

**As Reported by the House Public Health Policy Committee**

**135th General Assembly**

**Regular Session**

**2023-2024**

**Am. H. B. No. 89**

**Representatives Hillyer, Abdullahi**

**Cosponsors: Representatives Dean, Fowler Arthur, Mathews, Bird**

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**A BILL**

To amend sections 4723.28, 4730.25, and 4731.22 and 1  
to enact sections 4723.93, 4730.57, and 4731.77 2  
of the Revised Code regarding intimate 3  
examinations and anesthetized or unconscious 4  
patients. 5

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

**Section 1.** That sections 4723.28, 4730.25, and 4731.22 be 6  
amended and sections 4723.93, 4730.57, and 4731.77 of the 7  
Revised Code be enacted to read as follows: 8

**Sec. 4723.28.** (A) The board of nursing, by a vote of a 9  
quorum, may impose one or more of the following sanctions if it 10  
finds that a person committed fraud in passing an examination 11  
required to obtain a license or dialysis technician certificate 12  
issued by the board or to have committed fraud, 13  
misrepresentation, or deception in applying for or securing any 14  
nursing license or dialysis technician certificate issued by the 15  
board: deny, revoke, suspend, or place restrictions on any 16  
nursing license or dialysis technician certificate issued by the 17  
board; reprimand or otherwise discipline a holder of a nursing 18

license or dialysis technician certificate; or impose a fine of 19  
not more than five hundred dollars per violation. 20

(B) Except as provided in section 4723.092 of the Revised 21  
Code, the board of nursing, by a vote of a quorum, may impose 22  
one or more of the following sanctions: deny, revoke, suspend, 23  
or place restrictions on any nursing license or dialysis 24  
technician certificate issued by the board; reprimand or 25  
otherwise discipline a holder of a nursing license or dialysis 26  
technician certificate; or impose a fine of not more than five 27  
hundred dollars per violation. The sanctions may be imposed for 28  
any of the following: 29

(1) Denial, revocation, suspension, or restriction of 30  
authority to engage in a licensed profession or practice a 31  
health care occupation, including nursing or practice as a 32  
dialysis technician, for any reason other than a failure to 33  
renew, in Ohio or another state or jurisdiction; 34

(2) Engaging in the practice of nursing or engaging in 35  
practice as a dialysis technician, having failed to renew a 36  
nursing license or dialysis technician certificate issued under 37  
this chapter, or while a nursing license or dialysis technician 38  
certificate is under suspension; 39

(3) Conviction of, a plea of guilty to, a judicial finding 40  
of guilt of, a judicial finding of guilt resulting from a plea 41  
of no contest to, or a judicial finding of eligibility for a 42  
pretrial diversion or similar program or for intervention in 43  
lieu of conviction for, a misdemeanor committed in the course of 44  
practice; 45

(4) Conviction of, a plea of guilty to, a judicial finding 46  
of guilt of, a judicial finding of guilt resulting from a plea 47

of no contest to, or a judicial finding of eligibility for a 48  
pretrial diversion or similar program or for intervention in 49  
lieu of conviction for, any felony or of any crime involving 50  
gross immorality or moral turpitude; 51

(5) Selling, giving away, or administering drugs or 52  
therapeutic devices for other than legal and legitimate 53  
therapeutic purposes; or conviction of, a plea of guilty to, a 54  
judicial finding of guilt of, a judicial finding of guilt 55  
resulting from a plea of no contest to, or a judicial finding of 56  
eligibility for a pretrial diversion or similar program or for 57  
intervention in lieu of conviction for, violating any municipal, 58  
state, county, or federal drug law; 59

(6) Conviction of, a plea of guilty to, a judicial finding 60  
of guilt of, a judicial finding of guilt resulting from a plea 61  
of no contest to, or a judicial finding of eligibility for a 62  
pretrial diversion or similar program or for intervention in 63  
lieu of conviction for, an act in another jurisdiction that 64  
would constitute a felony or a crime of moral turpitude in Ohio; 65

(7) Conviction of, a plea of guilty to, a judicial finding 66  
of guilt of, a judicial finding of guilt resulting from a plea 67  
of no contest to, or a judicial finding of eligibility for a 68  
pretrial diversion or similar program or for intervention in 69  
lieu of conviction for, an act in the course of practice in 70  
another jurisdiction that would constitute a misdemeanor in 71  
Ohio; 72

(8) Self-administering or otherwise taking into the body 73  
any dangerous drug, as defined in section 4729.01 of the Revised 74  
Code, in any way that is not in accordance with a legal, valid 75  
prescription issued for that individual, or self-administering 76  
or otherwise taking into the body any drug that is a schedule I 77

controlled substance;	78
(9) Habitual or excessive use of controlled substances,	79
other habit-forming drugs, or alcohol or other chemical	80
substances to an extent that impairs the individual's ability to	81
provide safe nursing care or safe dialysis care;	82
(10) Impairment of the ability to practice according to	83
acceptable and prevailing standards of safe nursing care or safe	84
dialysis care because of the use of drugs, alcohol, or other	85
chemical substances;	86
(11) Impairment of the ability to practice according to	87
acceptable and prevailing standards of safe nursing care or safe	88
dialysis care because of a physical or mental disability;	89
(12) Assaulting or causing harm to a patient or depriving	90
a patient of the means to summon assistance;	91
(13) Misappropriation or attempted misappropriation of	92
money or anything of value in the course of practice;	93
(14) Adjudication by a probate court of being mentally ill	94
or mentally incompetent. The board may reinstate the person's	95
nursing license or dialysis technician certificate upon	96
adjudication by a probate court of the person's restoration to	97
competency or upon submission to the board of other proof of	98
competency.	99
(15) The suspension or termination of employment by the	100
United States department of defense or department of veterans	101
affairs for any act that violates or would violate this chapter;	102
(16) Violation of this chapter or any rules adopted under	103
it;	104
(17) Violation of any restrictions placed by the board on	105

a nursing license or dialysis technician certificate;	106
(18) Failure to use universal and standard precautions	107
established by rules adopted under section 4723.07 of the	108
Revised Code;	109
(19) Failure to practice in accordance with acceptable and	110
prevailing standards of safe nursing care or safe dialysis care;	111
(20) In the case of a registered nurse, engaging in	112
activities that exceed the practice of nursing as a registered	113
nurse;	114
(21) In the case of a licensed practical nurse, engaging	115
in activities that exceed the practice of nursing as a licensed	116
practical nurse;	117
(22) In the case of a dialysis technician, engaging in	118
activities that exceed those permitted under section 4723.72 of	119
the Revised Code;	120
(23) Aiding and abetting a person in that person's	121
practice of nursing without a license or practice as a dialysis	122
technician without a certificate issued under this chapter;	123
(24) In the case of an advanced practice registered nurse,	124
except as provided in division (M) of this section, either of	125
the following:	126
(a) Waiving the payment of all or any part of a deductible	127
or copayment that a patient, pursuant to a health insurance or	128
health care policy, contract, or plan that covers such nursing	129
services, would otherwise be required to pay if the waiver is	130
used as an enticement to a patient or group of patients to	131
receive health care services from that provider;	132
(b) Advertising that the nurse will waive the payment of	133

all or any part of a deductible or copayment that a patient, 134  
pursuant to a health insurance or health care policy, contract, 135  
or plan that covers such nursing services, would otherwise be 136  
required to pay. 137

(25) Failure to comply with the terms and conditions of 138  
participation in the substance use disorder monitoring program 139  
established under section 4723.35 of the Revised Code; 140

(26) Failure to comply with the terms and conditions 141  
required under the practice intervention and improvement program 142  
established under section 4723.282 of the Revised Code; 143

(27) In the case of an advanced practice registered nurse: 144

(a) Engaging in activities that exceed those permitted for 145  
the nurse's nursing specialty under section 4723.43 of the 146  
Revised Code; 147

(b) Failure to meet the quality assurance standards 148  
established under section 4723.07 of the Revised Code. 149

(28) In the case of an advanced practice registered nurse 150  
other than a certified registered nurse anesthetist, failure to 151  
maintain a standard care arrangement in accordance with section 152  
4723.431 of the Revised Code or to practice in accordance with 153  
the standard care arrangement; 154

(29) In the case of an advanced practice registered nurse 155  
who is designated as a clinical nurse specialist, certified 156  
nurse-midwife, or certified nurse practitioner, failure to 157  
prescribe drugs and therapeutic devices in accordance with 158  
section 4723.481 of the Revised Code; 159

(30) Prescribing any drug or device to perform or induce 160  
an abortion, or otherwise performing or inducing an abortion; 161

(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	162 163 164
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	165 166 167 168
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	169 170
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	171 172 173
(33) Assisting suicide, as defined in section 3795.01 of the Revised Code;	174 175
(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	176 177 178 179
(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	180 181 182 183
(36) 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;	184 185 186 187 188 189

(37) In the case of an advanced practice registered nurse 190  
who is designated as a clinical nurse specialist, certified 191  
nurse-midwife, or certified nurse practitioner, failure to 192  
comply with the terms of a consult agreement entered into with a 193  
pharmacist pursuant to section 4729.39 of the Revised Code, 194

(38) Violation of section 4723.93 of the Revised Code. 195

(C) Disciplinary actions taken by the board under 196  
divisions (A) and (B) of this section shall be taken pursuant to 197  
an adjudication conducted under Chapter 119. of the Revised 198  
Code, except that in lieu of a hearing, the board may enter into 199  
a consent agreement with an individual to resolve an allegation 200  
of a violation of this chapter or any rule adopted under it. A 201  
consent agreement, when ratified by a vote of a quorum, shall 202  
constitute the findings and order of the board with respect to 203  
the matter addressed in the agreement. If the board refuses to 204  
ratify a consent agreement, the admissions and findings 205  
contained in the agreement shall be of no effect. 206

(D) The hearings of the board shall be conducted in 207  
accordance with Chapter 119. of the Revised Code, the board may 208  
appoint a hearing examiner, as provided in section 119.09 of the 209  
Revised Code, to conduct any hearing the board is authorized to 210  
hold under Chapter 119. of the Revised Code. 211

