. 7712

(G) On a quarterly basis, the board shall prepare a report 7713
that documents the disposition of all cases during the preceding 7714
three months. The report shall contain the following information 7715

for each case with which the board has completed its activities:	7716
(1) The case number assigned to the complaint or alleged violation;	7717 7718
(2) The type of license, if any, held by the individual against whom the complaint is directed;	7719 7720
(3) A description of the allegations contained in the complaint;	7721 7722
(4) <u>Whether witnesses were interviewed;</u>	7723
(5) <u>Whether the individual against whom the complaint is directed is the subject of any pending complaints;</u>	7724 7725
(6) <u>The disposition of the case.</u>	7726
The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.	7727 7728 7729 7730
<u>(H) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.</u>	7731 7732 7733
Sec. 4774.16. (A) <u>As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.</u>	7734 7735 7736
<u>(B)(1) Within sixty thirty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid license to practice as a radiologist assistant, the chief administrator</u>	7737 7738 7739 7740 7741 7742

or executive officer of the facility shall report to the state 7743
medical board the name of the individual, the action taken by 7744
the facility, and a summary of the underlying facts leading to 7745
the action taken. On request, the board shall be provided 7746
certified copies of the patient records that were the basis for 7747
the facility's action. Prior to release to the board, the 7748
summary shall be approved by the peer review committee that 7749
reviewed the case or by the governing board of the facility. 7750

The filing of a report with the board or decision not to 7751
file a report, investigation by the board, or any disciplinary 7752
action taken by the board, does not preclude a health care 7753
facility from taking disciplinary action against a radiologist 7754
assistant. 7755

In the absence of fraud or bad faith, no individual or 7756
entity that provides patient records to the board shall be 7757
liable in damages to any person as a result of providing the 7758
records. 7759

(2) Within thirty days after commencing an investigation 7760
regarding criminal conduct or sexual misconduct against any 7761
individual holding a valid license to practice issued pursuant 7762
to this chapter, a health care facility, including a hospital, 7763
health care facility operated by a health insuring corporation, 7764
ambulatory surgical center, or similar facility, shall report to 7765
the board the name of the individual and a summary of the 7766
underlying facts related to the investigation being commenced. 7767

~~(B) (1)~~ (C) (1) Except as provided in division ~~(B) (2)~~ (C) (2) 7768
of this section and subject to division (C) (3) of this section, 7769
a radiologist assistant, professional association or society of 7770
radiologist assistants, physician, or professional association 7771
or society of physicians that believes a violation of any 7772

provision of this chapter, Chapter 4731. of the Revised Code, or 7773
rule of the board has occurred shall report to the board the 7774
information on which the belief is based. 7775

(2) A radiologist assistant, professional association or 7776
society of radiologist assistants, physician, or professional 7777
association or society of physicians that believes a violation 7778
of division (B) (5) or (6) of section 4774.13 of the Revised Code 7779
has occurred shall report the information upon which the belief 7780
is based to the monitoring organization conducting the 7781
confidential monitoring program established under section 7782
4731.25 of the Revised Code. If any such report is made to the 7783
board, it shall be referred to the monitoring organization 7784
unless the board is aware that the individual who is the subject 7785
of the report does not meet the program eligibility requirements 7786
of section 4731.252 of the Revised Code. 7787

(3) If any individual authorized to practice under this 7788
chapter or any professional association or society of such 7789
individuals knows or has reasonable cause to suspect based on 7790
facts that would cause a reasonable person in a similar position 7791
to suspect that an individual authorized to practice under this 7792
chapter has committed or participated in criminal conduct or 7793
sexual misconduct, the information upon which the belief is 7794
based shall be reported to the board within thirty days. 7795

This division does not apply to a professional association 7796
or society whose staff interacts with members of the association 7797
or society only in advocacy, governance, or educational 7798
capacities and whose staff does not regularly interact with 7799
members in practice settings. 7800

(4) In addition to the self-reporting of criminal offenses 7801
that is required for license renewal, an individual authorized 7802

to practice under this chapter shall report to the board 7803
criminal charges regarding criminal conduct, sexual misconduct, 7804
or any conduct involving the use of a motor vehicle while under 7805
the influence of alcohol or drugs, including offenses that are 7806
equivalent offenses under division (A) of section 4511.181 of 7807
the Revised Code, violations of division (D) of section 4511.194 7808
of the Revised Code, and violations of division (C) of section 7809
4511.79 of the Revised Code. Reports under this division shall 7810
be made within thirty days of the criminal charge being filed. 7811

~~(C)~~(D) Any professional association or society composed 7812
primarily of radiologist assistants that suspends or revokes an 7813
individual's membership for violations of professional ethics, 7814
or for reasons of professional incompetence or professional 7815
malpractice, within ~~sixty~~thirty days after a final decision, 7816
shall report to the board, on forms prescribed and provided by 7817
the board, the name of the individual, the action taken by the 7818
professional organization, and a summary of the underlying facts 7819
leading to the action taken. 7820

