

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 109**

**Senator Hackett**

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**A BILL**

To amend sections 149.43, 2105.062, 2305.111, 1  
2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2  
2907.17, 2907.18, 2921.22, 2929.42, 2950.01, 3  
2950.151, 2971.01, 3107.07, 3109.50, 3111.04, 4  
4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 5  
4731.224, 4731.251, 4731.99, 4759.05, 4759.07, 6  
4759.99, 4760.13, 4760.14, 4760.16, 4760.99, 7  
4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 8  
4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 9  
4774.16, 4774.99, 4778.14, 4778.18, and 4778.99 10  
and to enact sections 4731.2210, 4759.14, and 11  
4778.171 of the Revised Code regarding sex 12  
offenses and individuals regulated by the State 13  
Medical Board and to amend the version of 14  
section 4759.05 of the Revised Code that is 15  
scheduled to take effect December 29, 2023, to 16  
continue the change on and after that date. 17

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

**Section 1.** That sections 149.43, 2105.062, 2305.111, 18  
2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 19  
2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 20

3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 21  
4731.251, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 22  
4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 23  
4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 24  
4778.14, 4778.18, and 4778.99 be amended and sections 4731.2210, 25  
4759.14, and 4778.171 of the Revised Code be enacted to read as 26  
follows: 27

**Sec. 149.43.** (A) As used in this section: 28

(1) "Public record" means records kept by any public 29  
office, including, but not limited to, state, county, city, 30  
village, township, and school district units, and records 31  
pertaining to the delivery of educational services by an 32  
alternative school in this state kept by the nonprofit or for- 33  
profit entity operating the alternative school pursuant to 34  
section 3313.533 of the Revised Code. "Public record" does not 35  
mean any of the following: 36

(a) Medical records; 37

(b) Records pertaining to probation and parole 38  
proceedings, to proceedings related to the imposition of 39  
community control sanctions and post-release control sanctions, 40  
or to proceedings related to determinations under section 41  
2967.271 of the Revised Code regarding the release or maintained 42  
incarceration of an offender to whom that section applies; 43

(c) Records pertaining to actions under section 2151.85 44  
and division (C) of section 2919.121 of the Revised Code and to 45  
appeals of actions arising under those sections; 46

(d) Records pertaining to adoption proceedings, including 47  
the contents of an adoption file maintained by the department of 48  
health under sections 3705.12 to 3705.124 of the Revised Code; 49

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	50 51 52 53 54 55
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	56 57
(g) Trial preparation records;	58
(h) Confidential law enforcement investigatory records;	59
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	60 61
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	62 63
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	64 65 66 67
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	68 69 70 71
(m) Intellectual property records;	72
(n) Donor profile records;	73
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	74 75
(p) Designated public service worker residential and	76

familial information;	77
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	78 79 80 81 82
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	83 84
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	85 86 87 88 89 90 91 92 93 94 95 96
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	97 98 99 100 101
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.15 of the Revised Code or	102 103 104 105

contracts under that section with a private or government entity	106
to administer;	107
(v) Records the release of which is prohibited by state or	108
federal law;	109
(w) Proprietary information of or relating to any person	110
that is submitted to or compiled by the Ohio venture capital	111
authority created under section 150.01 of the Revised Code;	112
(x) Financial statements and data any person submits for	113
any purpose to the Ohio housing finance agency or the	114
controlling board in connection with applying for, receiving, or	115
accounting for financial assistance from the agency, and	116
information that identifies any individual who benefits directly	117
or indirectly from financial assistance from the agency;	118
(y) Records listed in section 5101.29 of the Revised Code;	119
(z) Discharges recorded with a county recorder under	120
section 317.24 of the Revised Code, as specified in division (B)	121
(2) of that section;	122
(aa) Usage information including names and addresses of	123
specific residential and commercial customers of a municipally	124
owned or operated public utility;	125
(bb) Records described in division (C) of section 187.04	126
of the Revised Code that are not designated to be made available	127
to the public as provided in that division;	128
(cc) Information and records that are made confidential,	129
privileged, and not subject to disclosure under divisions (B)	130
and (C) of section 2949.221 of the Revised Code;	131
(dd) Personal information, as defined in section 149.45 of	132
the Revised Code;	133

(ee) The confidential name, address, and other personally 134  
identifiable information of a program participant in the address 135  
confidentiality program established under sections 111.41 to 136  
111.47 of the Revised Code, including the contents of any 137  
application for absent voter's ballots, absent voter's ballot 138  
identification envelope statement of voter, or provisional 139  
ballot affirmation completed by a program participant who has a 140  
confidential voter registration record; records or portions of 141  
records pertaining to that program that identify the number of 142  
program participants that reside within a precinct, ward, 143  
township, municipal corporation, county, or any other geographic 144  
area smaller than the state; and any real property 145  
confidentiality notice filed under section 111.431 of the 146  
Revised Code and the information described in division (C) of 147  
that section. As used in this division, "confidential address" 148  
and "program participant" have the meaning defined in section 149  
111.41 of the Revised Code. 150

(ff) Orders for active military service of an individual 151  
serving or with previous service in the armed forces of the 152  
United States, including a reserve component, or the Ohio 153  
organized militia, except that, such order becomes a public 154  
record on the day that is fifteen years after the published date 155  
or effective date of the call to order; 156

(gg) The name, address, contact information, or other 157  
personal information of an individual who is less than eighteen 158  
years of age that is included in any record related to a traffic 159  
accident involving a school vehicle in which the individual was 160  
an occupant at the time of the accident; 161

(hh) Protected health information, as defined in 45 C.F.R. 162  
160.103, that is in a claim for payment for a health care 163

product, service, or procedure, as well as any other health	164
claims data in another document that reveals the identity of an	165
individual who is the subject of the data or could be used to	166
reveal that individual's identity;	167
(ii) Any depiction by photograph, film, videotape, or	168
printed or digital image under either of the following	169
circumstances:	170
(i) The depiction is that of a victim of an offense the	171
release of which would be, to a reasonable person of ordinary	172
sensibilities, an offensive and objectionable intrusion into the	173
victim's expectation of bodily privacy and integrity.	174
(ii) The depiction captures or depicts the victim of a	175
sexually oriented offense, as defined in section 2950.01 of the	176
Revised Code, at the actual occurrence of that offense.	177
(jj) Restricted portions of a body-worn camera or	178
dashboard camera recording;	179
(kk) In the case of a fetal-infant mortality review board	180
acting under sections 3707.70 to 3707.77 of the Revised Code,	181
records, documents, reports, or other information presented to	182
the board or a person abstracting such materials on the board's	183
behalf, statements made by review board members during board	184
meetings, all work products of the board, and data submitted by	185
the board to the department of health or a national infant death	186
review database, other than the report prepared pursuant to	187
section 3707.77 of the Revised Code.	188
(ll) Records, documents, reports, or other information	189
presented to the pregnancy-associated mortality review board	190
established under section 3738.01 of the Revised Code,	191
statements made by board members during board meetings, all work	192