In any instance in which the board is required under 212  
Chapter 119. of the Revised Code to give notice of an 213  
opportunity for a hearing and the applicant, licensee, or 214  
certificate holder does not make a timely request for a hearing 215  
in accordance with section 119.07 of the Revised Code, the board 216  
is not required to hold a hearing, but may adopt, by a vote of a 217  
quorum, a final order that contains the board's findings. In the 218  
final order, the board may order any of the sanctions listed in 219



division (A) or (B) of this section. 220

(E) If a criminal action is brought against a registered 221  
nurse, licensed practical nurse, or dialysis technician for an 222  
act or crime described in divisions (B)(3) to (7) of this 223  
section and the action is dismissed by the trial court other 224  
than on the merits, the board shall conduct an adjudication to 225  
determine whether the registered nurse, licensed practical 226  
nurse, or dialysis technician committed the act on which the 227  
action was based. If the board determines on the basis of the 228  
adjudication that the registered nurse, licensed practical 229  
nurse, or dialysis technician committed the act, or if the 230  
registered nurse, licensed practical nurse, or dialysis 231  
technician fails to participate in the adjudication, the board 232  
may take action as though the registered nurse, licensed 233  
practical nurse, or dialysis technician had been convicted of 234  
the act. 235

If the board takes action on the basis of a conviction, 236  
plea, or a judicial finding as described in divisions (B)(3) to 237  
(7) of this section that is overturned on appeal, the registered 238  
nurse, licensed practical nurse, or dialysis technician may, on 239  
exhaustion of the appeal process, petition the board for 240  
reconsideration of its action. On receipt of the petition and 241  
supporting court documents, the board shall temporarily rescind 242  
its action. If the board determines that the decision on appeal 243  
was a decision on the merits, it shall permanently rescind its 244  
action. If the board determines that the decision on appeal was 245  
not a decision on the merits, it shall conduct an adjudication 246  
to determine whether the registered nurse, licensed practical 247  
nurse, or dialysis technician committed the act on which the 248  
original conviction, plea, or judicial finding was based. If the 249  
board determines on the basis of the adjudication that the 250

registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request an adjudication, the board shall reinstate its action; otherwise, the board shall permanently rescind its action.

Notwithstanding the provision of division (D) (2) of section 2953.32 or division (F) (1) of section 2953.39 of the Revised Code specifying that if records pertaining to a criminal case are sealed or expunged under that section the proceedings in the case shall be deemed not to have occurred, sealing or expungement of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction.

The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(F) The board may investigate an individual's criminal background in performing its duties under this section. As part of such investigation, the board may order the individual to submit, at the individual's expense, a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records in accordance with the procedure described in section 4723.091 of the Revised Code.

(G) During the course of an investigation conducted under this section, the board may compel any registered nurse,

licensed practical nurse, or dialysis technician or applicant 281  
under this chapter to submit to a mental or physical 282  
examination, or both, as required by the board and at the 283  
expense of the individual, if the board finds reason to believe 284  
that the individual under investigation may have a physical or 285  
mental impairment that may affect the individual's ability to 286  
provide safe nursing care. Failure of any individual to submit 287  
to a mental or physical examination when directed constitutes an 288  
admission of the allegations, unless the failure is due to 289  
circumstances beyond the individual's control, and a default and 290  
final order may be entered without the taking of testimony or 291  
presentation of evidence. 292

If the board finds that an individual is impaired, the 293  
board shall require the individual to submit to care, 294  
counseling, or treatment approved or designated by the board, as 295  
a condition for initial, continued, reinstated, or renewed 296  
authority to practice. The individual shall be afforded an 297  
opportunity to demonstrate to the board that the individual can 298  
begin or resume the individual's occupation in compliance with 299  
acceptable and prevailing standards of care under the provisions 300  
of the individual's authority to practice. 301

For purposes of this division, any registered nurse, 302  
licensed practical nurse, or dialysis technician or applicant 303  
under this chapter shall be deemed to have given consent to 304  
submit to a mental or physical examination when directed to do 305  
so in writing by the board, and to have waived all objections to 306  
the admissibility of testimony or examination reports that 307  
constitute a privileged communication. 308

(H) The board shall investigate evidence that appears to 309  
show that any person has violated any provision of this chapter 310

or any rule of the board. Any person may report to the board any 311  
information the person may have that appears to show a violation 312  
of any provision of this chapter or rule of the board. In the 313  
absence of bad faith, any person who reports such information or 314  
who testifies before the board in any adjudication conducted 315  
under Chapter 119. of the Revised Code shall not be liable for 316  
civil damages as a result of the report or testimony. 317

(I) All of the following apply under this chapter with 318  
respect to the confidentiality of information: 319

(1) Information received by the board pursuant to a 320  
complaint or an investigation is confidential and not subject to 321  
discovery in any civil action, except that the board may 322  
disclose information to law enforcement officers and government 323  
entities for purposes of an investigation of either a licensed 324  
health care professional, including a registered nurse, licensed 325  
practical nurse, or dialysis technician, or a person who may 326  
have engaged in the unauthorized practice of nursing or dialysis 327  
care. No law enforcement officer or government entity with 328  
knowledge of any information disclosed by the board pursuant to 329  
this division shall divulge the information to any other person 330  
or government entity except for the purpose of a government 331  
investigation, a prosecution, or an adjudication by a court or 332  
government entity. 333

(2) If an investigation requires a review of patient 334  
records, the investigation and proceeding shall be conducted in 335  
such a manner as to protect patient confidentiality. 336

(3) All adjudications and investigations of the board 337  
shall be considered civil actions for the purposes of section 338  
2305.252 of the Revised Code. 339

(4) Any board activity that involves continued monitoring 340  
of an individual as part of or following any disciplinary action 341  
taken under this section shall be conducted in a manner that 342  
maintains the individual's confidentiality. Information received 343  
or maintained by the board with respect to the board's 344  
monitoring activities is not subject to discovery in any civil 345  
action and is confidential, except that the board may disclose 346  
information to law enforcement officers and government entities 347  
for purposes of an investigation of a licensee or certificate 348  
holder. 349

(J) Any action taken by the board under this section 350  
resulting in a suspension from practice shall be accompanied by 351  
a written statement of the conditions under which the person may 352  
be reinstated to practice. 353

(K) When the board refuses to grant a license or 354  
certificate to an applicant, revokes a license or certificate, 355  
or refuses to reinstate a license or certificate, the board may 356  
specify that its action is permanent. An individual subject to 357  
permanent action taken by the board is forever ineligible to 358  
hold a license or certificate of the type that was refused or 359  
revoked and the board shall not accept from the individual an 360  
application for reinstatement of the license or certificate or 361  
for a new license or certificate. 362

(L) No unilateral surrender of a nursing license or 363  
dialysis technician certificate issued under this chapter shall 364  
be effective unless accepted by majority vote of the board. No 365  
application for a nursing license or dialysis technician 366  
certificate issued under this chapter may be withdrawn without a 367  
majority vote of the board. The board's jurisdiction to take 368  
disciplinary action under this section is not removed or limited 369

when an individual has a license or certificate classified as 370  
inactive or fails to renew a license or certificate. 371

(M) Sanctions shall not be imposed under division (B) (24) 372  
of this section against any licensee who waives deductibles and 373  
copayments as follows: 374

(1) In compliance with the health benefit plan that 375  
expressly allows such a practice. Waiver of the deductibles or 376  
copayments shall be made only with the full knowledge and 377  
consent of the plan purchaser, payer, and third-party 378  
administrator. Documentation of the consent shall be made 379  
available to the board upon request. 380

(2) For professional services rendered to any other person 381  
licensed pursuant to this chapter to the extent allowed by this 382  
chapter and the rules of the board. 383

Sec. 4723.93. (A) As used in this section, "intimate 384  
examination" means a pelvic, prostate, or rectal examination. 385

(B) Except as provided in division (C) of this section, a 386  
registered nurse, including an advanced practice registered 387  
nurse, or a student currently enrolled in and actively pursuing 388  
completion of a registered nursing program, including an 389  
advanced practice registered nursing education program, shall 390  
not perform, or authorize another individual to perform, an 391  
intimate examination on an anesthetized or unconscious patient. 392

(C) Division (B) of this section does not apply in any of 393  
the following circumstances: 394

(1) The performance of an intimate examination is within 395  
the scope of care for the surgical procedure or diagnostic 396  
examination to be performed on the patient. 397

(2) The patient or the patient's legal representative 398  
gives specific, informed consent for the intimate examination, 399  
consistent with division (D) of this section. 400

(3) An intimate examination is required for diagnostic 401  
purposes or treatment of the patient's medical condition. 402

(D) To obtain informed consent for purposes of division 403  
(C) (2) of this section, the advanced practice registered nurse 404  
shall do all of the following: 405

(1) Provide the patient or the patient's legal 406  
representative with a written or electronic informed consent 407  
form that meets all of the following requirements: 408

(a) Is a separate consent form or is included as a 409  
distinct or separate section of a general consent form; 410

(b) Contains the following heading at the top of the form 411  
or section: "CONSENT FOR INTIMATE EXAMINATION;" 412

(c) Specifies the nature and purpose of the intimate 413  
examination; 414

(d) Informs the patient or the patient's legal 415  
representative that a student may be present if the patient or 416  
the patient's legal representative authorizes a student to 417  
perform or observe the intimate examination in person or through 418  
electronic means; 419

(e) Allows the patient or the patient's legal 420  
representative the opportunity to consent to or refuse the 421  
intimate examination; 422

(f) Permits a patient or the patient's legal 423  
representative who consents to an intimate examination to 424  
consent to or refuse a student performing the intimate 425

examination or observing the intimate examination in person or 426  
through electronic means. 427

(2) Provide the patient or the patient's legal 428  
representative with a meaningful opportunity to ask questions 429  
about the intimate examination; 430