The filing of a report with the board or decision not to 7821
file a report, investigation by the board, or any disciplinary 7822
action taken by the board, does not preclude a professional 7823
organization from taking disciplinary action against a 7824
radiologist assistant. 7825

~~(D)~~(E) Any insurer providing professional liability 7826
insurance to any person holding a valid license to practice as a 7827
radiologist assistant or any other entity that seeks to 7828
indemnify the professional liability of a radiologist assistant 7829
shall notify the board within thirty days after the final 7830
disposition of any written claim for damages where such 7831
disposition results in a payment exceeding twenty-five thousand 7832

dollars. The notice shall contain the following information: 7833

(1) The name and address of the person submitting the 7834
notification; 7835

(2) The name and address of the insured who is the subject 7836
of the claim; 7837

(3) The name of the person filing the written claim; 7838

(4) The date of final disposition; 7839

(5) If applicable, the identity of the court in which the 7840
final disposition of the claim took place. 7841

~~(E)~~ (F) The board may investigate possible violations of 7842
this chapter or the rules adopted under it that are brought to 7843
its attention as a result of the reporting requirements of this 7844
section, except that the board shall conduct an investigation if 7845
a possible violation involves repeated malpractice. As used in 7846
this division, "repeated malpractice" means three or more claims 7847
for malpractice within the previous five-year period, each 7848
resulting in a judgment or settlement in excess of twenty-five 7849
thousand dollars in favor of the claimant, and each involving 7850
negligent conduct by the radiologist assistant. 7851

~~(F)~~ (G) All summaries, reports, and records received and 7852
maintained by the board pursuant to this section shall be held 7853
~~in confidence and shall not be subject to discovery or~~ 7854
~~introduction in evidence in any federal or state civil action~~ 7855
~~involving a radiologist assistant, supervising physician, or~~ 7856
~~health care facility arising out of matters that are the subject~~ 7857
~~of the reporting required by this section. The board may use the~~ 7858
~~information obtained only as the basis for an investigation, as~~ 7859
~~evidence in a disciplinary hearing against a radiologist~~ 7860
~~assistant or supervising radiologist, or in any subsequent trial~~ 7861

~~or appeal of a board action or order.~~ 7862

~~The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a radiologist assistant or supervising radiologist or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board~~ 7863
confidential pursuant to division (E) of section 4774.14 of the Revised Code. 7864
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~~(G)~~ (H) Except for reports filed by an individual pursuant to division ~~(B)~~ (B) (2) or (C) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the radiologist assistant. The radiologist assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention. 7874
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~~(H)~~ (I) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.25 of the Revised Code, or refers an impaired radiologist assistant to a treatment provider approved under section 4731.251 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information. 7882
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~~(I)~~ (J) In the absence of fraud or bad faith, a professional association or society of radiologist assistants that sponsors a committee or program to provide peer assistance 7889
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to a radiologist assistant with substance abuse problems, a 7892
representative or agent of such a committee or program, a 7893
representative or agent of the monitoring organization described 7894
in section 4731.25 of the Revised Code, and a member of the 7895
state medical board shall not be held liable in damages to any 7896
person by reason of actions taken to refer a radiologist 7897
assistant to a treatment provider approved under section 7898
4731.251 of the Revised Code for examination or treatment. 7899

Sec. 4774.99. (A) Whoever violates division (A) (1) or (2) 7900
of section 4774.02 of the Revised Code is guilty of a 7901
misdemeanor of the first degree on a first offense; on each 7902
subsequent offense, the person is guilty of a felony of the 7903
fourth degree. 7904

~~(B) (B) (1)~~ Whoever violates division ~~(A)~~, ~~(B) (B) (1)~~, ~~(C) (C)~~ 7905
(1), ~~or (C) (2)~~, (D), or (E) of section 4774.16 of the Revised 7906
Code is guilty of a minor misdemeanor on a first offense; on 7907
each subsequent offense the person is guilty of a misdemeanor of 7908
the fourth degree, except that an individual guilty of a 7909
subsequent offense shall not be subject to imprisonment, but to 7910
a fine alone of up to one thousand dollars for each offense. 7911

(2) Whoever violates division (B) (2) or (C) (3) of section 7912
4774.16 of the Revised Code is guilty of failure to report 7913
criminal conduct or sexual misconduct, a misdemeanor of the 7914
fourth degree. If the offender has previously been convicted of 7915
a violation of this division, the failure to report is a 7916
misdemeanor of the first degree. 7917

(C) Whoever violates division (E) of section 4774.14 of 7918
the Revised Code is guilty of disclosing confidential 7919
investigatory information, a misdemeanor of the first degree. 7920

Sec. 4778.14. (A) The state medical board, by an affirmative vote of not fewer than six members, may refuse to grant a license to practice as a genetic counselor to, or may revoke the license held by, an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a genetic counselor, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

(1) Permitting the holder's name or license to be used by another person;

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

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

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

(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or

physical illness, including physical deterioration that 7950
adversely affects cognitive, motor, or perceptive skills; 7951

