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Am. H. B. No. 89

Representatives Hillyer, Abdullahi

Cosponsors: Representatives Dean, Fowler Arthur, Mathews, Bird, Abrams, Brennan, Brewer, Brown, Carruthers, Dell'Aquila, Dobos, Forhan, Ghanbari, Grim, Gross, Hoops, Isaacsohn, John, Lear, Lorenz, Miller, A., Miller, J., Pavliga, Richardson, Robb Blasdel, Rogers, Schmidt, Seitz, Sweeney, Thomas, C., White, Whitted, Williams, Willis

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 a nursing license or dialysis technician certificate;	105 106
(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;	107 108 109
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	110 111
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	112 113 114
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	115 116 117
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	118 119 120
(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	121 122 123
(24) In the case of an advanced practice registered nurse, except as provided in division (M) of this section, either of the following:	124 125 126
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to	127 128 129 130 131

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 an abortion, or otherwise performing or inducing an abortion;	160 161
(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	184 185 186 187

prescribe drugs by the drug enforcement administration of the 188
United States department of justice; 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 quorum, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division (A) or (B) of this section.

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

If the board takes action on the basis of a conviction, plea, or a judicial finding as described in divisions (B) (3) to (7) of this section that is overturned on appeal, the registered nurse, licensed practical nurse, or dialysis technician may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall conduct an adjudication to determine whether the registered nurse, licensed practical

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 251
technician committed such act, or if the registered nurse, 252
licensed practical nurse, or dialysis technician does not 253
request an adjudication, the board shall reinstate its action; 254
otherwise, the board shall permanently rescind its action. 255

Notwithstanding the provision of division (D) (2) of 256
section 2953.32 or division (F) (1) of section 2953.39 of the 257
Revised Code specifying that if records pertaining to a criminal 258
case are sealed or expunged under that section the proceedings 259
in the case shall be deemed not to have occurred, sealing or 260
expungement of the following records on which the board has 261
based an action under this section shall have no effect on the 262
board's action or any sanction imposed by the board under this 263
section: records of any conviction, guilty plea, judicial 264
finding of guilt resulting from a plea of no contest, or a 265
judicial finding of eligibility for a pretrial diversion program 266
or intervention in lieu of conviction. 267

The board shall not be required to seal, destroy, redact, 268
or otherwise modify its records to reflect the court's sealing 269
or expungement of conviction records. 270

(F) The board may investigate an individual's criminal 271
background in performing its duties under this section. As part 272
of such investigation, the board may order the individual to 273
submit, at the individual's expense, a request to the bureau of 274
criminal identification and investigation for a criminal records 275
check and check of federal bureau of investigation records in 276
accordance with the procedure described in section 4723.091 of 277

the Revised Code. 278

(G) During the course of an investigation conducted under 279
this section, the board may compel any registered nurse, 280
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

<u>the scope of care for the surgical procedure or diagnostic</u>	396
<u>examination to be performed on the patient.</u>	397
<u>(2) The patient or the patient's legal representative</u>	398
<u>gives specific, informed consent for the intimate examination,</u>	399
<u>consistent with division (D) of this section.</u>	400
<u>(3) An intimate examination is required for diagnostic</u>	401
<u>purposes or treatment of the patient's medical condition.</u>	402
<u>(D) To obtain informed consent for purposes of division</u>	403
<u>(C) (2) of this section, the advanced practice registered nurse</u>	404
<u>shall do all of the following:</u>	405
<u>(1) Provide the patient or the patient's legal</u>	406
<u>representative with a written or electronic informed consent</u>	407
<u>form that meets all of the following requirements:</u>	408
<u>(a) Is a separate consent form or is included as a</u>	409
<u>distinct or separate section of a general consent form;</u>	410
<u>(b) Contains the following heading at the top of the form</u>	411
<u>or section: "CONSENT FOR INTIMATE EXAMINATION;"</u>	412
<u>(c) Specifies the nature and purpose of the intimate</u>	413
<u>examination;</u>	414
<u>(d) Informs the patient or the patient's legal</u>	415
<u>representative that a student may be present if the patient or</u>	416
<u>the patient's legal representative authorizes a student to</u>	417
<u>perform or observe the intimate examination in person or through</u>	418
<u>electronic means;</u>	419
<u>(e) Allows the patient or the patient's legal</u>	420
<u>representative the opportunity to consent to or refuse the</u>	421
<u>intimate examination;</u>	422