(3) Obtain the signature of the patient or the patient's 431  
legal representative on the informed consent form; 432

(4) Sign the informed consent form. 433

(5) The intimate examination is conducted by a sexual 434  
assault nurse examiner, as certified by the international 435  
association of forensic nurses or as otherwise qualified to 436  
conduct the examination, for the purpose of collecting evidence 437  
and documenting injuries. 438

**Sec. 4730.25.** (A) The state medical board, by an 439  
affirmative vote of not fewer than six members, may revoke or 440  
may refuse to grant a license to practice as a physician 441  
assistant to a person found by the board to have committed 442  
fraud, misrepresentation, or deception in applying for or 443  
securing the license. 444

(B) Except as provided in division (N) of this section, 445  
the board, by an affirmative vote of not fewer than six members, 446  
shall, to the extent permitted by law, limit, revoke, or suspend 447  
an individual's license to practice as a physician assistant or 448  
prescriber number, refuse to issue a license to an applicant, 449  
refuse to renew a license, refuse to reinstate a license, or 450  
reprimand or place on probation the holder of a license for any 451  
of the following reasons: 452

(1) Failure to practice in accordance with the supervising 453  
physician's supervision agreement with the physician assistant, 454



including, if applicable, the policies of the health care 455  
facility in which the supervising physician and physician 456  
assistant are practicing; 457

(2) Failure to comply with the requirements of this 458  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 459  
by the board; 460

(3) Violating or attempting to violate, directly or 461  
indirectly, or assisting in or abetting the violation of, or 462  
conspiring to violate, any provision of this chapter, Chapter 463  
4731. of the Revised Code, or the rules adopted by the board; 464

(4) Inability to practice according to acceptable and 465  
prevailing standards of care by reason of mental illness or 466  
physical illness, including physical deterioration that 467  
adversely affects cognitive, motor, or perceptive skills; 468

(5) Impairment of ability to practice according to 469  
acceptable and prevailing standards of care because of habitual 470  
or excessive use or abuse of drugs, alcohol, or other substances 471  
that impair ability to practice; 472

(6) Administering drugs for purposes other than those 473  
authorized under this chapter; 474

(7) Willfully betraying a professional confidence; 475

(8) Making a false, fraudulent, deceptive, or misleading 476  
statement in soliciting or advertising for employment as a 477  
physician assistant; in connection with any solicitation or 478  
advertisement for patients; in relation to the practice of 479  
medicine as it pertains to physician assistants; or in securing 480  
or attempting to secure a license to practice as a physician 481  
assistant. 482

As used in this division, "false, fraudulent, deceptive, 483  
or misleading statement" means a statement that includes a 484  
misrepresentation of fact, is likely to mislead or deceive 485  
because of a failure to disclose material facts, is intended or 486  
is likely to create false or unjustified expectations of 487  
favorable results, or includes representations or implications 488  
that in reasonable probability will cause an ordinarily prudent 489  
person to misunderstand or be deceived. 490

(9) Representing, with the purpose of obtaining 491  
compensation or other advantage personally or for any other 492  
person, that an incurable disease or injury, or other incurable 493  
condition, can be permanently cured; 494

(10) The obtaining of, or attempting to obtain, money or 495  
anything of value by fraudulent misrepresentations in the course 496  
of practice; 497

(11) A plea of guilty to, a judicial finding of guilt of, 498  
or a judicial finding of eligibility for intervention in lieu of 499  
conviction for, a felony; 500

(12) Commission of an act that constitutes a felony in 501  
this state, regardless of the jurisdiction in which the act was 502  
committed; 503

(13) A plea of guilty to, a judicial finding of guilt of, 504  
or a judicial finding of eligibility for intervention in lieu of 505  
conviction for, a misdemeanor committed in the course of 506  
practice; 507

(14) A plea of guilty to, a judicial finding of guilt of, 508  
or a judicial finding of eligibility for intervention in lieu of 509  
conviction for, a misdemeanor involving moral turpitude; 510

(15) Commission of an act in the course of practice that 511

constitutes a misdemeanor in this state, regardless of the	512
jurisdiction in which the act was committed;	513
(16) Commission of an act involving moral turpitude that	514
constitutes a misdemeanor in this state, regardless of the	515
jurisdiction in which the act was committed;	516
(17) A plea of guilty to, a judicial finding of guilt of,	517
or a judicial finding of eligibility for intervention in lieu of	518
conviction for violating any state or federal law regulating the	519
possession, distribution, or use of any drug, including	520
trafficking in drugs;	521
(18) Any of the following actions taken by the state	522
agency responsible for regulating the practice of physician	523
assistants in another state, for any reason other than the	524
nonpayment of fees: the limitation, revocation, or suspension of	525
an individual's license to practice; acceptance of an	526
individual's license surrender; denial of a license; refusal to	527
renew or reinstate a license; imposition of probation; or	528
issuance of an order of censure or other reprimand;	529
(19) A departure from, or failure to conform to, minimal	530
standards of care of similar physician assistants under the same	531
or similar circumstances, regardless of whether actual injury to	532
a patient is established;	533
(20) Violation of the conditions placed by the board on a	534
license to practice as a physician assistant;	535
(21) Failure to use universal blood and body fluid	536
precautions established by rules adopted under section 4731.051	537
of the Revised Code;	538
(22) Failure to cooperate in an investigation conducted by	539
the board under section 4730.26 of the Revised Code, including	540

failure to comply with a subpoena or order issued by the board 541  
or failure to answer truthfully a question presented by the 542  
board at a deposition or in written interrogatories, except that 543  
failure to cooperate with an investigation shall not constitute 544  
grounds for discipline under this section if a court of 545  
competent jurisdiction has issued an order that either quashes a 546  
subpoena or permits the individual to withhold the testimony or 547  
evidence in issue; 548

(23) Assisting suicide, as defined in section 3795.01 of 549  
the Revised Code; 550

(24) Prescribing any drug or device to perform or induce 551  
an abortion, or otherwise performing or inducing an abortion; 552

(25) Failure to comply with section 4730.53 of the Revised 553  
Code, unless the board no longer maintains a drug database 554  
pursuant to section 4729.75 of the Revised Code; 555

(26) Failure to comply with the requirements in section 556  
3719.061 of the Revised Code before issuing for a minor a 557  
prescription for an opioid analgesic, as defined in section 558  
3719.01 of the Revised Code; 559

(27) Having certification by the national commission on 560  
certification of physician assistants or a successor 561  
organization expire, lapse, or be suspended or revoked; 562

(28) The revocation, suspension, restriction, reduction, 563  
or termination of clinical privileges by the United States 564  
department of defense or department of veterans affairs or the 565  
termination or suspension of a certificate of registration to 566  
prescribe drugs by the drug enforcement administration of the 567  
United States department of justice; 568

(29) Failure to comply with terms of a consult agreement 569

entered into with a pharmacist pursuant to section 4729.39 of 570  
the Revised Code; 571

(30) Violation of section 4730.57 of the Revised Code. 572

(C) Disciplinary actions taken by the board under 573  
divisions (A) and (B) of this section shall be taken pursuant to 574  
an adjudication under Chapter 119. of the Revised Code, except 575  
that in lieu of an adjudication, the board may enter into a 576  
consent agreement with a physician assistant or applicant to 577  
resolve an allegation of a violation of this chapter or any rule 578  
adopted under it. A consent agreement, when ratified by an 579  
affirmative vote of not fewer than six members of the board, 580  
shall constitute the findings and order of the board with 581  
respect to the matter addressed in the agreement. If the board 582  
refuses to ratify a consent agreement, the admissions and 583  
findings contained in the consent agreement shall be of no force 584  
or effect. 585

(D) For purposes of divisions (B) (12), (15), and (16) of 586  
this section, the commission of the act may be established by a 587  
finding by the board, pursuant to an adjudication under Chapter 588  
119. of the Revised Code, that the applicant or license holder 589  
committed the act in question. The board shall have no 590  
jurisdiction under these divisions in cases where the trial 591  
court renders a final judgment in the license holder's favor and 592  
that judgment is based upon an adjudication on the merits. The 593  
board shall have jurisdiction under these divisions in cases 594  
where the trial court issues an order of dismissal upon 595  
technical or procedural grounds. 596

(E) The sealing or expungement of conviction records by 597  
any court shall have no effect upon a prior board order entered 598  
under the provisions of this section or upon the board's 599

jurisdiction to take action under the provisions of this section 600  
if, based upon a plea of guilty, a judicial finding of guilt, or 601  
a judicial finding of eligibility for intervention in lieu of 602  
conviction, the board issued a notice of opportunity for a 603  
hearing prior to the court's order to seal or expunge the 604  
records. The board shall not be required to seal, destroy, 605  
redact, or otherwise modify its records to reflect the court's 606  
sealing or expungement of conviction records. 607

(F) For purposes of this division, any individual who 608  
holds a license issued under this chapter, or applies for a 609  
license issued under this chapter, shall be deemed to have given 610  
consent to submit to a mental or physical examination when 611  
directed to do so in writing by the board and to have waived all 612  
objections to the admissibility of testimony or examination 613  
reports that constitute a privileged communication. 614

(1) In enforcing division (B)(4) of this section, the 615  
board, upon a showing of a possible violation, may compel any 616  
individual who holds a license issued under this chapter or who 617  
has applied for a license pursuant to this chapter to submit to 618  
a mental examination, physical examination, including an HIV 619  
test, or both a mental and physical examination. The expense of 620  
the examination is the responsibility of the individual 621  
compelled to be examined. Failure to submit to a mental or 622  
physical examination or consent to an HIV test ordered by the 623  
board constitutes an admission of the allegations against the 624  
individual unless the failure is due to circumstances beyond the 625  
individual's control, and a default and final order may be 626  
entered without the taking of testimony or presentation of 627  
evidence. If the board finds a physician assistant unable to 628  
practice because of the reasons set forth in division (B)(4) of 629  
this section, the board shall require the physician assistant to 630

submit to care, counseling, or treatment by physicians approved 631  
or designated by the board, as a condition for an initial, 632  
continued, reinstated, or renewed license. An individual 633  
affected under this division shall be afforded an opportunity to 634  
demonstrate to the board the ability to resume practicing in 635  
compliance with acceptable and prevailing standards of care. 636