(6) Impairment of ability to practice according to 7952
acceptable and prevailing standards of care because of substance 7953
use disorder or excessive use or abuse of drugs, alcohol, or 7954
other substances that may impair ability to practice; 7955

(7) Willfully betraying a professional confidence; 7956

(8) Making a false, fraudulent, deceptive, or misleading 7957
statement in securing or attempting to secure a license to 7958
practice as a genetic counselor. 7959

As used in this division, "false, fraudulent, deceptive, 7960
or misleading statement" means a statement that includes a 7961
misrepresentation of fact, is likely to mislead or deceive 7962
because of a failure to disclose material facts, is intended or 7963
is likely to create false or unjustified expectations of 7964
favorable results, or includes representations or implications 7965
that in reasonable probability will cause an ordinarily prudent 7966
person to misunderstand or be deceived. 7967

(9) The obtaining of, or attempting to obtain, money or a 7968
thing of value by fraudulent misrepresentations in the course of 7969
practice; 7970

(10) A plea of guilty to, a judicial finding of guilt of, 7971
or a judicial finding of eligibility for intervention in lieu of 7972
conviction for, a felony; 7973

(11) Commission of an act that constitutes a felony in 7974
this state, regardless of the jurisdiction in which the act was 7975
committed; 7976

(12) A plea of guilty to, a judicial finding of guilt of, 7977

or a judicial finding of eligibility for intervention in lieu of 7978
conviction for, a misdemeanor committed in the course of 7979
practice; 7980

(13) A plea of guilty to, a judicial finding of guilt of, 7981
or a judicial finding of eligibility for intervention in lieu of 7982
conviction for, a misdemeanor involving moral turpitude; 7983

(14) Commission of an act in the course of practice that 7984
constitutes a misdemeanor in this state, regardless of the 7985
jurisdiction in which the act was committed; 7986

(15) Commission of an act involving moral turpitude that 7987
constitutes a misdemeanor in this state, regardless of the 7988
jurisdiction in which the act was committed; 7989

(16) A plea of guilty to, a judicial finding of guilt of, 7990
or a judicial finding of eligibility for intervention in lieu of 7991
conviction for violating any state or federal law regulating the 7992
possession, distribution, or use of any drug, including 7993
trafficking in drugs; 7994

(17) Any of the following actions taken by an agency 7995
responsible for authorizing, certifying, or regulating an 7996
individual to practice a health care occupation or provide 7997
health care services in this state or in another jurisdiction, 7998
for any reason other than the nonpayment of fees: the 7999
limitation, revocation, or suspension of an individual's license 8000
to practice; acceptance of an individual's license surrender; 8001
denial of a license; refusal to renew or reinstate a license; 8002
imposition of probation; or issuance of an order of censure or 8003
other reprimand; 8004

(18) Violation of the conditions placed by the board on a 8005
license to practice as a genetic counselor; 8006

(19) Failure to cooperate in an investigation conducted by the board under section 4778.18 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(20) Failure to maintain the individual's status as a certified genetic counselor;

(21) Failure to comply with the code of ethics established by the national society of genetic counselors.

(C) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a genetic counselor or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and

findings contained in the consent agreement shall be of no force 8037
or effect. 8038

A telephone conference call may be utilized for 8039
ratification of a consent agreement that revokes or suspends an 8040
individual's license. The telephone conference call shall be 8041
considered a special meeting under division (F) of section 8042
121.22 of the Revised Code. 8043

(E) For purposes of divisions (B) (11), (14), and (15) of 8044
this section, the commission of the act may be established by a 8045
finding by the board, pursuant to an adjudication under Chapter 8046
119. of the Revised Code, that the applicant or license holder 8047
committed the act in question. The board shall have no 8048
jurisdiction under these divisions in cases where the trial 8049
court renders a final judgment in the license holder's favor and 8050
that judgment is based upon an adjudication on the merits. The 8051
board shall have jurisdiction under these divisions in cases 8052
where the trial court issues an order of dismissal on technical 8053
or procedural grounds. 8054

(F) The sealing or expungement of conviction records by 8055
any court shall have no effect on a prior board order entered 8056
under the provisions of this section or on the board's 8057
jurisdiction to take action under the provisions of this section 8058
if, based upon a plea of guilty, a judicial finding of guilt, or 8059
a judicial finding of eligibility for intervention in lieu of 8060
conviction, the board issued a notice of opportunity for a 8061
hearing or took other formal action under Chapter 119. of the 8062
Revised Code prior to the court's order to seal or expunge the 8063
records. The board shall not be required to seal, destroy, 8064
redact, or otherwise modify its records to reflect the court's 8065
sealing or expungement of conviction records. 8066

(G) For purposes of this division, any individual who 8067
holds a license to practice as a genetic counselor, or applies 8068
for a license, shall be deemed to have given consent to submit 8069
to a mental or physical examination when directed to do so in 8070
writing by the board and to have waived all objections to the 8071
admissibility of testimony or examination reports that 8072
constitute a privileged communication. 8073