products of the board, and data submitted by the board to the	193
department of health, other than the biennial reports prepared	194
under section 3738.08 of the Revised Code;	195
(mm) Except as otherwise provided in division (A) (1) (oo)	196
of this section, telephone numbers for a victim, as defined in	197
section 2930.01 of the Revised Code or a witness to a crime that	198
are listed on any law enforcement record or report.	199
(nn) A preneed funeral contract, as defined in section	200
4717.01 of the Revised Code, and contract terms and personally	201
identifying information of a preneed funeral contract, that is	202
contained in a report submitted by or for a funeral home to the	203
board of embalmers and funeral directors under division (C) of	204
section 4717.13, division (J) of section 4717.31, or section	205
4717.41 of the Revised Code.	206
(oo) Telephone numbers for a party to a motor vehicle	207
accident subject to the requirements of section 5502.11 of the	208
Revised Code that are listed on any law enforcement record or	209
report, except that the telephone numbers described in this	210
division are not excluded from the definition of "public record"	211
under this division on and after the thirtieth day after the	212
occurrence of the motor vehicle accident.	213
(pp) Records pertaining to individuals who complete	214
training under section 5502.703 of the Revised Code to be	215
permitted by a school district board of education or governing	216
body of a community school established under Chapter 3314. of	217
the Revised Code, a STEM school established under Chapter 3326.	218
of the Revised Code, or a chartered nonpublic school to convey	219
deadly weapons or dangerous ordnance into a school safety zone;	220
(qq) Records, documents, reports, or other information	221



presented to a domestic violence fatality review board 222  
established under section 307.651 of the Revised Code, 223  
statements made by board members during board meetings, all work 224  
products of the board, and data submitted by the board to the 225  
department of health, other than a report prepared pursuant to 226  
section 307.656 of the Revised Code; 227

(rr) Records, documents, and information the release of 228  
which is prohibited under sections 2930.04 and 2930.07 of the 229  
Revised Code; 230

(ss) Records of an existing qualified nonprofit 231  
corporation that creates a special improvement district under 232  
Chapter 1710. of the Revised Code that do not pertain to a 233  
purpose for which the district is created; 234

(tt) License or certificate application or renewal 235  
responses and supporting documentation submitted to the state 236  
medical board regarding an applicant's, or a license or 237  
certificate holder's, inability to practice according to 238  
acceptable and prevailing standards of care by reason of a 239  
medical condition. 240

A record that is not a public record under division (A) (1) 241  
of this section and that, under law, is permanently retained 242  
becomes a public record on the day that is seventy-five years 243  
after the day on which the record was created, except for any 244  
record protected by the attorney-client privilege, a trial 245  
preparation record as defined in this section, a statement 246  
prohibiting the release of identifying information signed under 247  
section 3107.083 of the Revised Code, a denial of release form 248  
filed pursuant to section 3107.46 of the Revised Code, or any 249  
record that is exempt from release or disclosure under section 250  
149.433 of the Revised Code. If the record is a birth 251

certificate and a biological parent's name redaction request 252  
form has been accepted under section 3107.391 of the Revised 253  
Code, the name of that parent shall be redacted from the birth 254  
certificate before it is released under this paragraph. If any 255  
other section of the Revised Code establishes a time period for 256  
disclosure of a record that conflicts with the time period 257  
specified in this section, the time period in the other section 258  
prevails. 259

(2) "Confidential law enforcement investigatory record" 260  
means any record that pertains to a law enforcement matter of a 261  
criminal, quasi-criminal, civil, or administrative nature, but 262  
only to the extent that the release of the record would create a 263  
high probability of disclosure of any of the following: 264

(a) The identity of a suspect who has not been charged 265  
with the offense to which the record pertains, or of an 266  
information source or witness to whom confidentiality has been 267  
reasonably promised; 268

(b) Information provided by an information source or 269  
witness to whom confidentiality has been reasonably promised, 270  
which information would reasonably tend to disclose the source's 271  
or witness's identity; 272

(c) Specific confidential investigatory techniques or 273  
procedures or specific investigatory work product; 274

(d) Information that would endanger the life or physical 275  
safety of law enforcement personnel, a crime victim, a witness, 276  
or a confidential information source. 277

(3) "Medical record" means any document or combination of 278  
documents, except births, deaths, and the fact of admission to 279  
or discharge from a hospital, that pertains to the medical 280

history, diagnosis, prognosis, or medical condition of a patient 281  
and that is generated and maintained in the process of medical 282  
treatment. 283

(4) "Trial preparation record" means any record that 284  
contains information that is specifically compiled in reasonable 285  
anticipation of, or in defense of, a civil or criminal action or 286  
proceeding, including the independent thought processes and 287  
personal trial preparation of an attorney. 288

(5) "Intellectual property record" means a record, other 289  
than a financial or administrative record, that is produced or 290  
collected by or for faculty or staff of a state institution of 291  
higher learning in the conduct of or as a result of study or 292  
research on an educational, commercial, scientific, artistic, 293  
technical, or scholarly issue, regardless of whether the study 294  
or research was sponsored by the institution alone or in 295  
conjunction with a governmental body or private concern, and 296  
that has not been publicly released, published, or patented. 297

(6) "Donor profile record" means all records about donors 298  
or potential donors to a public institution of higher education 299  
except the names and reported addresses of the actual donors and 300  
the date, amount, and conditions of the actual donation. 301

(7) "Designated public service worker" means a peace 302  
officer, parole officer, probation officer, bailiff, prosecuting 303  
attorney, assistant prosecuting attorney, correctional employee, 304  
county or multicounty corrections officer, community-based 305  
correctional facility employee, designated Ohio national guard 306  
member, protective services worker, youth services employee, 307  
firefighter, EMT, medical director or member of a cooperating 308  
physician advisory board of an emergency medical service 309  
organization, state board of pharmacy employee, investigator of 310

the bureau of criminal identification and investigation, 311  
emergency service telecommunicator, forensic mental health 312  
provider, mental health evaluation provider, regional 313  
psychiatric hospital employee, judge, magistrate, or federal law 314  
enforcement officer. 315

(8) "Designated public service worker residential and 316  
familial information" means any information that discloses any 317  
of the following about a designated public service worker: 318

(a) The address of the actual personal residence of a 319  
designated public service worker, except for the following 320  
information: 321

(i) The address of the actual personal residence of a 322  
prosecuting attorney or judge; and 323

(ii) The state or political subdivision in which a 324  
designated public service worker resides. 325

(b) Information compiled from referral to or participation 326  
in an employee assistance program; 327

(c) The social security number, the residential telephone 328  
number, any bank account, debit card, charge card, or credit 329  
card number, or the emergency telephone number of, or any 330  
medical information pertaining to, a designated public service 331  
worker; 332

(d) The name of any beneficiary of employment benefits, 333  
including, but not limited to, life insurance benefits, provided 334  
to a designated public service worker by the designated public 335  
service worker's employer; 336

(e) The identity and amount of any charitable or 337  
employment benefit deduction made by the designated public 338

service worker's employer from the designated public service 339  
worker's compensation, unless the amount of the deduction is 340  
required by state or federal law; 341