(f) Permits a patient or the patient's legal representative who consents to an intimate examination to consent to or refuse a student performing the intimate examination or observing the intimate examination in person or through electronic means. 423
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(2) Provide the patient or the patient's legal representative with a meaningful opportunity to ask questions about the intimate examination; 428
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(3) Obtain the signature of the patient or the patient's legal representative on the informed consent form; 431
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(4) Sign the informed consent form. 433

(5) The intimate examination is conducted by a sexual assault nurse examiner, as certified by the international association of forensic nurses or as otherwise qualified to conduct the examination, for the purpose of collecting evidence and documenting injuries. 434
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Sec. 4730.25. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a license to practice as a physician assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license. 439
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(B) Except as provided in division (N) of this section, the board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a physician assistant or prescriber number, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any 445
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of the following reasons:	452
(1) Failure to practice in accordance with the supervising physician's supervision agreement with the physician assistant, including, if applicable, the policies of the health care facility in which the supervising physician and physician assistant are practicing;	453 454 455 456 457
(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;	458 459 460
(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;	461 462 463 464
(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	465 466 467 468
(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	469 470 471 472
(6) Administering drugs for purposes other than those authorized under this chapter;	473 474
(7) Willfully betraying a professional confidence;	475
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of	476 477 478 479

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 conviction for, a misdemeanor involving moral turpitude;	509 510
(15) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	511 512 513
(16) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	514 515 516
(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;	517 518 519 520 521
(18) Any of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;	522 523 524 525 526 527 528 529
(19) A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established;	530 531 532 533
(20) Violation of the conditions placed by the board on a license to practice as a physician assistant;	534 535
(21) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051	536 537

of the Revised Code;	538
(22) Failure to cooperate in an investigation conducted by the board under section 4730.26 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	539 540 541 542 543 544 545 546 547 548
(23) Assisting suicide, as defined in section 3795.01 of the Revised Code;	549 550
(24) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	551 552
(25) Failure to comply with section 4730.53 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	553 554 555
(26) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	556 557 558 559
(27) Having certification by the national commission on certification of physician assistants or a successor organization expire, lapse, or be suspended or revoked;	560 561 562
(28) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to	563 564 565 566

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 751
suspension by certified mail or in person in accordance with 752
section 119.07 of the Revised Code. If an individual whose 753
license is suspended under this division fails to make a timely 754
request for an adjudication under Chapter 119. of the Revised 755
Code, the board shall enter a final order permanently revoking 756
the individual's license to practice. 757

(J) In any instance in which the board is required by 758
Chapter 119. of the Revised Code to give notice of opportunity 759
for hearing and the individual subject to the notice does not 760
timely request a hearing in accordance with section 119.07 of 761
the Revised Code, the board is not required to hold a hearing, 762
but may adopt, by an affirmative vote of not fewer than six of 763
its members, a final order that contains the board's findings. 764
In that final order, the board may order any of the sanctions 765
identified under division (A) or (B) of this section. 766

(K) Any action taken by the board under division (B) of 767
this section resulting in a suspension shall be accompanied by a 768
written statement of the conditions under which the physician 769
assistant's license may be reinstated. The board shall adopt 770
rules in accordance with Chapter 119. of the Revised Code 771
governing conditions to be imposed for reinstatement. 772
Reinstatement of a license suspended pursuant to division (B) of 773
this section requires an affirmative vote of not fewer than six 774
members of the board. 775

(L) When the board refuses to grant or issue to an 776
applicant a license to practice as a physician assistant, 777

revokes an individual's license, refuses to renew an 778
individual's license, or refuses to reinstate an individual's 779
license, the board may specify that its action is permanent. An 780
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
examination in person or through electronic means; 837

(e) Allows the patient or the patient's legal 838
representative the opportunity to consent to or refuse the 839
intimate examination; 840

(f) Permits a patient or the patient's legal 841
representative who consents to an intimate examination to 842
consent to or refuse a student performing or observing the 843
intimate examination in person or through electronic means. 844

(2) Provide the patient or the patient's legal 845
representative with a meaningful opportunity to ask questions 846
about the intimate examination; 847

(3) Obtain the signature of the patient or the patient's 848
legal representative on the informed consent form; 849

(4) Sign the informed consent form. 850

Sec. 4731.22. (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 section; 1072
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(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice; 1074
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(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency; 1080
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(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice. 1083
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For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications. 1087
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If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the 1096
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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 1195
with Chapter 4762. of the Revised Code and the board's rules for 1196
providing that supervision; 1197

(36) Failure to supervise an anesthesiologist assistant in 1198
accordance with Chapter 4760. of the Revised Code and the 1199
board's rules for supervision of an anesthesiologist assistant; 1200

(37) Assisting suicide, as defined in section 3795.01 of 1201
the Revised Code; 1202