(1) In enforcing division (B)(5) of this section, the 8074
board, on a showing of a possible violation, shall refer any 8075
individual who holds, or has applied for, a license to practice 8076
as a genetic counselor to the monitoring organization that 8077
conducts the confidential monitoring program established under 8078
section 4731.25 of the Revised Code. The board also may compel 8079
the individual to submit to a mental or physical examination, or 8080
both. A physical examination may include an HIV test. The 8081
expense of the examination is the responsibility of the 8082
individual compelled to be examined. Failure to submit to a 8083
mental or physical examination or consent to an HIV test ordered 8084
by the board constitutes an admission of the allegations against 8085
the individual unless the failure is due to circumstances beyond 8086
the individual's control, and a default and final order may be 8087
entered without the taking of testimony or presentation of 8088
evidence. If the board finds a genetic counselor unable to 8089
practice because of the reasons set forth in division (B)(5) of 8090
this section, the board shall require the genetic counselor to 8091
submit to care, counseling, or treatment by physicians approved 8092
or designated by the board, as a condition for an initial, 8093
continued, reinstated, or renewed license to practice. An 8094
individual affected by this division shall be afforded an 8095
opportunity to demonstrate to the board the ability to resume 8096
practicing in compliance with acceptable and prevailing 8097

standards of care. 8098

(2) For purposes of division (B)(6) of this section, if 8099
the board has reason to believe that any individual who holds a 8100
license to practice as a genetic counselor or any applicant for 8101
a license suffers such impairment, the board shall refer the 8102
individual to the monitoring organization that conducts the 8103
confidential monitoring program established under section 8104
4731.25 of the Revised Code. The board also may compel the 8105
individual to submit to a mental or physical examination, or 8106
both. The expense of the examination is the responsibility of 8107
the individual compelled to be examined. Any mental or physical 8108
examination required under this division shall be undertaken by 8109
a treatment provider or physician qualified to conduct such 8110
examination and approved under section 4731.251 of the Revised 8111
Code. 8112

Failure to submit to a mental or physical examination 8113
ordered by the board constitutes an admission of the allegations 8114
against the individual unless the failure is due to 8115
circumstances beyond the individual's control, and a default and 8116
final order may be entered without the taking of testimony or 8117
presentation of evidence. If the board determines that the 8118
individual's ability to practice is impaired, the board shall 8119
suspend the individual's license or deny the individual's 8120
application and shall require the individual, as a condition for 8121
an initial, continued, reinstated, or renewed license, to submit 8122
to treatment. 8123

Before being eligible to apply for reinstatement of a 8124
license suspended under this division, the genetic counselor 8125
shall demonstrate to the board the ability to resume practice in 8126
compliance with acceptable and prevailing standards of care. The 8127

demonstration shall include the following: 8128

(a) Certification from a treatment provider approved under 8129
section 4731.251 of the Revised Code that the individual has 8130
successfully completed any required inpatient treatment; 8131

(b) Evidence of continuing full compliance with an 8132
aftercare contract or consent agreement; 8133

(c) Two written reports indicating that the individual's 8134
ability to practice has been assessed and that the individual 8135
has been found capable of practicing according to acceptable and 8136
prevailing standards of care. The reports shall be made by 8137
individuals or providers approved by the board for making such 8138
assessments and shall describe the basis for their 8139
determination. 8140

The board may reinstate a license suspended under this 8141
division after such demonstration and after the individual has 8142
entered into a written consent agreement. 8143

When the impaired genetic counselor resumes practice, the 8144
board shall require continued monitoring of the genetic 8145
counselor. The monitoring shall include monitoring of compliance 8146
with the written consent agreement entered into before 8147
reinstatement or with conditions imposed by board order after a 8148
hearing, and, on termination of the consent agreement, 8149
submission to the board for at least two years of annual written 8150
progress reports made under penalty of falsification stating 8151
whether the genetic counselor has maintained sobriety. 8152

~~(H)~~ (H) (1) If either of the following circumstances occur, 8153
the secretary and supervising member ~~determine both of the~~ 8154
~~following, they~~ may recommend that the board suspend an 8155
individual's license to practice without a prior hearing: 8156

~~(1)~~-(a) The secretary and supervising member determine 8157
both of the following: 8158

(i) That there is clear and convincing evidence that a 8159
genetic counselor has violated division (B) of this section; 8160

~~(2)~~-(ii) That the individual's continued practice presents 8161
a danger of immediate and serious harm to the public. 8162

~~Written~~-(b) The board receives verifiable information that 8163
a licensee has been charged in any state or federal court for a 8164
crime classified as a felony under the charging court's law and 8165
the conduct charged constitutes a violation of division (B) of 8166
this section. 8167

(2) If a recommendation is made to suspend without a prior 8168
hearing pursuant to division (H)(1) of this section, written 8169
allegations shall be prepared for consideration by the board. 8170
The board, on review of the allegations and by an affirmative 8171
vote of not fewer than six of its members, excluding the 8172
secretary and supervising member, may suspend a license without 8173
a prior hearing. A telephone conference call may be utilized for 8174
reviewing the allegations and taking the vote on the summary 8175
suspension. 8176