(f) The name, the residential address, the name of the 342  
employer, the address of the employer, the social security 343  
number, the residential telephone number, any bank account, 344  
debit card, charge card, or credit card number, or the emergency 345  
telephone number of the spouse, a former spouse, or any child of 346  
a designated public service worker; 347

(g) A photograph of a peace officer who holds a position 348  
or has an assignment that may include undercover or plain 349  
clothes positions or assignments as determined by the peace 350  
officer's appointing authority. 351

(9) As used in divisions (A) (7) and (15) to (17) of this 352  
section: 353

"Peace officer" has the meaning defined in section 109.71 354  
of the Revised Code and also includes the superintendent and 355  
troopers of the state highway patrol; it does not include the 356  
sheriff of a county or a supervisory employee who, in the 357  
absence of the sheriff, is authorized to stand in for, exercise 358  
the authority of, and perform the duties of the sheriff. 359

"Correctional employee" means any employee of the 360  
department of rehabilitation and correction who in the course of 361  
performing the employee's job duties has or has had contact with 362  
inmates and persons under supervision. 363

"County or multicounty corrections officer" means any 364  
corrections officer employed by any county or multicounty 365  
correctional facility. 366

"Designated Ohio national guard member" means a member of 367

the Ohio national guard who is participating in duties related 368  
to remotely piloted aircraft, including, but not limited to, 369  
pilots, sensor operators, and mission intelligence personnel, 370  
duties related to special forces operations, or duties related 371  
to cybersecurity, and is designated by the adjutant general as a 372  
designated public service worker for those purposes. 373

"Protective services worker" means any employee of a 374  
county agency who is responsible for child protective services, 375  
child support services, or adult protective services. 376

"Youth services employee" means any employee of the 377  
department of youth services who in the course of performing the 378  
employee's job duties has or has had contact with children 379  
committed to the custody of the department of youth services. 380

"Firefighter" means any regular, paid or volunteer, member 381  
of a lawfully constituted fire department of a municipal 382  
corporation, township, fire district, or village. 383

"EMT" means EMTs-basic, EMTs-I, and paramedics that 384  
provide emergency medical services for a public emergency 385  
medical service organization. "Emergency medical service 386  
organization," "EMT-basic," "EMT-I," and "paramedic" have the 387  
meanings defined in section 4765.01 of the Revised Code. 388

"Investigator of the bureau of criminal identification and 389  
investigation" has the meaning defined in section 2903.11 of the 390  
Revised Code. 391

"Emergency service telecommunicator" has the meaning 392  
defined in section 4742.01 of the Revised Code. 393

"Forensic mental health provider" means any employee of a 394  
community mental health service provider or local alcohol, drug 395  
addiction, and mental health services board who, in the course 396

of the employee's duties, has contact with persons committed to 397  
a local alcohol, drug addiction, and mental health services 398  
board by a court order pursuant to section 2945.38, 2945.39, 399  
2945.40, or 2945.402 of the Revised Code. 400

"Mental health evaluation provider" means an individual 401  
who, under Chapter 5122. of the Revised Code, examines a 402  
respondent who is alleged to be a mentally ill person subject to 403  
court order, as defined in section 5122.01 of the Revised Code, 404  
and reports to the probate court the respondent's mental 405  
condition. 406

"Regional psychiatric hospital employee" means any 407  
employee of the department of mental health and addiction 408  
services who, in the course of performing the employee's duties, 409  
has contact with patients committed to the department of mental 410  
health and addiction services by a court order pursuant to 411  
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised 412  
Code. 413

"Federal law enforcement officer" has the meaning defined 414  
in section 9.88 of the Revised Code. 415

(10) "Information pertaining to the recreational 416  
activities of a person under the age of eighteen" means 417  
information that is kept in the ordinary course of business by a 418  
public office, that pertains to the recreational activities of a 419  
person under the age of eighteen years, and that discloses any 420  
of the following: 421

(a) The address or telephone number of a person under the 422  
age of eighteen or the address or telephone number of that 423  
person's parent, guardian, custodian, or emergency contact 424  
person; 425

(b) The social security number, birth date, or	426
photographic image of a person under the age of eighteen;	427
(c) Any medical record, history, or information pertaining	428
to a person under the age of eighteen;	429
(d) Any additional information sought or required about a	430
person under the age of eighteen for the purpose of allowing	431
that person to participate in any recreational activity	432
conducted or sponsored by a public office or to use or obtain	433
admission privileges to any recreational facility owned or	434
operated by a public office.	435
(11) "Community control sanction" has the meaning defined	436
in section 2929.01 of the Revised Code.	437
(12) "Post-release control sanction" has the meaning	438
defined in section 2967.01 of the Revised Code.	439
(13) "Redaction" means obscuring or deleting any	440
information that is exempt from the duty to permit public	441
inspection or copying from an item that otherwise meets the	442
definition of a "record" in section 149.011 of the Revised Code.	443
(14) "Designee," "elected official," and "future official"	444
have the meanings defined in section 109.43 of the Revised Code.	445
(15) "Body-worn camera" means a visual and audio recording	446
device worn on the person of a correctional employee, youth	447
services employee, or peace officer while the correctional	448
employee, youth services employee, or peace officer is engaged	449
in the performance of official duties.	450
(16) "Dashboard camera" means a visual and audio recording	451
device mounted on a peace officer's vehicle or vessel that is	452
used while the peace officer is engaged in the performance of	453



the peace officer's duties. 454

(17) "Restricted portions of a body-worn camera or 455  
dashboard camera recording" means any visual or audio portion of 456  
a body-worn camera or dashboard camera recording that shows, 457  
communicates, or discloses any of the following: 458

(a) The image or identity of a child or information that 459  
could lead to the identification of a child who is a primary 460  
subject of the recording when the department of rehabilitation 461  
and correction, department of youth services, or the law 462  
enforcement agency knows or has reason to know the person is a 463  
child based on the department's or law enforcement agency's 464  
records or the content of the recording; 465

(b) The death of a person or a deceased person's body, 466  
unless the death was caused by a correctional employee, youth 467  
services employee, or peace officer or, subject to division (H) 468  
(1) of this section, the consent of the decedent's executor or 469  
administrator has been obtained; 470

(c) The death of a correctional employee, youth services 471  
employee, peace officer, firefighter, paramedic, or other first 472  
responder, occurring while the decedent was engaged in the 473  
performance of official duties, unless, subject to division (H) 474  
(1) of this section, the consent of the decedent's executor or 475  
administrator has been obtained; 476

(d) Grievous bodily harm, unless the injury was effected 477  
by a correctional employee, youth services employee, or peace 478  
officer or, subject to division (H) (1) of this section, the 479  
consent of the injured person or the injured person's guardian 480  
has been obtained; 481

(e) An act of severe violence against a person that 482

results in serious physical harm to the person, unless the act 483  
and injury was effected by a correctional employee, youth 484  
services employee, or peace officer or, subject to division (H) 485  
(1) of this section, the consent of the injured person or the 486  
injured person's guardian has been obtained; 487