(38) Failure to comply with the requirements of section 1203
2317.561 of the Revised Code; 1204

(39) Failure to supervise a radiologist assistant in 1205
accordance with Chapter 4774. of the Revised Code and the 1206
board's rules for supervision of radiologist assistants; 1207

(40) Performing or inducing an abortion at an office or 1208
facility with knowledge that the office or facility fails to 1209
post the notice required under section 3701.791 of the Revised 1210
Code; 1211

(41) Failure to comply with the standards and procedures 1212
established in rules under section 4731.054 of the Revised Code 1213
for the operation of or the provision of care at a pain 1214
management clinic; 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 section 4729.75 of the Revised Code;	1220 1221 1222 1223
(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;	1224 1225 1226 1227 1228
(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;	1229 1230 1231 1232 1233
(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;	1234 1235 1236 1237
(47) Failure to comply with any of the requirements regarding making or maintaining medical records or documents described in division (A) of section 2919.192, division (C) of section 2919.193, division (B) of section 2919.195, or division (A) of section 2919.196 of the Revised Code;	1238 1239 1240 1241 1242
(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a	1243 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 1519
suspension by certified mail or in person in accordance with 1520
section 119.07 of the Revised Code. If an individual whose 1521
license or certificate is automatically suspended under this 1522
division fails to make a timely request for an adjudication 1523
under Chapter 119. of the Revised Code, the board shall do 1524
whichever of the following is applicable: 1525

(1) If the automatic suspension under this division is for 1526
a second or subsequent plea of guilty to, or judicial finding of 1527
guilt of, a violation of section 2919.123 or 2919.124 of the 1528
Revised Code, the board shall enter an order suspending the 1529
individual's license or certificate to practice for a period of 1530
at least one year or, if determined appropriate by the board, 1531
imposing a more serious sanction involving the individual's 1532
license or certificate to practice. 1533

(2) In all circumstances in which division (I)(1) of this 1534
section does not apply, enter a final order permanently revoking 1535
the individual's license or certificate to practice. 1536

(J) If the board is required by Chapter 119. of the 1537
Revised Code to give notice of an opportunity for a hearing and 1538
if the individual subject to the notice does not timely request 1539
a hearing in accordance with section 119.07 of the Revised Code, 1540
the board is not required to hold a hearing, but may adopt, by 1541
an affirmative vote of not fewer than six of its members, a 1542

final order that contains the board's findings. In that final 1543
order, the board may order any of the sanctions identified under 1544
division (A) or (B) of this section. 1545

(K) Any action taken by the board under division (B) of 1546
this section resulting in a suspension from practice shall be 1547
accompanied by a written statement of the conditions under which 1548
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 1638
examination" means a pelvic, prostate, or rectal examination. 1639

(B) Except as provided in division (C) of this section, a 1640
physician, student enrolled in a medical school or osteopathic 1641
medical school, or participant in a program of graduate medical 1642
education shall not perform, or authorize another individual to 1643
perform, an intimate examination on an anesthetized or 1644
unconscious patient. 1645

(C) Division (B) of this section does not apply in any of 1646
the following circumstances: 1647

(1) The performance of an intimate examination is within 1648
the scope of care for the surgical procedure or diagnostic 1649
examination to be performed on the patient. 1650

(2) The patient or the patient's legal representative 1651
gives specific, informed consent for the intimate examination, 1652
consistent with division (D) of this section. 1653

(3) An intimate examination is required for diagnostic 1654
purposes or treatment of the patient's medical condition. 1655

(D) To obtain informed consent for purposes of division 1656
(C) (2) of this section, the physician shall do all of the 1657
following: 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
1660
1661
- (a) Is a separate consent form or is included as a distinct or separate section of a general consent form; 1662
1663
- (b) Contains the following heading at the top of the form or section: "CONSENT FOR INTIMATE EXAMINATION;" 1664
1665
- (c) Specifies the nature and purpose of the intimate examination; 1666
1667
- (d) Informs the patient or the patient's legal representative that a student may be present if the patient or the patient's legal representative authorizes a student to perform the intimate examination or observe the intimate examination in person or through electronic means; 1668
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- (e) Allows the patient or the patient's legal representative the opportunity to consent to or refuse the intimate examination; 1673
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- (f) Permits a patient or the patient's legal representative who consents to an intimate examination to consent to or refuse a student to perform or observe the intimate examination in person or through electronic means. 1676
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- (2) Provide the patient or the patient's legal representative with a meaningful opportunity to ask questions about the intimate examination; 1680
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- (3) Obtain the signature of the patient or the patient's legal representative on the informed consent form; 1683
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- (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