The board shall serve a written order of suspension in 8177
accordance with sections 119.05 and 119.07 of the Revised Code. 8178
The order shall not be subject to suspension by the court during 8179
pendency of any appeal filed under section 119.12 of the Revised 8180
Code. If the genetic counselor requests an adjudicatory hearing 8181
by the board, the date set for the hearing shall be within 8182
fifteen days, but not earlier than seven days, after the genetic 8183
counselor requests the hearing, unless otherwise agreed to by 8184
both the board and the genetic counselor. 8185

(3) A summary suspension imposed under this division shall 8186
remain in effect, unless reversed on appeal, until a final 8187
adjudicative order issued by the board pursuant to this section 8188
and Chapter 119. of the Revised Code becomes effective. The 8189
board shall issue its final adjudicative order within sixty days 8190
after completion of its hearing. Failure to issue the order 8191
within sixty days shall result in dissolution of the summary 8192
suspension order, but shall not invalidate any subsequent, final 8193
adjudicative order. 8194

(I) If the board takes action under division (B) (10), 8195
(12), or (13) of this section, and the judicial finding of 8196
guilt, guilty plea, or judicial finding of eligibility for 8197
intervention in lieu of conviction is overturned on appeal, on 8198
exhaustion of the criminal appeal, a petition for 8199
reconsideration of the order may be filed with the board along 8200
with appropriate court documents. On receipt of a petition and 8201
supporting court documents, the board shall reinstate the 8202
license to practice as a genetic counselor. The board may then 8203
hold an adjudication under Chapter 119. of the Revised Code to 8204
determine whether the individual committed the act in question. 8205
Notice of opportunity for hearing shall be given in accordance 8206
with Chapter 119. of the Revised Code. If the board finds, 8207
pursuant to an adjudication held under this division, that the 8208
individual committed the act, or if no hearing is requested, it 8209
may order any of the sanctions specified in division (B) of this 8210
section. 8211

(J) The license to practice as a genetic counselor and the 8212
counselor's practice in this state are automatically suspended 8213
as of the date the genetic counselor pleads guilty to, is found 8214
by a judge or jury to be guilty of, or is subject to a judicial 8215
finding of eligibility for intervention in lieu of conviction in 8216

this state or treatment ~~of~~ or intervention in lieu of conviction 8217
in another jurisdiction for any of the following criminal 8218
offenses in this state or a substantially equivalent criminal 8219
offense in another jurisdiction: aggravated murder, murder, 8220
voluntary manslaughter, felonious assault, trafficking in 8221
persons, kidnapping, rape, sexual battery, gross sexual 8222
imposition, aggravated arson, aggravated robbery, or aggravated 8223
burglary. Continued practice after the suspension shall be 8224
considered practicing without a license. 8225

The board shall serve the individual subject to the 8226
suspension in accordance with sections 119.05 and 119.07 of the 8227
Revised Code. If an individual whose license is suspended under 8228
this division fails to make a timely request for an adjudication 8229
under Chapter 119. of the Revised Code, the board shall enter a 8230
final order permanently revoking the individual's license to 8231
practice. 8232

(K) In any instance in which the board is required by 8233
Chapter 119. of the Revised Code to give notice of opportunity 8234
for hearing and the individual subject to the notice does not 8235
timely request a hearing in accordance with section 119.07 of 8236
the Revised Code, the board is not required to hold a hearing, 8237
but may adopt, by an affirmative vote of not fewer than six of 8238
its members, a final order that contains the board's findings. 8239
In the final order, the board may order any of the sanctions 8240
identified under division (A) or (B) of this section. 8241

(L) Any action taken by the board under division (B) of 8242
this section resulting in a suspension shall be accompanied by a 8243
written statement of the conditions under which the license of 8244
the genetic counselor may be reinstated. The board shall adopt 8245
rules in accordance with Chapter 119. of the Revised Code 8246

governing conditions to be imposed for reinstatement. 8247
Reinstatement of a license suspended pursuant to division (B) of 8248
this section requires an affirmative vote of not fewer than six 8249
members of the board. 8250

(M) When the board refuses to grant or issue a license to 8251
practice as a genetic counselor to an applicant, revokes an 8252
individual's license, refuses to renew an individual's license, 8253
or refuses to reinstate an individual's license, the board may 8254
specify that its action is permanent. An individual subject to a 8255
permanent action taken by the board is forever thereafter 8256
ineligible to hold a license to practice as a genetic counselor 8257
and the board shall not accept an application for reinstatement 8258
of the license or for issuance of a new license. 8259

(N) Notwithstanding any other provision of the Revised 8260
Code, all of the following apply: 8261

(1) The surrender of a license to practice as a genetic 8262
counselor is not effective unless or until accepted by the 8263
board. A telephone conference call may be utilized for 8264
acceptance of the surrender of an individual's license. The 8265
telephone conference call shall be considered a special meeting 8266
under division (F) of section 121.22 of the Revised Code. 8267
Reinstatement of a license surrendered to the board requires an 8268
affirmative vote of not fewer than six members of the board. 8269

(2) An application made under this chapter for a license 8270
to practice may not be withdrawn without approval of the board. 8271

(3) Failure by an individual to renew a license in 8272
accordance with section 4778.06 of the Revised Code does not 8273
remove or limit the board's jurisdiction to take disciplinary 8274
action under this section against the individual. 8275

(4) The placement of an individual's license on retired status, as described in section 4778.072 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

Sec. 4778.171. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that an individual authorized to practice under this chapter has committed or participated in criminal conduct or sexual misconduct the information upon which the belief is based shall be reported to the board within thirty days.