(2) For purposes of division (B)(5) of this section, if 637  
the board has reason to believe that any individual who holds a 638  
license issued under this chapter or any applicant for a license 639  
suffers such impairment, the board may compel the individual to 640  
submit to a mental or physical examination, or both. The expense 641  
of the examination is the responsibility of the individual 642  
compelled to be examined. Any mental or physical examination 643  
required under this division shall be undertaken by a treatment 644  
provider or physician qualified to conduct such examination and 645  
chosen by the board. 646

Failure to submit to a mental or physical examination 647  
ordered by the board constitutes an admission of the allegations 648  
against the individual unless the failure is due to 649  
circumstances beyond the individual's control, and a default and 650  
final order may be entered without the taking of testimony or 651  
presentation of evidence. If the board determines that the 652  
individual's ability to practice is impaired, the board shall 653  
suspend the individual's license or deny the individual's 654  
application and shall require the individual, as a condition for 655  
initial, continued, reinstated, or renewed licensure, to submit 656  
to treatment. 657

Before being eligible to apply for reinstatement of a 658  
license suspended under this division, the physician assistant 659  
shall demonstrate to the board the ability to resume practice or 660

prescribing in compliance with acceptable and prevailing 661  
standards of care. The demonstration shall include the 662  
following: 663

(a) Certification from a treatment provider approved under 664  
section 4731.25 of the Revised Code that the individual has 665  
successfully completed any required inpatient treatment; 666

(b) Evidence of continuing full compliance with an 667  
aftercare contract or consent agreement; 668

(c) Two written reports indicating that the individual's 669  
ability to practice has been assessed and that the individual 670  
has been found capable of practicing according to acceptable and 671  
prevailing standards of care. The reports shall be made by 672  
individuals or providers approved by the board for making such 673  
assessments and shall describe the basis for their 674  
determination. 675

The board may reinstate a license suspended under this 676  
division after such demonstration and after the individual has 677  
entered into a written consent agreement. 678

When the impaired physician assistant resumes practice or 679  
prescribing, the board shall require continued monitoring of the 680  
physician assistant. The monitoring shall include compliance 681  
with the written consent agreement entered into before 682  
reinstatement or with conditions imposed by board order after a 683  
hearing, and, upon termination of the consent agreement, 684  
submission to the board for at least two years of annual written 685  
progress reports made under penalty of falsification stating 686  
whether the physician assistant has maintained sobriety. 687

(G) If the secretary and supervising member determine that 688  
there is clear and convincing evidence that a physician 689



assistant has violated division (B) of this section and that the 690  
individual's continued practice or prescribing presents a danger 691  
of immediate and serious harm to the public, they may recommend 692  
that the board suspend the individual's license without a prior 693  
hearing. Written allegations shall be prepared for consideration 694  
by the board. 695

The board, upon review of those allegations and by an 696  
affirmative vote of not fewer than six of its members, excluding 697  
the secretary and supervising member, may suspend a license 698  
without a prior hearing. A telephone conference call may be 699  
utilized for reviewing the allegations and taking the vote on 700  
the summary suspension. 701

The board shall issue a written order of suspension by 702  
certified mail or in person in accordance with section 119.07 of 703  
the Revised Code. The order shall not be subject to suspension 704  
by the court during pendency of any appeal filed under section 705  
119.12 of the Revised Code. If the physician assistant requests 706  
an adjudicatory hearing by the board, the date set for the 707  
hearing shall be within fifteen days, but not earlier than seven 708  
days, after the physician assistant requests the hearing, unless 709  
otherwise agreed to by both the board and the license holder. 710

A summary suspension imposed under this division shall 711  
remain in effect, unless reversed on appeal, until a final 712  
adjudicative order issued by the board pursuant to this section 713  
and Chapter 119. of the Revised Code becomes effective. The 714  
board shall issue its final adjudicative order within sixty days 715  
after completion of its hearing. Failure to issue the order 716  
within sixty days shall result in dissolution of the summary 717  
suspension order, but shall not invalidate any subsequent, final 718  
adjudicative order. 719

(H) If the board takes action under division (B) (11), 720  
(13), or (14) of this section, and the judicial finding of 721  
guilt, guilty plea, or judicial finding of eligibility for 722  
intervention in lieu of conviction is overturned on appeal, upon 723  
exhaustion of the criminal appeal, a petition for 724  
reconsideration of the order may be filed with the board along 725  
with appropriate court documents. Upon receipt of a petition and 726  
supporting court documents, the board shall reinstate the 727  
individual's license. The board may then hold an adjudication 728  
under Chapter 119. of the Revised Code to determine whether the 729  
individual committed the act in question. Notice of opportunity 730  
for hearing shall be given in accordance with Chapter 119. of 731  
the Revised Code. If the board finds, pursuant to an 732  
adjudication held under this division, that the individual 733  
committed the act, or if no hearing is requested, it may order 734  
any of the sanctions identified under division (B) of this 735  
section. 736

(I) The license to practice issued to a physician 737  
assistant and the physician assistant's practice in this state 738  
are automatically suspended as of the date the physician 739  
assistant pleads guilty to, is found by a judge or jury to be 740  
guilty of, or is subject to a judicial finding of eligibility 741  
for intervention in lieu of conviction in this state or 742  
treatment or intervention in lieu of conviction in another state 743  
for any of the following criminal offenses in this state or a 744  
substantially equivalent criminal offense in another 745  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 746  
felonious assault, kidnapping, rape, sexual battery, gross 747  
sexual imposition, aggravated arson, aggravated robbery, or 748  
aggravated burglary. Continued practice after the suspension 749  
shall be considered practicing without a license. 750

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

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

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

(L) When the board refuses to grant or issue to an applicant a license to practice as a physician assistant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An

individual subject to a permanent action taken by the board is 781  
forever thereafter ineligible to hold the license and the board 782  
shall not accept an application for reinstatement of the license 783  
or for issuance of a new license. 784

(M) Notwithstanding any other provision of the Revised 785  
Code, all of the following apply: 786

(1) The surrender of a license issued under this chapter 787  
is not effective unless or until accepted by the board. 788  
Reinstatement of a license surrendered to the board requires an 789  
affirmative vote of not fewer than six members of the board. 790

(2) An application made under this chapter for a license 791  
may not be withdrawn without approval of the board. 792

(3) Failure by an individual to renew a license in 793  
accordance with section 4730.14 of the Revised Code shall not 794  
remove or limit the board's jurisdiction to take disciplinary 795  
action under this section against the individual. 796

(N) The board shall not refuse to issue a license to an 797  
applicant because of a conviction, plea of guilty, judicial 798  
finding of guilt, judicial finding of eligibility for 799  
intervention in lieu of conviction, or the commission of an act 800  
that constitutes a criminal offense, unless the refusal is in 801  
accordance with section 9.79 of the Revised Code. 802

Sec. 4730.57. (A) As used in this section, "intimate 803  
examination" means a pelvic, prostate, or rectal examination. 804

(B) Except as provided in division (C) of this section, a 805  
physician assistant or student enrolled in a program or course 806  
of study described in division (B) of section 4730.11 of the 807  
Revised Code shall not perform, or authorize another individual 808  
to perform, an intimate examination on an anesthetized or 809

unconscious patient. 810

(C) Division (B) of this section does not apply in any of 811  
the following circumstances: 812

(1) The performance of an intimate examination is within 813  
the scope of care for the surgical procedure or diagnostic 814  
examination to be performed on the patient. 815

(2) The patient or the patient's legal representative 816  
gives specific, informed consent for the intimate examination, 817  
consistent with division (D) of this section. 818

(3) An intimate examination is required for diagnostic 819  
purposes or treatment of the patient's medical condition. 820

(D) To obtain informed consent for purposes of division 821  
(C) (2) of this section, the physician assistant shall do all of 822  
the following: 823

(1) Provide the patient or the patient's legal 824  
representative with a written or electronic informed consent 825  
form that meets all of the following requirements: 826

(a) Is a separate consent form or is included as a 827  
distinct or separate section of a general consent form; 828

(b) Contains the following heading at the top of the form 829  
or section: "CONSENT FOR INTIMATE EXAMINATION;" 830

(c) Specifies the nature and purpose of the intimate 831  
examination; 832

(d) Informs the patient or the patient's legal 833  
representative that a student may be present if the patient or 834  
the patient's legal representative authorizes a student to 835  
perform the intimate examination or observe the intimate 836

<u>examination in person or through electronic means;</u>	837
<u>(e) Allows the patient or the patient's legal</u>	838
<u>representative the opportunity to consent to or refuse the</u>	839
<u>intimate examination;</u>	840
<u>(f) Permits a patient or the patient's legal</u>	841
<u>representative who consents to an intimate examination to</u>	842
<u>consent to or refuse a student performing or observing the</u>	843
<u>intimate examination in person or through electronic means.</u>	844
<u>(2) Provide the patient or the patient's legal</u>	845
<u>representative with a meaningful opportunity to ask questions</u>	846
<u>about the intimate examination;</u>	847
<u>(3) Obtain the signature of the patient or the patient's</u>	848
<u>legal representative on the informed consent form;</u>	849
<u>(4) Sign the informed consent form.</u>	850
<b>Sec. 4731.22.</b> (A) The state medical board, by an	851
affirmative vote of not fewer than six of its members, may	852
limit, revoke, or suspend a license or certificate to practice	853
or certificate to recommend, refuse to grant a license or	854
certificate, refuse to renew a license or certificate, refuse to	855
reinstate a license or certificate, or reprimand or place on	856
probation the holder of a license or certificate if the	857
individual applying for or holding the license or certificate is	858
found by the board to have committed fraud during the	859
administration of the examination for a license or certificate	860
to practice or to have committed fraud, misrepresentation, or	861
deception in applying for, renewing, or securing any license or	862
certificate to practice or certificate to recommend issued by	863
the board.	864
(B) Except as provided in division (P) of this section,	865

the board, by an affirmative vote of not fewer than six members, 866  
shall, to the extent permitted by law, limit, revoke, or suspend 867  
a license or certificate to practice or certificate to 868  
recommend, refuse to issue a license or certificate, refuse to 869  
renew a license or certificate, refuse to reinstate a license or 870  
certificate, or reprimand or place on probation the holder of a 871  
license or certificate for one or more of the following reasons: 872