(f) Grievous bodily harm to a correctional employee, youth 488  
services employee, peace officer, firefighter, paramedic, or 489  
other first responder, occurring while the injured person was 490  
engaged in the performance of official duties, unless, subject 491  
to division (H) (1) of this section, the consent of the injured 492  
person or the injured person's guardian has been obtained; 493

(g) An act of severe violence resulting in serious 494  
physical harm against a correctional employee, youth services 495  
employee, peace officer, firefighter, paramedic, or other first 496  
responder, occurring while the injured person was engaged in the 497  
performance of official duties, unless, subject to division (H) 498  
(1) of this section, the consent of the injured person or the 499  
injured person's guardian has been obtained; 500

(h) A person's nude body, unless, subject to division (H) 501  
(1) of this section, the person's consent has been obtained; 502

(i) Protected health information, the identity of a person 503  
in a health care facility who is not the subject of a law 504  
enforcement encounter, or any other information in a health care 505  
facility that could identify a person who is not the subject of 506  
a law enforcement encounter; 507

(j) Information that could identify the alleged victim of 508  
a sex offense, menacing by stalking, or domestic violence; 509

(k) Information, that does not constitute a confidential 510  
law enforcement investigatory record, that could identify a 511

person who provides sensitive or confidential information to the 512  
department of rehabilitation and correction, the department of 513  
youth services, or a law enforcement agency when the disclosure 514  
of the person's identity or the information provided could 515  
reasonably be expected to threaten or endanger the safety or 516  
property of the person or another person; 517

(l) Personal information of a person who is not arrested, 518  
cited, charged, or issued a written warning by a peace officer; 519

(m) Proprietary police contingency plans or tactics that 520  
are intended to prevent crime and maintain public order and 521  
safety; 522

(n) A personal conversation unrelated to work between 523  
peace officers or between a peace officer and an employee of a 524  
law enforcement agency; 525

(o) A conversation between a peace officer and a member of 526  
the public that does not concern law enforcement activities; 527

(p) The interior of a residence, unless the interior of a 528  
residence is the location of an adversarial encounter with, or a 529  
use of force by, a peace officer; 530

(q) Any portion of the interior of a private business that 531  
is not open to the public, unless an adversarial encounter with, 532  
or a use of force by, a peace officer occurs in that location. 533

As used in division (A) (17) of this section: 534

"Grievous bodily harm" has the same meaning as in section 535  
5924.120 of the Revised Code. 536

"Health care facility" has the same meaning as in section 537  
1337.11 of the Revised Code. 538

"Protected health information" has the same meaning as in 539  
45 C.F.R. 160.103. 540

"Law enforcement agency" means a government entity that 541  
employs peace officers to perform law enforcement duties. 542

"Personal information" means any government-issued 543  
identification number, date of birth, address, financial 544  
information, or criminal justice information from the law 545  
enforcement automated data system or similar databases. 546

"Sex offense" has the same meaning as in section 2907.10 547  
of the Revised Code. 548

"Firefighter," "paramedic," and "first responder" have the 549  
same meanings as in section 4765.01 of the Revised Code. 550

(B) (1) Upon request by any person and subject to division 551  
(B) (8) of this section, all public records responsive to the 552  
request shall be promptly prepared and made available for 553  
inspection to the requester at all reasonable times during 554  
regular business hours. Subject to division (B) (8) of this 555  
section, upon request by any person, a public office or person 556  
responsible for public records shall make copies of the 557  
requested public record available to the requester at cost and 558  
within a reasonable period of time. If a public record contains 559  
information that is exempt from the duty to permit public 560  
inspection or to copy the public record, the public office or 561  
the person responsible for the public record shall make 562  
available all of the information within the public record that 563  
is not exempt. When making that public record available for 564  
public inspection or copying that public record, the public 565  
office or the person responsible for the public record shall 566  
notify the requester of any redaction or make the redaction 567

plainly visible. A redaction shall be deemed a denial of a 568  
request to inspect or copy the redacted information, except if 569  
federal or state law authorizes or requires a public office to 570  
make the redaction. 571

(2) To facilitate broader access to public records, a 572  
public office or the person responsible for public records shall 573  
organize and maintain public records in a manner that they can 574  
be made available for inspection or copying in accordance with 575  
division (B) of this section. A public office also shall have 576  
available a copy of its current records retention schedule at a 577  
location readily available to the public. If a requester makes 578  
an ambiguous or overly broad request or has difficulty in making 579  
a request for copies or inspection of public records under this 580  
section such that the public office or the person responsible 581  
for the requested public record cannot reasonably identify what 582  
public records are being requested, the public office or the 583  
person responsible for the requested public record may deny the 584  
request but shall provide the requester with an opportunity to 585  
revise the request by informing the requester of the manner in 586  
which records are maintained by the public office and accessed 587  
in the ordinary course of the public office's or person's 588  
duties. 589

(3) If a request is ultimately denied, in part or in 590  
whole, the public office or the person responsible for the 591  
requested public record shall provide the requester with an 592  
explanation, including legal authority, setting forth why the 593  
request was denied. If the initial request was provided in 594  
writing, the explanation also shall be provided to the requester 595  
in writing. The explanation shall not preclude the public office 596  
or the person responsible for the requested public record from 597  
relying upon additional reasons or legal authority in defending 598

an action commenced under division (C) of this section. 599

(4) Unless specifically required or authorized by state or 600  
federal law or in accordance with division (B) of this section, 601  
no public office or person responsible for public records may 602  
limit or condition the availability of public records by 603  
requiring disclosure of the requester's identity or the intended 604  
use of the requested public record. Any requirement that the 605  
requester disclose the requester's identity or the intended use 606  
of the requested public record constitutes a denial of the 607  
request. 608

(5) A public office or person responsible for public 609  
records may ask a requester to make the request in writing, may 610  
ask for the requester's identity, and may inquire about the 611  
intended use of the information requested, but may do so only 612  
after disclosing to the requester that a written request is not 613  
mandatory, that the requester may decline to reveal the 614  
requester's identity or the intended use, and when a written 615  
request or disclosure of the identity or intended use would 616  
benefit the requester by enhancing the ability of the public 617  
office or person responsible for public records to identify, 618  
locate, or deliver the public records sought by the requester. 619

(6) If any person requests a copy of a public record in 620  
accordance with division (B) of this section, the public office 621  
or person responsible for the public record may require the 622  
requester to pay in advance the cost involved in providing the 623  
copy of the public record in accordance with the choice made by 624  
the requester under this division. The public office or the 625  
person responsible for the public record shall permit the 626  
requester to choose to have the public record duplicated upon 627  
paper, upon the same medium upon which the public office or 628

person responsible for the public record keeps it, or upon any 629  
other medium upon which the public office or person responsible 630  
for the public record determines that it reasonably can be 631  
duplicated as an integral part of the normal operations of the 632  
public office or person responsible for the public record. When 633  
the requester makes a choice under this division, the public 634  
office or person responsible for the public record shall provide 635  
a copy of it in accordance with the choice made by the 636  
requester. Nothing in this section requires a public office or 637  
person responsible for the public record to allow the requester 638  
of a copy of the public record to make the copies of the public 639  
record. 640