This division does not apply to a professional association or society whose staff interacts with members of the association or society only in advocacy, governance, or educational capacities and whose staff does not regularly interact with members in practice settings.

(3) In addition to the self-reporting of criminal offenses 8306
that is required for license renewal, an individual authorized 8307
to practice under this chapter shall report to the board 8308
criminal charges regarding criminal conduct, sexual misconduct, 8309
or any conduct involving the use of a motor vehicle while under 8310
the influence of alcohol or drugs, including offenses that are 8311
equivalent offenses under division (A) of section 4511.181 of 8312
the Revised Code, violations of division (D) of section 4511.194 8313
of the Revised Code, and violations of division (C) of section 8314
4511.79 of the Revised Code. Reports under this division shall 8315
be made within thirty days of the criminal charge being filed. 8316

Sec. 4778.18. (A) The state medical board shall 8317
investigate evidence that appears to show that any individual 8318
has violated this chapter or the rules adopted under it. Any 8319
person may report to the board in a signed writing any 8320
information the person has that appears to show a violation of 8321
this chapter or rules adopted under it. In the absence of bad 8322
faith, a person who reports such information or testifies before 8323
the board in an adjudication conducted under Chapter 119. of the 8324
Revised Code shall not be liable for civil damages as a result 8325
of reporting the information or providing testimony. Each 8326
complaint or allegation of a violation received by the board 8327
shall be assigned a case number and be recorded by the board. 8328

(B) Investigations of alleged violations of this chapter 8329
or rules adopted under it shall be supervised by the supervising 8330
member elected by the board in accordance with section 4731.02 8331
of the Revised Code and by the board's secretary, pursuant to 8332
section 4778.20 of the Revised Code. The board's president may 8333
designate another member of the board to supervise the 8334
investigation in place of the supervising member. Upon a vote of 8335
the majority of the board to authorize the addition of a 8336

consumer member in the supervision of any part of any 8337
investigation, the president shall designate a consumer member 8338
for supervision of investigations as determined by the 8339
president. The authorization of consumer member participation in 8340
investigation supervision may be rescinded by a majority vote of 8341
the board. A member of the board who supervises the 8342
investigation of a case shall not participate in further 8343
adjudication of the case. 8344

(C) In investigating a possible violation of this chapter 8345
or the rules adopted under it, the board may administer oaths, 8346
order the taking of depositions, inspect and copy any books, 8347
accounts, papers, records, or documents, issue subpoenas, and 8348
compel the attendance of witnesses and production of books, 8349
accounts, papers, records, documents, and testimony, except that 8350
a subpoena for patient record information shall not be issued 8351
without consultation with the attorney general's office and 8352
approval of the secretary of the board. Before issuance of a 8353
subpoena for patient record information, the secretary shall 8354
determine whether there is probable cause to believe that the 8355
complaint filed alleges a violation of this chapter or the rules 8356
adopted under it and that the records sought are relevant to the 8357
alleged violation and material to the investigation. The 8358
subpoena may apply only to records that cover a reasonable 8359
period of time surrounding the alleged violation. 8360

On failure to comply with any subpoena issued by the board 8361
and after reasonable notice to the person being subpoenaed, the 8362
board may move for an order compelling the production of persons 8363
or records pursuant to the Rules of Civil Procedure. 8364

A subpoena issued by the board may be served by a sheriff, 8365
the sheriff's deputy, or a board employee designated by the 8366

board. Service of a subpoena issued by the board may be made by 8367
delivering a copy of the subpoena to the person named therein, 8368
reading it to the person, or leaving it at the person's usual 8369
place of residence. When the person being served is a genetic 8370
counselor, service of the subpoena may be made by certified 8371
mail, restricted delivery, return receipt requested, and the 8372
subpoena shall be deemed served on the date delivery is made or 8373
the date the person refuses to accept delivery. 8374

A sheriff's deputy who serves a subpoena shall receive the 8375
same fees as a sheriff. Each witness who appears before the 8376
board in obedience to a subpoena shall receive the fees and 8377
mileage provided for witnesses in civil cases in the courts of 8378
common pleas. 8379

(D) All hearings and investigations of the board shall be 8380
considered civil actions for the purposes of section 2305.252 of 8381
the Revised Code. 8382

(E) Information received by the board pursuant to an 8383
investigation is confidential and not subject to discovery in 8384
any civil action. 8385

The board shall conduct all investigations and proceedings 8386
in a manner that protects the confidentiality of patients and 8387
persons who file complaints with the board. The board shall not 8388
make public the names or any other identifying information about 8389
patients or complainants unless proper consent is given. 8390