(1) Permitting one's name or one's license or certificate 873  
to practice to be used by a person, group, or corporation when 874  
the individual concerned is not actually directing the treatment 875  
given; 876

(2) Failure to maintain minimal standards applicable to 877  
the selection or administration of drugs, or failure to employ 878  
acceptable scientific methods in the selection of drugs or other 879  
modalities for treatment of disease; 880

(3) Except as provided in section 4731.97 of the Revised 881  
Code, selling, giving away, personally furnishing, prescribing, 882  
or administering drugs for other than legal and legitimate 883  
therapeutic purposes or a plea of guilty to, a judicial finding 884  
of guilt of, or a judicial finding of eligibility for 885  
intervention in lieu of conviction of, a violation of any 886  
federal or state law regulating the possession, distribution, or 887  
use of any drug; 888

(4) Willfully betraying a professional confidence. 889

For purposes of this division, "willfully betraying a 890  
professional confidence" does not include providing any 891  
information, documents, or reports under sections 307.621 to 892  
307.629 of the Revised Code to a child fatality review board; 893  
does not include providing any information, documents, or 894

reports under sections 307.631 to 307.6410 of the Revised Code 895  
to a drug overdose fatality review committee, a suicide fatality 896  
review committee, or hybrid drug overdose fatality and suicide 897  
fatality review committee; does not include providing any 898  
information, documents, or reports under sections 307.651 to 899  
307.659 of the Revised Code to a domestic violence fatality 900  
review board; does not include providing any information, 901  
documents, or reports to the director of health pursuant to 902  
guidelines established under section 3701.70 of the Revised 903  
Code; does not include written notice to a mental health 904  
professional under section 4731.62 of the Revised Code; and does 905  
not include the making of a report of an employee's use of a 906  
drug of abuse, or a report of a condition of an employee other 907  
than one involving the use of a drug of abuse, to the employer 908  
of the employee as described in division (B) of section 2305.33 909  
of the Revised Code. Nothing in this division affects the 910  
immunity from civil liability conferred by section 2305.33 or 911  
4731.62 of the Revised Code upon a physician who makes a report 912  
in accordance with section 2305.33 or notifies a mental health 913  
professional in accordance with section 4731.62 of the Revised 914  
Code. As used in this division, "employee," "employer," and 915  
"physician" have the same meanings as in section 2305.33 of the 916  
Revised Code. 917

(5) Making a false, fraudulent, deceptive, or misleading 918  
statement in the solicitation of or advertising for patients; in 919  
relation to the practice of medicine and surgery, osteopathic 920  
medicine and surgery, podiatric medicine and surgery, or a 921  
limited branch of medicine; or in securing or attempting to 922  
secure any license or certificate to practice issued by the 923  
board. 924

As used in this division, "false, fraudulent, deceptive, 925



or misleading statement" means a statement that includes a 926  
misrepresentation of fact, is likely to mislead or deceive 927  
because of a failure to disclose material facts, is intended or 928  
is likely to create false or unjustified expectations of 929  
favorable results, or includes representations or implications 930  
that in reasonable probability will cause an ordinarily prudent 931  
person to misunderstand or be deceived. 932

(6) A departure from, or the failure to conform to, 933  
minimal standards of care of similar practitioners under the 934  
same or similar circumstances, whether or not actual injury to a 935  
patient is established; 936

(7) Representing, with the purpose of obtaining 937  
compensation or other advantage as personal gain or for any 938  
other person, that an incurable disease or injury, or other 939  
incurable condition, can be permanently cured; 940

(8) The obtaining of, or attempting to obtain, money or 941  
anything of value by fraudulent misrepresentations in the course 942  
of practice; 943

(9) A plea of guilty to, a judicial finding of guilt of, 944  
or a judicial finding of eligibility for intervention in lieu of 945  
conviction for, a felony; 946

(10) Commission of an act that constitutes a felony in 947  
this state, regardless of the jurisdiction in which the act was 948  
committed; 949

(11) A plea of guilty to, a judicial finding of guilt of, 950  
or a judicial finding of eligibility for intervention in lieu of 951  
conviction for, a misdemeanor committed in the course of 952  
practice; 953

(12) Commission of an act in the course of practice that 954

constitutes a misdemeanor in this state, regardless of the 955  
jurisdiction in which the act was committed; 956

(13) A plea of guilty to, a judicial finding of guilt of, 957  
or a judicial finding of eligibility for intervention in lieu of 958  
conviction for, a misdemeanor involving moral turpitude; 959

(14) Commission of an act involving moral turpitude that 960  
constitutes a misdemeanor in this state, regardless of the 961  
jurisdiction in which the act was committed; 962

(15) Violation of the conditions of limitation placed by 963  
the board upon a license or certificate to practice; 964

(16) Failure to pay license renewal fees specified in this 965  
chapter; 966

(17) Except as authorized in section 4731.31 of the 967  
Revised Code, engaging in the division of fees for referral of 968  
patients, or the receiving of a thing of value in return for a 969  
specific referral of a patient to utilize a particular service 970  
or business; 971

(18) Subject to section 4731.226 of the Revised Code, 972  
violation of any provision of a code of ethics of the American 973  
medical association, the American osteopathic association, the 974  
American podiatric medical association, or any other national 975  
professional organizations that the board specifies by rule. The 976  
state medical board shall obtain and keep on file current copies 977  
of the codes of ethics of the various national professional 978  
organizations. The individual whose license or certificate is 979  
being suspended or revoked shall not be found to have violated 980  
any provision of a code of ethics of an organization not 981  
appropriate to the individual's profession. 982

For purposes of this division, a "provision of a code of 983

ethics of a national professional organization" does not include 984  
any provision that would preclude the making of a report by a 985  
physician of an employee's use of a drug of abuse, or of a 986  
condition of an employee other than one involving the use of a 987  
drug of abuse, to the employer of the employee as described in 988  
division (B) of section 2305.33 of the Revised Code. Nothing in 989  
this division affects the immunity from civil liability 990  
conferred by that section upon a physician who makes either type 991  
of report in accordance with division (B) of that section. As 992  
used in this division, "employee," "employer," and "physician" 993  
have the same meanings as in section 2305.33 of the Revised 994  
Code. 995

(19) Inability to practice according to acceptable and 996  
prevailing standards of care by reason of mental illness or 997  
physical illness, including, but not limited to, physical 998  
deterioration that adversely affects cognitive, motor, or 999  
perceptive skills. 1000

In enforcing this division, the board, upon a showing of a 1001  
possible violation, may compel any individual authorized to 1002  
practice by this chapter or who has submitted an application 1003  
pursuant to this chapter to submit to a mental examination, 1004  
physical examination, including an HIV test, or both a mental 1005  
and a physical examination. The expense of the examination is 1006  
the responsibility of the individual compelled to be examined. 1007  
Failure to submit to a mental or physical examination or consent 1008  
to an HIV test ordered by the board constitutes an admission of 1009  
the allegations against the individual unless the failure is due 1010  
to circumstances beyond the individual's control, and a default 1011  
and final order may be entered without the taking of testimony 1012  
or presentation of evidence. If the board finds an individual 1013  
unable to practice because of the reasons set forth in this 1014

division, the board shall require the individual to submit to 1015  
care, counseling, or treatment by physicians approved or 1016  
designated by the board, as a condition for initial, continued, 1017  
reinstated, or renewed authority to practice. An individual 1018  
affected under this division shall be afforded an opportunity to 1019  
demonstrate to the board the ability to resume practice in 1020  
compliance with acceptable and prevailing standards under the 1021  
provisions of the individual's license or certificate. For the 1022  
purpose of this division, any individual who applies for or 1023  
receives a license or certificate to practice under this chapter 1024  
accepts the privilege of practicing in this state and, by so 1025  
doing, shall be deemed to have given consent to submit to a 1026  
mental or physical examination when directed to do so in writing 1027  
by the board, and to have waived all objections to the 1028  
admissibility of testimony or examination reports that 1029  
constitute a privileged communication. 1030

(20) Except as provided in division (F) (1) (b) of section 1031  
4731.282 of the Revised Code or when civil penalties are imposed 1032  
under section 4731.225 of the Revised Code, and subject to 1033  
section 4731.226 of the Revised Code, violating or attempting to 1034  
violate, directly or indirectly, or assisting in or abetting the 1035  
violation of, or conspiring to violate, any provisions of this 1036  
chapter or any rule promulgated by the board. 1037

This division does not apply to a violation or attempted 1038  
violation of, assisting in or abetting the violation of, or a 1039  
conspiracy to violate, any provision of this chapter or any rule 1040  
adopted by the board that would preclude the making of a report 1041  
by a physician of an employee's use of a drug of abuse, or of a 1042  
condition of an employee other than one involving the use of a 1043  
drug of abuse, to the employer of the employee as described in 1044  
division (B) of section 2305.33 of the Revised Code. Nothing in 1045

this division affects the immunity from civil liability 1046  
conferred by that section upon a physician who makes either type 1047  
of report in accordance with division (B) of that section. As 1048  
used in this division, "employee," "employer," and "physician" 1049  
have the same meanings as in section 2305.33 of the Revised 1050  
Code. 1051

(21) The violation of section 3701.79 of the Revised Code 1052  
or of any abortion rule adopted by the director of health 1053  
pursuant to section 3701.341 of the Revised Code; 1054