(7) (a) Upon a request made in accordance with division (B) 641  
of this section and subject to division (B) (6) of this section, 642  
a public office or person responsible for public records shall 643  
transmit a copy of a public record to any person by United 644  
States mail or by any other means of delivery or transmission 645  
within a reasonable period of time after receiving the request 646  
for the copy. The public office or person responsible for the 647  
public record may require the person making the request to pay 648  
in advance the cost of postage if the copy is transmitted by 649  
United States mail or the cost of delivery if the copy is 650  
transmitted other than by United States mail, and to pay in 651  
advance the costs incurred for other supplies used in the 652  
mailing, delivery, or transmission. 653

(b) Any public office may adopt a policy and procedures 654  
that it will follow in transmitting, within a reasonable period 655  
of time after receiving a request, copies of public records by 656  
United States mail or by any other means of delivery or 657  
transmission pursuant to division (B) (7) of this section. A 658  
public office that adopts a policy and procedures under division 659

(B) (7) of this section shall comply with them in performing its 660  
duties under that division. 661

(c) In any policy and procedures adopted under division 662  
(B) (7) of this section: 663

(i) A public office may limit the number of records 664  
requested by a person that the office will physically deliver by 665  
United States mail or by another delivery service to ten per 666  
month, unless the person certifies to the office in writing that 667  
the person does not intend to use or forward the requested 668  
records, or the information contained in them, for commercial 669  
purposes; 670

(ii) A public office that chooses to provide some or all 671  
of its public records on a web site that is fully accessible to 672  
and searchable by members of the public at all times, other than 673  
during acts of God outside the public office's control or 674  
maintenance, and that charges no fee to search, access, 675  
download, or otherwise receive records provided on the web site, 676  
may limit to ten per month the number of records requested by a 677  
person that the office will deliver in a digital format, unless 678  
the requested records are not provided on the web site and 679  
unless the person certifies to the office in writing that the 680  
person does not intend to use or forward the requested records, 681  
or the information contained in them, for commercial purposes. 682

(iii) For purposes of division (B) (7) of this section, 683  
"commercial" shall be narrowly construed and does not include 684  
reporting or gathering news, reporting or gathering information 685  
to assist citizen oversight or understanding of the operation or 686  
activities of government, or nonprofit educational research. 687

(8) A public office or person responsible for public 688



records is not required to permit a person who is incarcerated 689  
pursuant to a criminal conviction or a juvenile adjudication to 690  
inspect or to obtain a copy of any public record concerning a 691  
criminal investigation or prosecution or concerning what would 692  
be a criminal investigation or prosecution if the subject of the 693  
investigation or prosecution were an adult, unless the request 694  
to inspect or to obtain a copy of the record is for the purpose 695  
of acquiring information that is subject to release as a public 696  
record under this section and the judge who imposed the sentence 697  
or made the adjudication with respect to the person, or the 698  
judge's successor in office, finds that the information sought 699  
in the public record is necessary to support what appears to be 700  
a justiciable claim of the person. 701

(9) (a) Upon written request made and signed by a 702  
journalist, a public office, or person responsible for public 703  
records, having custody of the records of the agency employing a 704  
specified designated public service worker shall disclose to the 705  
journalist the address of the actual personal residence of the 706  
designated public service worker and, if the designated public 707  
service worker's spouse, former spouse, or child is employed by 708  
a public office, the name and address of the employer of the 709  
designated public service worker's spouse, former spouse, or 710  
child. The request shall include the journalist's name and title 711  
and the name and address of the journalist's employer and shall 712  
state that disclosure of the information sought would be in the 713  
public interest. 714

(b) Division (B) (9) (a) of this section also applies to 715  
journalist requests for: 716

(i) Customer information maintained by a municipally owned 717  
or operated public utility, other than social security numbers 718

and any private financial information such as credit reports, 719  
payment methods, credit card numbers, and bank account 720  
information; 721

(ii) Information about minors involved in a school vehicle 722  
accident as provided in division (A)(1)(gg) of this section, 723  
other than personal information as defined in section 149.45 of 724  
the Revised Code. 725

(c) As used in division (B)(9) of this section, 726  
"journalist" means a person engaged in, connected with, or 727  
employed by any news medium, including a newspaper, magazine, 728  
press association, news agency, or wire service, a radio or 729  
television station, or a similar medium, for the purpose of 730  
gathering, processing, transmitting, compiling, editing, or 731  
disseminating information for the general public. 732

(10) Upon a request made by a victim, victim's attorney, 733  
or victim's representative, as that term is used in section 734  
2930.02 of the Revised Code, a public office or person 735  
responsible for public records shall transmit a copy of a 736  
depiction of the victim as described in division (A)(1)(ii) of 737  
this section to the victim, victim's attorney, or victim's 738  
representative. 739

(C)(1) If a person allegedly is aggrieved by the failure 740  
of a public office or the person responsible for public records 741  
to promptly prepare a public record and to make it available to 742  
the person for inspection in accordance with division (B) of 743  
this section or by any other failure of a public office or the 744  
person responsible for public records to comply with an 745  
obligation in accordance with division (B) of this section, the 746  
person allegedly aggrieved may do only one of the following, and 747  
not both: 748

(a) File a complaint with the clerk of the court of claims 749  
or the clerk of the court of common pleas under section 2743.75 750  
of the Revised Code; 751

(b) Commence a mandamus action to obtain a judgment that 752  
orders the public office or the person responsible for the 753  
public record to comply with division (B) of this section, that 754  
awards court costs and reasonable attorney's fees to the person 755  
that instituted the mandamus action, and, if applicable, that 756  
includes an order fixing statutory damages under division (C) (2) 757  
of this section. The mandamus action may be commenced in the 758  
court of common pleas of the county in which division (B) of 759  
this section allegedly was not complied with, in the supreme 760  
court pursuant to its original jurisdiction under Section 2 of 761  
Article IV, Ohio Constitution, or in the court of appeals for 762  
the appellate district in which division (B) of this section 763  
allegedly was not complied with pursuant to its original 764  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 765

(2) If a requester transmits a written request by hand 766  
delivery, electronic submission, or certified mail to inspect or 767  
receive copies of any public record in a manner that fairly 768  
describes the public record or class of public records to the 769  
public office or person responsible for the requested public 770  
records, except as otherwise provided in this section, the 771  
requester shall be entitled to recover the amount of statutory 772  
damages set forth in this division if a court determines that 773  
the public office or the person responsible for public records 774  
failed to comply with an obligation in accordance with division 775  
(B) of this section. 776

The amount of statutory damages shall be fixed at one 777  
hundred dollars for each business day during which the public 778

office or person responsible for the requested public records 779  
failed to comply with an obligation in accordance with division 780  
(B) of this section, beginning with the day on which the 781  
requester files a mandamus action to recover statutory damages, 782  
up to a maximum of one thousand dollars. The award of statutory 783  
damages shall not be construed as a penalty, but as compensation 784  
for injury arising from lost use of the requested information. 785  
The existence of this injury shall be conclusively presumed. The 786  
award of statutory damages shall be in addition to all other 787  
remedies authorized by this section. 788