The board may share any information it receives pursuant 8391
to an investigation, including patient records and patient 8392
record information, with law enforcement agencies, other 8393
licensing boards, and other governmental agencies that are 8394
prosecuting, adjudicating, or investigating alleged violations 8395

of statutes or administrative rules. An agency or board that 8396
receives the information shall comply with the same requirements 8397
regarding confidentiality as those with which the state medical 8398
board must comply, notwithstanding any conflicting provision of 8399
the Revised Code or procedure of the agency or board that 8400
applies when it is dealing with other information in its 8401
possession. In a judicial proceeding, the information may be 8402
admitted into evidence only in accordance with the Rules of 8403
Evidence, but the court shall require that appropriate measures 8404
are taken to ensure that confidentiality is maintained with 8405
respect to any part of the information that contains names or 8406
other identifying information about patients or complainants 8407
whose confidentiality was protected by the state medical board 8408
when the information was in the board's possession. Measures to 8409
ensure confidentiality that may be taken by the court include 8410
sealing its records or deleting specific information from its 8411
records. 8412

No person shall knowingly access, use, or disclose 8413
confidential investigatory information in a manner prohibited by 8414
law. 8415

(F) The state medical board shall develop requirements for 8416
and provide appropriate initial training and continuing 8417
education for investigators employed by the board to carry out 8418
its duties under this chapter. The training and continuing 8419
education may include enrollment in courses operated or approved 8420
by the Ohio peace officer training commission that the board 8421
considers appropriate under conditions set forth in section 8422
109.79 of the Revised Code. 8423

(G) On a quarterly basis, the board shall prepare a report 8424
that documents the disposition of all cases during the preceding 8425

three months. The report shall contain the following information 8426
for each case with which the board has completed its activities: 8427

(1) The case number assigned to the complaint or alleged 8428
violation; 8429

(2) The type of license, if any, held by the individual 8430
against whom the complaint is directed; 8431

(3) A description of the allegations contained in the 8432
complaint; 8433

(4) Whether witnesses were interviewed; 8434

(5) Whether the individual against whom the complaint is 8435
directed is the subject of any pending complaints; 8436

(6) The disposition of the case. 8437

The report shall state how many cases are still pending, 8438
and shall be prepared in a manner that protects the identity of 8439
each individual involved in each case. The report is a public 8440
record for purposes of section 149.43 of the Revised Code. 8441

(H) The board may provide a status update regarding an 8442
investigation to a complainant on request if the board verifies 8443
the complainant's identity. 8444

Sec. 4778.99. Whoever violates section 4778.02 of the 8445
Revised Code is guilty of a misdemeanor of the first degree on a 8446
first offense and felony of the fifth degree on each subsequent 8447
offense. 8448

Whoever violates division (B) (1) or (2) of section 8449
4778.171 of the Revised Code is guilty of failure to report 8450
criminal conduct or sexual misconduct, a misdemeanor of the 8451
fourth degree. If the offender has previously been convicted of 8452

a violation of this division, the failure to report is a 8453
misdemeanor of the first degree. 8454

Whoever violates division (E) of section 4778.18 of the 8455
Revised Code is guilty of disclosing confidential investigatory 8456
information, a misdemeanor of the first degree. 8457

Section 2. That existing sections 149.43, 2105.062, 8458
2305.111, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 8459
2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 8460
3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 8461
4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 4760.16, 8462
4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 8463
4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 4778.14, 8464
4778.18, and 4778.99 of the Revised Code are hereby repealed. 8465

Section 3. That the version of section 2305.111 of the 8466
Revised Code that is scheduled to take effect October 12, 2028, 8467
be amended to read as follows: 8468

Sec. 2305.111. (A) As used in this section: 8469

(1) "Childhood sexual abuse" means any conduct that 8470
constitutes any of the violations identified in division (A)(1) 8471
(a) or (b) of this section and would constitute a criminal 8472
offense under the specified section ~~or division~~ of the Revised 8473
Code, if the victim of the violation is at the time of the 8474
violation a child under eighteen years of age or a child with a 8475
developmental disability or physical impairment under twenty-one 8476
years of age. The court need not find that any person has been 8477
convicted of or pleaded guilty to the offense under the 8478
specified section ~~or division~~ of the Revised Code in order for 8479
the conduct that is the violation constituting the offense to be 8480
childhood sexual abuse for purposes of this division. This 8481

division applies to any of the following violations committed in 8482
the following specified circumstances: 8483

(a) A violation of section 2907.02 or ~~of division (A) (1),~~ 8484
~~(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03~~ 8485
of the Revised Code; 8486

(b) A violation of section 2907.05 or 2907.06 of the 8487
Revised Code if, at the time of the violation, any of the 8488
following apply: 8489

(i) The actor is the victim's natural parent, adoptive 8490
parent, or stepparent or the guardian, custodian, or person in 8491
loco parentis of the victim. 8492

(ii) The victim is in custody of law or a patient in a 8493
hospital or other institution, and the actor has supervisory or 8494
disciplinary authority over the victim. 8495