(22) Any of the following actions taken by an agency 1055  
responsible for authorizing, certifying, or regulating an 1056  
individual to practice a health care occupation or provide 1057  
health care services in this state or another jurisdiction, for 1058  
any reason other than the nonpayment of fees: the limitation, 1059  
revocation, or suspension of an individual's license to 1060  
practice; acceptance of an individual's license surrender; 1061  
denial of a license; refusal to renew or reinstate a license; 1062  
imposition of probation; or issuance of an order of censure or 1063  
other reprimand; 1064

(23) The violation of section 2919.12 of the Revised Code 1065  
or the performance or inducement of an abortion upon a pregnant 1066  
woman with actual knowledge that the conditions specified in 1067  
division (B) of section 2317.56 of the Revised Code have not 1068  
been satisfied or with a heedless indifference as to whether 1069  
those conditions have been satisfied, unless an affirmative 1070  
defense as specified in division (H)(2) of that section would 1071  
apply in a civil action authorized by division (H)(1) of that 1072  
section; 1073

(24) The revocation, suspension, restriction, reduction, 1074  
or termination of clinical privileges by the United States 1075

department of defense or department of veterans affairs or the 1076  
termination or suspension of a certificate of registration to 1077  
prescribe drugs by the drug enforcement administration of the 1078  
United States department of justice; 1079

(25) Termination or suspension from participation in the 1080  
medicare or medicaid programs by the department of health and 1081  
human services or other responsible agency; 1082

(26) Impairment of ability to practice according to 1083  
acceptable and prevailing standards of care because of habitual 1084  
or excessive use or abuse of drugs, alcohol, or other substances 1085  
that impair ability to practice. 1086

For the purposes of this division, any individual 1087  
authorized to practice by this chapter accepts the privilege of 1088  
practicing in this state subject to supervision by the board. By 1089  
filing an application for or holding a license or certificate to 1090  
practice under this chapter, an individual shall be deemed to 1091  
have given consent to submit to a mental or physical examination 1092  
when ordered to do so by the board in writing, and to have 1093  
waived all objections to the admissibility of testimony or 1094  
examination reports that constitute privileged communications. 1095

If it has reason to believe that any individual authorized 1096  
to practice by this chapter or any applicant for licensure or 1097  
certification to practice suffers such impairment, the board may 1098  
compel the individual to submit to a mental or physical 1099  
examination, or both. The expense of the examination is the 1100  
responsibility of the individual compelled to be examined. Any 1101  
mental or physical examination required under this division 1102  
shall be undertaken by a treatment provider or physician who is 1103  
qualified to conduct the examination and who is chosen by the 1104  
board. 1105

Failure to submit to a mental or physical examination 1106  
ordered by the board constitutes an admission of the allegations 1107  
against the individual unless the failure is due to 1108  
circumstances beyond the individual's control, and a default and 1109  
final order may be entered without the taking of testimony or 1110  
presentation of evidence. If the board determines that the 1111  
individual's ability to practice is impaired, the board shall 1112  
suspend the individual's license or certificate or deny the 1113  
individual's application and shall require the individual, as a 1114  
condition for initial, continued, reinstated, or renewed 1115  
licensure or certification to practice, to submit to treatment. 1116

Before being eligible to apply for reinstatement of a 1117  
license or certificate suspended under this division, the 1118  
impaired practitioner shall demonstrate to the board the ability 1119  
to resume practice in compliance with acceptable and prevailing 1120  
standards of care under the provisions of the practitioner's 1121  
license or certificate. The demonstration shall include, but 1122  
shall not be limited to, the following: 1123

(a) Certification from a treatment provider approved under 1124  
section 4731.25 of the Revised Code that the individual has 1125  
successfully completed any required inpatient treatment; 1126

(b) Evidence of continuing full compliance with an 1127  
aftercare contract or consent agreement; 1128

(c) Two written reports indicating that the individual's 1129  
ability to practice has been assessed and that the individual 1130  
has been found capable of practicing according to acceptable and 1131  
prevailing standards of care. The reports shall be made by 1132  
individuals or providers approved by the board for making the 1133  
assessments and shall describe the basis for their 1134  
determination. 1135

The board may reinstate a license or certificate suspended 1136  
under this division after that demonstration and after the 1137  
individual has entered into a written consent agreement. 1138

When the impaired practitioner resumes practice, the board 1139  
shall require continued monitoring of the individual. The 1140  
monitoring shall include, but not be limited to, compliance with 1141  
the written consent agreement entered into before reinstatement 1142  
or with conditions imposed by board order after a hearing, and, 1143  
upon termination of the consent agreement, submission to the 1144  
board for at least two years of annual written progress reports 1145  
made under penalty of perjury stating whether the individual has 1146  
maintained sobriety. 1147

(27) A second or subsequent violation of section 4731.66 1148  
or 4731.69 of the Revised Code; 1149

(28) Except as provided in division (N) of this section: 1150

(a) Waiving the payment of all or any part of a deductible 1151  
or copayment that a patient, pursuant to a health insurance or 1152  
health care policy, contract, or plan that covers the 1153  
individual's services, otherwise would be required to pay if the 1154  
waiver is used as an enticement to a patient or group of 1155  
patients to receive health care services from that individual; 1156

(b) Advertising that the individual will waive the payment 1157  
of all or any part of a deductible or copayment that a patient, 1158  
pursuant to a health insurance or health care policy, contract, 1159  
or plan that covers the individual's services, otherwise would 1160  
be required to pay. 1161

(29) Failure to use universal blood and body fluid 1162  
precautions established by rules adopted under section 4731.051 1163  
of the Revised Code; 1164



(30) Failure to provide notice to, and receive 1165  
acknowledgment of the notice from, a patient when required by 1166  
section 4731.143 of the Revised Code prior to providing 1167  
nonemergency professional services, or failure to maintain that 1168  
notice in the patient's medical record; 1169

(31) Failure of a physician supervising a physician 1170  
assistant to maintain supervision in accordance with the 1171  
requirements of Chapter 4730. of the Revised Code and the rules 1172  
adopted under that chapter; 1173

(32) Failure of a physician or podiatrist to enter into a 1174  
standard care arrangement with a clinical nurse specialist, 1175  
certified nurse-midwife, or certified nurse practitioner with 1176  
whom the physician or podiatrist is in collaboration pursuant to 1177  
section 4731.27 of the Revised Code or failure to fulfill the 1178  
responsibilities of collaboration after entering into a standard 1179  
care arrangement; 1180

(33) Failure to comply with the terms of a consult 1181  
agreement entered into with a pharmacist pursuant to section 1182  
4729.39 of the Revised Code; 1183

(34) Failure to cooperate in an investigation conducted by 1184  
the board under division (F) of this section, including failure 1185  
to comply with a subpoena or order issued by the board or 1186  
failure to answer truthfully a question presented by the board 1187  
in an investigative interview, an investigative office 1188  
conference, at a deposition, or in written interrogatories, 1189  
except that failure to cooperate with an investigation shall not 1190  
constitute grounds for discipline under this section if a court 1191  
of competent jurisdiction has issued an order that either 1192  
quashes a subpoena or permits the individual to withhold the 1193  
testimony or evidence in issue; 1194

(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;	1195 1196 1197
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	1198 1199 1200
(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	1201 1202
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	1203 1204
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	1205 1206 1207
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	1208 1209 1210 1211
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	1212 1213 1214 1215
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	1216 1217 1218 1219
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to	1220 1221 1222

section 4729.75 of the Revised Code;	1223
(44) Failure to comply with the requirements of section	1224
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	1225
to submit to the department of health in accordance with a court	1226
order a complete report as described in section 2919.171 or	1227
2919.202 of the Revised Code;	1228
(45) Practicing at a facility that is subject to licensure	1229
as a category III terminal distributor of dangerous drugs with a	1230
pain management clinic classification unless the person	1231
operating the facility has obtained and maintains the license	1232
with the classification;	1233
(46) Owning a facility that is subject to licensure as a	1234
category III terminal distributor of dangerous drugs with a pain	1235
management clinic classification unless the facility is licensed	1236
with the classification;	1237
(47) Failure to comply with any of the requirements	1238
regarding making or maintaining medical records or documents	1239
described in division (A) of section 2919.192, division (C) of	1240
section 2919.193, division (B) of section 2919.195, or division	1241
(A) of section 2919.196 of the Revised Code;	1242
(48) Failure to comply with the requirements in section	1243
3719.061 of the Revised Code before issuing for a minor a	1244
prescription for an opioid analgesic, as defined in section	1245
3719.01 of the Revised Code;	1246
(49) Failure to comply with the requirements of section	1247
4731.30 of the Revised Code or rules adopted under section	1248
4731.301 of the Revised Code when recommending treatment with	1249
medical marijuana;	1250
(50) Practicing at a facility, clinic, or other location	1251

that is subject to licensure as a category III terminal	1252
distributor of dangerous drugs with an office-based opioid	1253
treatment classification unless the person operating that place	1254
has obtained and maintains the license with the classification;	1255
(51) Owning a facility, clinic, or other location that is	1256
subject to licensure as a category III terminal distributor of	1257
dangerous drugs with an office-based opioid treatment	1258
classification unless that place is licensed with the	1259
classification;	1260
(52) A pattern of continuous or repeated violations of	1261
division (E) (2) or (3) of section 3963.02 of the Revised Code;	1262
(53) Failure to fulfill the responsibilities of a	1263
collaboration agreement entered into with an athletic trainer as	1264
described in section 4755.621 of the Revised Code;	1265
(54) Failure to take the steps specified in section	1266
4731.911 of the Revised Code following an abortion or attempted	1267
abortion in an ambulatory surgical facility or other location	1268
that is not a hospital when a child is born alive;	1269
<u>(55) Violation of section 4731.77 of the Revised Code.</u>	1270
(C) Disciplinary actions taken by the board under	1271
divisions (A) and (B) of this section shall be taken pursuant to	1272
an adjudication under Chapter 119. of the Revised Code, except	1273
that in lieu of an adjudication, the board may enter into a	1274
consent agreement with an individual to resolve an allegation of	1275
a violation of this chapter or any rule adopted under it. A	1276
consent agreement, when ratified by an affirmative vote of not	1277
fewer than six members of the board, shall constitute the	1278
findings and order of the board with respect to the matter	1279
addressed in the agreement. If the board refuses to ratify a	1280

consent agreement, the admissions and findings contained in the 1281  
consent agreement shall be of no force or effect. 1282