The court may reduce an award of statutory damages or not 789  
award statutory damages if the court determines both of the 790  
following: 791

(a) That, based on the ordinary application of statutory 792  
law and case law as it existed at the time of the conduct or 793  
threatened conduct of the public office or person responsible 794  
for the requested public records that allegedly constitutes a 795  
failure to comply with an obligation in accordance with division 796  
(B) of this section and that was the basis of the mandamus 797  
action, a well-informed public office or person responsible for 798  
the requested public records reasonably would believe that the 799  
conduct or threatened conduct of the public office or person 800  
responsible for the requested public records did not constitute 801  
a failure to comply with an obligation in accordance with 802  
division (B) of this section; 803

(b) That a well-informed public office or person 804  
responsible for the requested public records reasonably would 805  
believe that the conduct or threatened conduct of the public 806  
office or person responsible for the requested public records 807  
would serve the public policy that underlies the authority that 808

is asserted as permitting that conduct or threatened conduct. 809

(3) In a mandamus action filed under division (C) (1) of 810  
this section, the following apply: 811

(a) (i) If the court orders the public office or the person 812  
responsible for the public record to comply with division (B) of 813  
this section, the court shall determine and award to the relator 814  
all court costs, which shall be construed as remedial and not 815  
punitive. 816

(ii) If the court makes a determination described in 817  
division (C) (3) (b) (iii) of this section, the court shall 818  
determine and award to the relator all court costs, which shall 819  
be construed as remedial and not punitive. 820

(b) If the court renders a judgment that orders the public 821  
office or the person responsible for the public record to comply 822  
with division (B) of this section or if the court determines any 823  
of the following, the court may award reasonable attorney's fees 824  
to the relator, subject to division (C) (4) of this section: 825

(i) The public office or the person responsible for the 826  
public records failed to respond affirmatively or negatively to 827  
the public records request in accordance with the time allowed 828  
under division (B) of this section. 829

(ii) The public office or the person responsible for the 830  
public records promised to permit the relator to inspect or 831  
receive copies of the public records requested within a 832  
specified period of time but failed to fulfill that promise 833  
within that specified period of time. 834

(iii) The public office or the person responsible for the 835  
public records acted in bad faith when the office or person 836  
voluntarily made the public records available to the relator for 837

the first time after the relator commenced the mandamus action, 838  
but before the court issued any order concluding whether or not 839  
the public office or person was required to comply with division 840  
(B) of this section. No discovery may be conducted on the issue 841  
of the alleged bad faith of the public office or person 842  
responsible for the public records. This division shall not be 843  
construed as creating a presumption that the public office or 844  
the person responsible for the public records acted in bad faith 845  
when the office or person voluntarily made the public records 846  
available to the relator for the first time after the relator 847  
commenced the mandamus action, but before the court issued any 848  
order described in this division. 849

(c) The court shall not award attorney's fees to the 850  
relator if the court determines both of the following: 851

(i) That, based on the ordinary application of statutory 852  
law and case law as it existed at the time of the conduct or 853  
threatened conduct of the public office or person responsible 854  
for the requested public records that allegedly constitutes a 855  
failure to comply with an obligation in accordance with division 856  
(B) of this section and that was the basis of the mandamus 857  
action, a well-informed public office or person responsible for 858  
the requested public records reasonably would believe that the 859  
conduct or threatened conduct of the public office or person 860  
responsible for the requested public records did not constitute 861  
a failure to comply with an obligation in accordance with 862  
division (B) of this section; 863

(ii) That a well-informed public office or person 864  
responsible for the requested public records reasonably would 865  
believe that the conduct or threatened conduct of the public 866  
office or person responsible for the requested public records 867

would serve the public policy that underlies the authority that 868  
is asserted as permitting that conduct or threatened conduct. 869

(4) All of the following apply to any award of reasonable 870  
attorney's fees awarded under division (C) (3) (b) of this 871  
section: 872

(a) The fees shall be construed as remedial and not 873  
punitive. 874

(b) The fees awarded shall not exceed the total of the 875  
reasonable attorney's fees incurred before the public record was 876  
made available to the relator and the fees described in division 877  
(C) (4) (c) of this section. 878

(c) Reasonable attorney's fees shall include reasonable 879  
fees incurred to produce proof of the reasonableness and amount 880  
of the fees and to otherwise litigate entitlement to the fees. 881

(d) The court may reduce the amount of fees awarded if the 882  
court determines that, given the factual circumstances involved 883  
with the specific public records request, an alternative means 884  
should have been pursued to more effectively and efficiently 885  
resolve the dispute that was subject to the mandamus action 886  
filed under division (C) (1) of this section. 887

(5) If the court does not issue a writ of mandamus under 888  
division (C) of this section and the court determines at that 889  
time that the bringing of the mandamus action was frivolous 890  
conduct as defined in division (A) of section 2323.51 of the 891  
Revised Code, the court may award to the public office all court 892  
costs, expenses, and reasonable attorney's fees, as determined 893  
by the court. 894

(D) Chapter 1347. of the Revised Code does not limit the 895  
provisions of this section. 896

(E) (1) To ensure that all employees of public offices are 897  
appropriately educated about a public office's obligations under 898  
division (B) of this section, all elected officials or their 899  
appropriate designees shall attend training approved by the 900  
attorney general as provided in section 109.43 of the Revised 901  
Code. A future official may satisfy the requirements of this 902  
division by attending the training before taking office, 903  
provided that the future official may not send a designee in the 904  
future official's place. 905

(2) All public offices shall adopt a public records policy 906  
in compliance with this section for responding to public records 907  
requests. In adopting a public records policy under this 908  
division, a public office may obtain guidance from the model 909  
public records policy developed and provided to the public 910  
office by the attorney general under section 109.43 of the 911  
Revised Code. Except as otherwise provided in this section, the 912  
policy may not limit the number of public records that the 913  
public office will make available to a single person, may not 914  
limit the number of public records that it will make available 915  
during a fixed period of time, and may not establish a fixed 916  
period of time before it will respond to a request for 917  
inspection or copying of public records, unless that period is 918  
less than eight hours. 919

The public office shall distribute the public records 920  
policy adopted by the public office under this division to the 921  
employee of the public office who is the records custodian or 922  
records manager or otherwise has custody of the records of that 923  
office. The public office shall require that employee to 924  
acknowledge receipt of the copy of the public records policy. 925  
The public office shall create a poster that describes its 926  
public records policy and shall post the poster in a conspicuous 927



place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F) (1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

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

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

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or database by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special

extraction request" does not include a request by a person who 958  
gives assurance to the bureau that the person making the request 959  
does not intend to use or forward the requested copies for 960  
surveys, marketing, solicitation, or resale for commercial 961  
purposes. 962

(c) "Commercial" means profit-seeking production, buying, 963  
or selling of any good, service, or other product. 964

(d) "Special extraction costs" means the cost of the time 965  
spent by the lowest paid employee competent to perform the task, 966  
the actual amount paid to outside private contractors employed 967  
by the bureau, or the actual cost incurred to create computer 968  
programs to make the special extraction. "Special extraction 969  
costs" include any charges paid to a public agency for computer 970  
or records services. 971