(iii) The actor is a teacher, administrator, coach, or 8496
other person in authority employed by or serving in a school for 8497
which the director of education and workforce prescribes minimum 8498
standards pursuant to division (D) of section 3301.07 of the 8499
Revised Code, the victim is enrolled in or attends that school, 8500
and the actor is not enrolled in and does not attend that 8501
school. 8502

(iv) The actor is a teacher, administrator, coach, or 8503
other person in authority employed by or serving in an 8504
institution of higher education, and the victim is enrolled in 8505
or attends that institution. 8506

(v) The actor is the victim's athletic or other type of 8507
coach, is the victim's instructor, is the leader of a scouting 8508
troop of which the victim is a member, or is a person with 8509
temporary or occasional disciplinary control over the victim. 8510

(vi) The actor is a mental health professional, the victim 8511
is a mental health client or patient of the actor, and the actor 8512
induces the victim to submit by falsely representing to the 8513
victim that the sexual contact involved in the violation is 8514
necessary for mental health treatment purposes. 8515

(vii) The actor is a licensed medical professional, the 8516
victim is a patient of the actor, and the sexual contact occurs 8517
in the course of medical treatment. 8518

(viii) The victim is confined in a detention facility, and 8519
the actor is an employee of that detention facility. 8520

~~(viii)~~ (ix) The actor is a cleric, and the victim is a 8521
member of, or attends, the church or congregation served by the 8522
cleric. 8523

(2) "Cleric" has the same meaning as in section 2317.02 of 8524
the Revised Code. 8525

(3) "Licensed medical professional" has the same meaning 8526
as in section 2907.01 of the Revised Code. 8527

(4) "Mental health client or patient" has the same meaning 8528
as in section 2305.51 of the Revised Code. 8529

~~(4)~~ (5) "Mental health professional" has the same meaning 8530
as in section 2305.115 of the Revised Code. 8531

~~(5)~~ (6) "Sexual contact" has the same meaning as in 8532
section 2907.01 of the Revised Code. 8533

~~(6)~~ (7) "Victim" means, except as provided in division (B) 8534
of this section, a victim of childhood sexual abuse. 8535

(B) Except as provided in section 2305.115 of the Revised 8536
Code and subject to division (C) of this section, an action for 8537

assault or battery shall be brought within one year after the 8538
cause of the action accrues. For purposes of this section, a 8539
cause of action for assault or battery accrues upon the later of 8540
the following: 8541

(1) The date on which the alleged assault or battery 8542
occurred; 8543

(2) If the plaintiff did not know the identity of the 8544
person who allegedly committed the assault or battery on the 8545
date on which it allegedly occurred, the earlier of the 8546
following dates: 8547

(a) The date on which the plaintiff learns the identity of 8548
that person; 8549

(b) The date on which, by the exercise of reasonable 8550
diligence, the plaintiff should have learned the identity of 8551
that person. 8552

(C) An action for assault or battery brought by a victim 8553
of childhood sexual abuse based on childhood sexual abuse, or an 8554
action brought by a victim of childhood sexual abuse asserting 8555
any claim resulting from childhood sexual abuse, shall be 8556
brought within twelve years after the cause of action accrues. 8557
For purposes of this section, a cause of action for assault or 8558
battery based on childhood sexual abuse, or a cause of action 8559
for a claim resulting from childhood sexual abuse, accrues upon 8560
the date on which the victim reaches the age of majority. If the 8561
defendant in an action brought by a victim of childhood sexual 8562
abuse asserting a claim resulting from childhood sexual abuse 8563
that occurs on or after August 3, 2006, has fraudulently 8564
concealed from the plaintiff facts that form the basis of the 8565
claim, the running of the limitations period with regard to that 8566

claim is tolled until the time when the plaintiff discovers or 8567
in the exercise of due diligence should have discovered those 8568
facts. 8569

Section 4. That the existing version of section 2305.111 8570
of the Revised Code that is scheduled to take effect October 12, 8571
2028, is hereby repealed. 8572

Section 5. Sections 3 and 4 of this act take effect 8573
October 12, 2028. 8574

Section 6. The General Assembly, applying the principle 8575
stated in division (B) of section 1.52 of the Revised Code that 8576
amendments are to be harmonized if reasonably capable of 8577
simultaneous operation, finds that the following sections, 8578
presented in this act as composites of the sections as amended 8579
by the acts indicated, are the resulting versions of the 8580
sections in effect prior to the effective date of the sections 8581
as presented in this act: 8582

The version of section 2305.111 of the Revised Code 8583
effective until October 12, 2028, as amended by both H.B. 33 and 8584
H.B. 35 of the 135th General Assembly. 8585

The version of section 2305.111 of the Revised Code that 8586
is scheduled to take effect October 12, 2028, as amended by both 8587
H.B. 33 and H.B. 35 of the 135th General Assembly. 8588

Section 3107.07 of the Revised Code as amended by both 8589
S.B. 207 and S.B. 250 of the 130th General Assembly. 8590