A telephone conference call may be utilized for 1283  
ratification of a consent agreement that revokes or suspends an 1284  
individual's license or certificate to practice or certificate 1285  
to recommend. The telephone conference call shall be considered 1286  
a special meeting under division (F) of section 121.22 of the 1287  
Revised Code. 1288

If the board takes disciplinary action against an 1289  
individual under division (B) of this section for a second or 1290  
subsequent plea of guilty to, or judicial finding of guilt of, a 1291  
violation of section 2919.123 or 2919.124 of the Revised Code, 1292  
the disciplinary action shall consist of a suspension of the 1293  
individual's license or certificate to practice for a period of 1294  
at least one year or, if determined appropriate by the board, a 1295  
more serious sanction involving the individual's license or 1296  
certificate to practice. Any consent agreement entered into 1297  
under this division with an individual that pertains to a second 1298  
or subsequent plea of guilty to, or judicial finding of guilt 1299  
of, a violation of that section shall provide for a suspension 1300  
of the individual's license or certificate to practice for a 1301  
period of at least one year or, if determined appropriate by the 1302  
board, a more serious sanction involving the individual's 1303  
license or certificate to practice. 1304

(D) For purposes of divisions (B) (10), (12), and (14) of 1305  
this section, the commission of the act may be established by a 1306  
finding by the board, pursuant to an adjudication under Chapter 1307  
119. of the Revised Code, that the individual committed the act. 1308  
The board does not have jurisdiction under those divisions if 1309  
the trial court renders a final judgment in the individual's 1310

favor and that judgment is based upon an adjudication on the 1311  
merits. The board has jurisdiction under those divisions if the 1312  
trial court issues an order of dismissal upon technical or 1313  
procedural grounds. 1314

(E) The sealing or expungement of conviction records by 1315  
any court shall have no effect upon a prior board order entered 1316  
under this section or upon the board's jurisdiction to take 1317  
action under this section if, based upon a plea of guilty, a 1318  
judicial finding of guilt, or a judicial finding of eligibility 1319  
for intervention in lieu of conviction, the board issued a 1320  
notice of opportunity for a hearing prior to the court's order 1321  
to seal or expunge the records. The board shall not be required 1322  
to seal, expunge, destroy, redact, or otherwise modify its 1323  
records to reflect the court's sealing of conviction records. 1324

(F) (1) The board shall investigate evidence that appears 1325  
to show that a person has violated any provision of this chapter 1326  
or any rule adopted under it. Any person may report to the board 1327  
in a signed writing any information that the person may have 1328  
that appears to show a violation of any provision of this 1329  
chapter or any rule adopted under it. In the absence of bad 1330  
faith, any person who reports information of that nature or who 1331  
testifies before the board in any adjudication conducted under 1332  
Chapter 119. of the Revised Code shall not be liable in damages 1333  
in a civil action as a result of the report or testimony. Each 1334  
complaint or allegation of a violation received by the board 1335  
shall be assigned a case number and shall be recorded by the 1336  
board. 1337

(2) Investigations of alleged violations of this chapter 1338  
or any rule adopted under it shall be supervised by the 1339  
supervising member elected by the board in accordance with 1340

section 4731.02 of the Revised Code and by the secretary as 1341  
provided in section 4731.39 of the Revised Code. The president 1342  
may designate another member of the board to supervise the 1343  
investigation in place of the supervising member. No member of 1344  
the board who supervises the investigation of a case shall 1345  
participate in further adjudication of the case. 1346

(3) In investigating a possible violation of this chapter 1347  
or any rule adopted under this chapter, or in conducting an 1348  
inspection under division (E) of section 4731.054 of the Revised 1349  
Code, the board may question witnesses, conduct interviews, 1350  
administer oaths, order the taking of depositions, inspect and 1351  
copy any books, accounts, papers, records, or documents, issue 1352  
subpoenas, and compel the attendance of witnesses and production 1353  
of books, accounts, papers, records, documents, and testimony, 1354  
except that a subpoena for patient record information shall not 1355  
be issued without consultation with the attorney general's 1356  
office and approval of the secretary and supervising member of 1357  
the board. 1358

(a) Before issuance of a subpoena for patient record 1359  
information, the secretary and supervising member shall 1360  
determine whether there is probable cause to believe that the 1361  
complaint filed alleges a violation of this chapter or any rule 1362  
adopted under it and that the records sought are relevant to the 1363  
alleged violation and material to the investigation. The 1364  
subpoena may apply only to records that cover a reasonable 1365  
period of time surrounding the alleged violation. 1366

(b) On failure to comply with any subpoena issued by the 1367  
board and after reasonable notice to the person being 1368  
subpoenaed, the board may move for an order compelling the 1369  
production of persons or records pursuant to the Rules of Civil 1370

Procedure.	1371
(c) A subpoena issued by the board may be served by a	1372
sheriff, the sheriff's deputy, or a board employee or agent	1373
designated by the board. Service of a subpoena issued by the	1374
board may be made by delivering a copy of the subpoena to the	1375
person named therein, reading it to the person, or leaving it at	1376
the person's usual place of residence, usual place of business,	1377
or address on file with the board. When serving a subpoena to an	1378
applicant for or the holder of a license or certificate issued	1379
under this chapter, service of the subpoena may be made by	1380
certified mail, return receipt requested, and the subpoena shall	1381
be deemed served on the date delivery is made or the date the	1382
person refuses to accept delivery. If the person being served	1383
refuses to accept the subpoena or is not located, service may be	1384
made to an attorney who notifies the board that the attorney is	1385
representing the person.	1386
(d) A sheriff's deputy who serves a subpoena shall receive	1387
the same fees as a sheriff. Each witness who appears before the	1388
board in obedience to a subpoena shall receive the fees and	1389
mileage provided for under section 119.094 of the Revised Code.	1390
(4) All hearings, investigations, and inspections of the	1391
board shall be considered civil actions for the purposes of	1392
section 2305.252 of the Revised Code.	1393
(5) A report required to be submitted to the board under	1394
this chapter, a complaint, or information received by the board	1395
pursuant to an investigation or pursuant to an inspection under	1396
division (E) of section 4731.054 of the Revised Code is	1397
confidential and not subject to discovery in any civil action.	1398
The board shall conduct all investigations or inspections	1399



and proceedings in a manner that protects the confidentiality of 1400  
patients and persons who file complaints with the board. The 1401  
board shall not make public the names or any other identifying 1402  
information about patients or complainants unless proper consent 1403  
is given or, in the case of a patient, a waiver of the patient 1404  
privilege exists under division (B) of section 2317.02 of the 1405  
Revised Code, except that consent or a waiver of that nature is 1406  
not required if the board possesses reliable and substantial 1407  
evidence that no bona fide physician-patient relationship 1408  
exists. 1409

The board may share any information it receives pursuant 1410  
to an investigation or inspection, including patient records and 1411  
patient record information, with law enforcement agencies, other 1412  
licensing boards, and other governmental agencies that are 1413  
prosecuting, adjudicating, or investigating alleged violations 1414  
of statutes or administrative rules. An agency or board that 1415  
receives the information shall comply with the same requirements 1416  
regarding confidentiality as those with which the state medical 1417  
board must comply, notwithstanding any conflicting provision of 1418  
the Revised Code or procedure of the agency or board that 1419  
applies when it is dealing with other information in its 1420  
possession. In a judicial proceeding, the information may be 1421  
admitted into evidence only in accordance with the Rules of 1422  
Evidence, but the court shall require that appropriate measures 1423  
are taken to ensure that confidentiality is maintained with 1424  
respect to any part of the information that contains names or 1425  
other identifying information about patients or complainants 1426  
whose confidentiality was protected by the state medical board 1427  
when the information was in the board's possession. Measures to 1428  
ensure confidentiality that may be taken by the court include 1429  
sealing its records or deleting specific information from its 1430

records.	1431
(6) On a quarterly basis, the board shall prepare a report	1432
that documents the disposition of all cases during the preceding	1433
three months. The report shall contain the following information	1434
for each case with which the board has completed its activities:	1435
(a) The case number assigned to the complaint or alleged	1436
violation;	1437
(b) The type of license or certificate to practice, if	1438
any, held by the individual against whom the complaint is	1439
directed;	1440
(c) A description of the allegations contained in the	1441
complaint;	1442
(d) The disposition of the case.	1443
The report shall state how many cases are still pending	1444
and shall be prepared in a manner that protects the identity of	1445
each person involved in each case. The report shall be a public	1446
record under section 149.43 of the Revised Code.	1447
(G) If the secretary and supervising member determine both	1448
of the following, they may recommend that the board suspend an	1449
individual's license or certificate to practice or certificate	1450
to recommend without a prior hearing:	1451
(1) That there is clear and convincing evidence that an	1452
individual has violated division (B) of this section;	1453
(2) That the individual's continued practice presents a	1454
danger of immediate and serious harm to the public.	1455
Written allegations shall be prepared for consideration by	1456
the board. The board, upon review of those allegations and by an	1457

affirmative vote of not fewer than six of its members, excluding 1458  
the secretary and supervising member, may suspend a license or 1459  
certificate without a prior hearing. A telephone conference call 1460  
may be utilized for reviewing the allegations and taking the 1461  
vote on the summary suspension. 1462

The board shall issue a written order of suspension by 1463  
certified mail or in person in accordance with section 119.07 of 1464  
the Revised Code. The order shall not be subject to suspension 1465  
by the court during pendency of any appeal filed under section 1466  
119.12 of the Revised Code. If the individual subject to the 1467  
summary suspension requests an adjudicatory hearing by the 1468  
board, the date set for the hearing shall be within fifteen 1469  
days, but not earlier than seven days, after the individual 1470  
requests the hearing, unless otherwise agreed to by both the 1471  
board and the individual. 1472