(3) For purposes of divisions (F) (1) and (2) of this 972  
section, "surveys, marketing, solicitation, or resale for 973  
commercial purposes" shall be narrowly construed and does not 974  
include reporting or gathering news, reporting or gathering 975  
information to assist citizen oversight or understanding of the 976  
operation or activities of government, or nonprofit educational 977  
research. 978

(G) A request by a defendant, counsel of a defendant, or 979  
any agent of a defendant in a criminal action that public 980  
records related to that action be made available under this 981  
section shall be considered a demand for discovery pursuant to 982  
the Criminal Rules, except to the extent that the Criminal Rules 983  
plainly indicate a contrary intent. The defendant, counsel of 984  
the defendant, or agent of the defendant making a request under 985  
this division shall serve a copy of the request on the 986  
prosecuting attorney, director of law, or other chief legal 987

officer responsible for prosecuting the action.	988
(H) (1) Any portion of a body-worn camera or dashboard camera recording described in divisions (A) (17) (b) to (h) of this section may be released by consent of the subject of the recording or a representative of that person, as specified in those divisions, only if either of the following applies:	989 990 991 992 993
(a) The recording will not be used in connection with any probable or pending criminal proceedings;	994 995
(b) The recording has been used in connection with a criminal proceeding that was dismissed or for which a judgment has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.	996 997 998 999 1000
(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A) (17) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to section 2743.75 of the Revised Code, requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.	1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012
<b>Sec. 2105.062.</b> As used in this section, "relative" includes a parent, grandparent, great-grandparent, stepparent, child, grandchild, aunt, uncle, cousin, sibling, and half sibling.	1013 1014 1015 1016

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

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

(1) "Childhood sexual abuse" means any conduct that  
constitutes any of the violations identified in division (A)(1)  
(a) or (b) of this section and would constitute a criminal  
offense under the specified section ~~or division~~ of the Revised  
Code, if the victim of the violation is at the time of the  
violation a child under eighteen years of age or a child with a  
developmental disability or physical impairment under twenty-one  
years of age. The court need not find that any person has been  
convicted of or pleaded guilty to the offense under the  
specified section ~~or division~~ of the Revised Code in order for  
the conduct that is the violation constituting the offense to be  
childhood sexual abuse for purposes of this division. This  
division applies to any of the following violations committed in  
the following specified circumstances:

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

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

(i) The actor is the victim's natural parent, adoptive

parent, or stepparent or the guardian, custodian, or person in loco parentis of the victim. 1046  
1047

(ii) The victim is in custody of law or a patient in a hospital or other institution, and the actor has supervisory or disciplinary authority over the victim. 1048  
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1050

(iii) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the victim is enrolled in or attends that school, and the actor is not enrolled in and does not attend that school. 1051  
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(iv) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the victim is enrolled in or attends that institution. 1057  
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(v) The actor is the victim's athletic or other type of coach, is the victim's instructor, is the leader of a scouting troop of which the victim is a member, or is a person with temporary or occasional disciplinary control over the victim. 1061  
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(vi) The actor is a mental health professional, the victim is a mental health client or patient of the actor, and the actor induces the victim to submit by falsely representing to the victim that the sexual contact involved in the violation is necessary for mental health treatment purposes. 1065  
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(vii) The actor is a licensed medical professional, the victim is a patient of the actor, and the sexual contact occurs in the course of medical treatment. 1070  
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(viii) The victim is confined in a detention facility, and the actor is an employee of that detention facility. 1073  
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~~(viii)~~ (ix) The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric. 1075  
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(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code. 1078  
1079

(3) "Licensed medical professional" has the same meaning as in section 2907.01 of the Revised Code. 1080  
1081

(4) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code. 1082  
1083

~~(4)~~ (5) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code. 1084  
1085

~~(5)~~ (6) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code. 1086  
1087

~~(6)~~ (7) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse. 1088  
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(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following: 1090  
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(1) The date on which the alleged assault or battery occurred; 1096  
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(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates: 1098  
1099  
1100  
1101

(a) The date on which the plaintiff learns the identity of 1102  
that person; 1103

(b) The date on which, by the exercise of reasonable 1104  
diligence, the plaintiff should have learned the identity of 1105  
that person. 1106

(C) An action for assault or battery brought by a victim 1107  
of childhood sexual abuse based on childhood sexual abuse, or an 1108  
action brought by a victim of childhood sexual abuse asserting 1109  
any claim resulting from childhood sexual abuse, shall be 1110  
brought within twelve years after the cause of action accrues. 1111  
For purposes of this section, a cause of action for assault or 1112  
battery based on childhood sexual abuse, or a cause of action 1113  
for a claim resulting from childhood sexual abuse, accrues upon 1114  
the date on which the victim reaches the age of majority. If the 1115  
defendant in an action brought by a victim of childhood sexual 1116  
abuse asserting a claim resulting from childhood sexual abuse 1117  
that occurs on or after August 3, 2006, has fraudulently 1118  
concealed from the plaintiff facts that form the basis of the 1119  
claim, the running of the limitations period with regard to that 1120  
claim is tolled until the time when the plaintiff discovers or 1121  
in the exercise of due diligence should have discovered those 1122  
facts. 1123

**Sec. 2305.252.** ~~(A) Proceedings~~ (A) (1) Except as required 1124  
to comply with a subpoena issued by the state medical board for 1125  
the production of information, documents, or records related to 1126  
an allegation of sexual misconduct or criminal conduct, 1127  
proceedings and records within the scope of a peer review 1128  
committee of a health care entity shall be held in confidence 1129  
and shall not be subject to discovery or introduction in 1130  
evidence in any civil action against a health care entity or 1131

health care provider, including both individuals who provide 1132  
health care and entities that provide health care, arising out 1133  
of matters that are the subject of evaluation and review by the 1134  
peer review committee. No individual who attends a meeting of a 1135  
peer review committee, serves as a member of a peer review 1136  
committee, works for or on behalf of a peer review committee, or 1137  
provides information to a peer review committee shall be 1138  
permitted or required to testify in any civil action as to any 1139  
evidence or other matters produced or presented during the 1140  
proceedings of the peer review committee or as to any finding, 1141  
recommendation, evaluation, opinion, or other action of the 1142  
committee or a member thereof. 1143

Information, documents, or records otherwise available 1144  
from original sources are not to be construed as being 1145  
unavailable for discovery or for use in any civil action merely 1146  
because they were produced or presented during proceedings of a 1147  
peer review committee, but the information, documents, or 1148  
records are available only from the original sources and cannot 1149  
be obtained from the peer review committee's proceedings or 1150  
records. 1151

The release of any information, documents, or records that 1152  
were produced or presented during proceedings of a peer review 1153  
committee or created to document the proceedings does not affect 1154  
the confidentiality of any other information, documents, or 1155  
records produced or presented during those proceedings or 1156  
created to document them. Only the information, documents, or 1157  
records actually released cease to be privileged under this 1158  
section. 1159