Any summary suspension imposed under this division shall 1473  
remain in effect, unless reversed on appeal, until a final 1474  
adjudicative order issued by the board pursuant to this section 1475  
and Chapter 119. of the Revised Code becomes effective. The 1476  
board shall issue its final adjudicative order within seventy- 1477  
five days after completion of its hearing. A failure to issue 1478  
the order within seventy-five days shall result in dissolution 1479  
of the summary suspension order but shall not invalidate any 1480  
subsequent, final adjudicative order. 1481

(H) If the board takes action under division (B) (9), (11), 1482  
or (13) of this section and the judicial finding of guilt, 1483  
guilty plea, or judicial finding of eligibility for intervention 1484  
in lieu of conviction is overturned on appeal, upon exhaustion 1485  
of the criminal appeal, a petition for reconsideration of the 1486  
order may be filed with the board along with appropriate court 1487

documents. Upon receipt of a petition of that nature and 1488  
supporting court documents, the board shall reinstate the 1489  
individual's license or certificate to practice. The board may 1490  
then hold an adjudication under Chapter 119. of the Revised Code 1491  
to determine whether the individual committed the act in 1492  
question. Notice of an opportunity for a hearing shall be given 1493  
in accordance with Chapter 119. of the Revised Code. If the 1494  
board finds, pursuant to an adjudication held under this 1495  
division, that the individual committed the act or if no hearing 1496  
is requested, the board may order any of the sanctions 1497  
identified under division (B) of this section. 1498

(I) The license or certificate to practice issued to an 1499  
individual under this chapter and the individual's practice in 1500  
this state are automatically suspended as of the date of the 1501  
individual's second or subsequent plea of guilty to, or judicial 1502  
finding of guilt of, a violation of section 2919.123 or 2919.124 1503  
of the Revised Code. In addition, the license or certificate to 1504  
practice or certificate to recommend issued to an individual 1505  
under this chapter and the individual's practice in this state 1506  
are automatically suspended as of the date the individual pleads 1507  
guilty to, is found by a judge or jury to be guilty of, or is 1508  
subject to a judicial finding of eligibility for intervention in 1509  
lieu of conviction in this state or treatment or intervention in 1510  
lieu of conviction in another jurisdiction for any of the 1511  
following criminal offenses in this state or a substantially 1512  
equivalent criminal offense in another jurisdiction: aggravated 1513  
murder, murder, voluntary manslaughter, felonious assault, 1514  
kidnapping, rape, sexual battery, gross sexual imposition, 1515  
aggravated arson, aggravated robbery, or aggravated burglary. 1516  
Continued practice after suspension shall be considered 1517  
practicing without a license or certificate. 1518

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

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

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

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

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which

the individual's license or certificate to practice may be 1549  
reinstated. The board shall adopt rules governing conditions to 1550  
be imposed for reinstatement. Reinstatement of a license or 1551  
certificate suspended pursuant to division (B) of this section 1552  
requires an affirmative vote of not fewer than six members of 1553  
the board. 1554

(L) When the board refuses to grant or issue a license or 1555  
certificate to practice to an applicant, revokes an individual's 1556  
license or certificate to practice, refuses to renew an 1557  
individual's license or certificate to practice, or refuses to 1558  
reinstatement an individual's license or certificate to practice, 1559  
the board may specify that its action is permanent. An 1560  
individual subject to a permanent action taken by the board is 1561  
forever thereafter ineligible to hold a license or certificate 1562  
to practice and the board shall not accept an application for 1563  
reinstatement of the license or certificate or for issuance of a 1564  
new license or certificate. 1565

(M) Notwithstanding any other provision of the Revised 1566  
Code, all of the following apply: 1567

(1) The surrender of a license or certificate issued under 1568  
this chapter shall not be effective unless or until accepted by 1569  
the board. A telephone conference call may be utilized for 1570  
acceptance of the surrender of an individual's license or 1571  
certificate to practice. The telephone conference call shall be 1572  
considered a special meeting under division (F) of section 1573  
121.22 of the Revised Code. Reinstatement of a license or 1574  
certificate surrendered to the board requires an affirmative 1575  
vote of not fewer than six members of the board. 1576

(2) An application for a license or certificate made under 1577  
the provisions of this chapter may not be withdrawn without 1578

approval of the board. 1579

(3) Failure by an individual to renew a license or 1580  
certificate to practice in accordance with this chapter or a 1581  
certificate to recommend in accordance with rules adopted under 1582  
section 4731.301 of the Revised Code shall not remove or limit 1583  
the board's jurisdiction to take any disciplinary action under 1584  
this section against the individual. 1585

(4) At the request of the board, a license or certificate 1586  
holder shall immediately surrender to the board a license or 1587  
certificate that the board has suspended, revoked, or 1588  
permanently revoked. 1589

(N) Sanctions shall not be imposed under division (B) (28) 1590  
of this section against any person who waives deductibles and 1591  
copayments as follows: 1592

(1) In compliance with the health benefit plan that 1593  
expressly allows such a practice. Waiver of the deductibles or 1594  
copayments shall be made only with the full knowledge and 1595  
consent of the plan purchaser, payer, and third-party 1596  
administrator. Documentation of the consent shall be made 1597  
available to the board upon request. 1598

(2) For professional services rendered to any other person 1599  
authorized to practice pursuant to this chapter, to the extent 1600  
allowed by this chapter and rules adopted by the board. 1601

(O) Under the board's investigative duties described in 1602  
this section and subject to division (F) of this section, the 1603  
board shall develop and implement a quality intervention program 1604  
designed to improve through remedial education the clinical and 1605  
communication skills of individuals authorized under this 1606  
chapter to practice medicine and surgery, osteopathic medicine 1607

and surgery, and podiatric medicine and surgery. In developing 1608  
and implementing the quality intervention program, the board may 1609  
do all of the following: 1610

(1) Offer in appropriate cases as determined by the board 1611  
an educational and assessment program pursuant to an 1612  
investigation the board conducts under this section; 1613

(2) Select providers of educational and assessment 1614  
services, including a quality intervention program panel of case 1615  
reviewers; 1616

(3) Make referrals to educational and assessment service 1617  
providers and approve individual educational programs 1618  
recommended by those providers. The board shall monitor the 1619  
progress of each individual undertaking a recommended individual 1620  
educational program. 1621

(4) Determine what constitutes successful completion of an 1622  
individual educational program and require further monitoring of 1623  
the individual who completed the program or other action that 1624  
the board determines to be appropriate; 1625

(5) Adopt rules in accordance with Chapter 119. of the 1626  
Revised Code to further implement the quality intervention 1627  
program. 1628

An individual who participates in an individual 1629  
educational program pursuant to this division shall pay the 1630  
financial obligations arising from that educational program. 1631

(P) The board shall not refuse to issue a license to an 1632  
applicant because of a conviction, plea of guilty, judicial 1633  
finding of guilt, judicial finding of eligibility for 1634  
intervention in lieu of conviction, or the commission of an act 1635  
that constitutes a criminal offense, unless the refusal is in 1636



accordance with section 9.79 of the Revised Code. 1637

Sec. 4731.77. (A) As used in this section, "intimate examination" means a pelvic, prostate, or rectal examination. 1638  
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(B) Except as provided in division (C) of this section, a physician, student enrolled in a medical school or osteopathic medical school, or participant in a program of graduate medical education shall not perform, or authorize another individual to perform, an intimate examination on an anesthetized or unconscious patient. 1640  
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(C) Division (B) of this section does not apply in any of the following circumstances: 1646  
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(1) The performance of an intimate examination is within the scope of care for the surgical procedure or diagnostic examination to be performed on the patient. 1648  
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(2) The patient or the patient's legal representative gives specific, informed consent for the intimate examination, consistent with division (D) of this section. 1651  
1652  
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(3) An intimate examination is required for diagnostic purposes or treatment of the patient's medical condition. 1654  
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(D) To obtain informed consent for purposes of division (C) (2) of this section, the physician shall do all of the following: 1656  
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1658

(1) Provide the patient or the patient's legal representative with a written or electronic informed consent form that meets all of the following requirements: 1659  
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1661

(a) Is a separate consent form or is included as a distinct or separate section of a general consent form; 1662  
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(b) Contains the following heading at the top of the form 1664  
or section: "CONSENT FOR INTIMATE EXAMINATION;" 1665

(c) Specifies the nature and purpose of the intimate 1666  
examination; 1667

(d) Informs the patient or the patient's legal 1668  
representative that a student may be present if the patient or 1669  
the patient's legal representative authorizes a student to 1670  
perform the intimate examination or observe the intimate 1671  
examination in person or through electronic means; 1672

(e) Allows the patient or the patient's legal 1673  
representative the opportunity to consent to or refuse the 1674  
intimate examination; 1675

(f) Permits a patient or the patient's legal 1676  
representative who consents to an intimate examination to 1677  
consent to or refuse a student to perform or observe the 1678  
intimate examination in person or through electronic means. 1679

(2) Provide the patient or the patient's legal 1680  
representative with a meaningful opportunity to ask questions 1681  
about the intimate examination; 1682

(3) Obtain the signature of the patient or the patient's 1683  
legal representative on the informed consent form; 1684

(4) Sign the informed consent form. 1685

**Section 2.** That existing sections 4723.28, 4730.25, and 1686  
4731.22 of the Revised Code are hereby repealed. 1687

**Section 3.** Section 4731.22 of the Revised Code is 1688  
presented in this act as a composite of the section as amended 1689  
by both H.B. 254 and S.B. 288 of the 134th General Assembly. The 1690  
General Assembly, applying the principle stated in division (B) 1691

of section 1.52 of the Revised Code that amendments are to be	1692
harmonized if reasonably capable of simultaneous operation,	1693
finds that the composite is the resulting version of the section	1694
in effect prior to the effective date of the section as	1695
presented in this act.	1696