Nothing in this section precludes health care entities 1160  
from sharing information, documents, or records that were 1161



produced or presented during proceedings of a peer review 1162  
committee or created to document them as long as the 1163  
information, documents, or records are used only for peer review 1164  
purposes. Health care entities shall provide information, 1165  
documents, or records related to allegations of sexual 1166  
misconduct or criminal conduct of individuals licensed by the 1167  
state medical board that were produced or presented during the 1168  
proceedings of a peer review committee or were created to 1169  
document the proceedings, to the state medical board pursuant to 1170  
a subpoena issued by the board. 1171

An individual who testifies before a peer review 1172  
committee, serves as a representative of a peer review 1173  
committee, serves as a member of a peer review committee, works 1174  
for or on behalf of a peer review committee, or provides 1175  
information to a peer review committee shall not be prevented 1176  
from testifying as to matters within the individual's knowledge, 1177  
but the individual cannot be asked about the individual's 1178  
testimony before the peer review committee, information the 1179  
individual provided to the peer review committee, or any opinion 1180  
the individual formed as a result of the peer review committee's 1181  
activities. 1182

An order by a court to produce for discovery or for use at 1183  
trial the proceedings or records described in this section is a 1184  
final order. 1185

(2) As used in division (A) (1) of this section: 1186

(a) "Criminal conduct" means any conduct that would 1187  
constitute a felony, a misdemeanor committed in the course of 1188  
medical practice, an offense of violence, or a sexually oriented 1189  
offense, as defined in section 2950.01 of the Revised Code, 1190  
regardless of whether a criminal charge has been filed or the 1191

location in this state where the conduct occurred. 1192

(b) "Sexual misconduct" means conduct that exploits the 1193  
licensee-patient relationship in a sexual way, whether verbal or 1194  
physical, and may include the expression of thoughts, feelings, 1195  
or gestures that are sexual or that reasonably may be construed 1196  
by the patient as sexual. "Sexual misconduct" includes sexual 1197  
impropriety, sexual contact, and sexual interaction as defined 1198  
by the state medical board in rules adopted in accordance with 1199  
Chapter 119. of the Revised Code. 1200

(B) Division (A) of this section applies to a peer review 1201  
committee of the bureau of workers' compensation that is 1202  
responsible for reviewing the professional qualifications and 1203  
the performance of providers certified by the bureau to 1204  
participate in the health partnership program created under 1205  
sections 4121.44 and 4121.441 of the Revised Code, except that 1206  
the proceedings and records within the scope of the peer review 1207  
committee are subject to discovery or court subpoena and may be 1208  
admitted into evidence in any criminal action or administrative 1209  
or civil action initiated, prosecuted, or adjudicated by the 1210  
bureau involving an alleged violation of applicable statutes or 1211  
administrative rules. The bureau may share proceedings and 1212  
records within the scope of the peer review committee, including 1213  
claimant records and claim file information, with law 1214  
enforcement agencies, licensing boards, and other governmental 1215  
agencies that are prosecuting, adjudicating, or investigating 1216  
alleged violations of applicable statutes or administrative 1217  
rules. If the bureau shares proceedings or records with a law 1218  
enforcement agency, licensing board, or another governmental 1219  
agency pursuant to this division, that sharing does not affect 1220  
the confidentiality of the record. Recipients of claimant 1221  
records and claim file information provided by the bureau 1222

pursuant to this division shall take appropriate measures to 1223  
maintain the confidentiality of the information. 1224

**Sec. 2907.01.** As used in sections 2907.01 to 2907.38 and 1225  
2917.211 of the Revised Code: 1226

(A) "Sexual conduct" means vaginal intercourse between a 1227  
male and female; anal intercourse, fellatio, and cunnilingus 1228  
between persons regardless of sex; and, without privilege to do 1229  
so, the insertion, however slight, of any part of the body or 1230  
any instrument, apparatus, or other object into the vaginal or 1231  
anal opening of another. Penetration, however slight, is 1232  
sufficient to complete vaginal or anal intercourse. 1233

(B) "Sexual contact" means any touching of an erogenous 1234  
zone of another, including without limitation the thigh, 1235  
genitals, buttock, pubic region, or, if the person is a female, 1236  
a breast, for the purpose of sexually arousing or gratifying 1237  
either person. 1238

(C) "Sexual activity" means sexual conduct or sexual 1239  
contact, or both. 1240

(D) "Prostitute" means a male or female who promiscuously 1241  
engages in sexual activity for hire, regardless of whether the 1242  
hire is paid to the prostitute or to another. 1243

(E) "Harmful to juveniles" means that quality of any 1244  
material or performance describing or representing nudity, 1245  
sexual conduct, sexual excitement, or sado-masochistic abuse in 1246  
any form to which all of the following apply: 1247

(1) The material or performance, when considered as a 1248  
whole, appeals to the prurient interest of juveniles in sex. 1249

(2) The material or performance is patently offensive to 1250

prevailing standards in the adult community as a whole with 1251  
respect to what is suitable for juveniles. 1252

(3) The material or performance, when considered as a 1253  
whole, lacks serious literary, artistic, political, and 1254  
scientific value for juveniles. 1255

(F) When considered as a whole, and judged with reference 1256  
to ordinary adults or, if it is designed for sexual deviates or 1257  
other specially susceptible group, judged with reference to that 1258  
group, any material or performance is "obscene" if any of the 1259  
following apply: 1260

(1) Its dominant appeal is to prurient interest; 1261

(2) Its dominant tendency is to arouse lust by displaying 1262  
or depicting sexual activity, masturbation, sexual excitement, 1263  
or nudity in a way that tends to represent human beings as mere 1264  
objects of sexual appetite; 1265

(3) Its dominant tendency is to arouse lust by displaying 1266  
or depicting bestiality or extreme or bizarre violence, cruelty, 1267  
or brutality; 1268

(4) Its dominant tendency is to appeal to scatological 1269  
interest by displaying or depicting human bodily functions of 1270  
elimination in a way that inspires disgust or revulsion in 1271  
persons with ordinary sensibilities, without serving any genuine 1272  
scientific, educational, sociological, moral, or artistic 1273  
purpose; 1274

(5) It contains a series of displays or descriptions of 1275  
sexual activity, masturbation, sexual excitement, nudity, 1276  
bestiality, extreme or bizarre violence, cruelty, or brutality, 1277  
or human bodily functions of elimination, the cumulative effect 1278  
of which is a dominant tendency to appeal to prurient or 1279

scatological interest, when the appeal to such an interest is 1280  
primarily for its own sake or for commercial exploitation, 1281  
rather than primarily for a genuine scientific, educational, 1282  
sociological, moral, or artistic purpose. 1283

(G) "Sexual excitement" means the condition of human male 1284  
or female genitals when in a state of sexual stimulation or 1285  
arousal. 1286

(H) "Nudity" means the showing, representation, or 1287  
depiction of human male or female genitals, pubic area, or 1288  
buttocks with less than a full, opaque covering, or of a female 1289  
breast with less than a full, opaque covering of any portion 1290  
thereof below the top of the nipple, or of covered male genitals 1291  
in a discernibly turgid state. 1292

(I) "Juvenile" means an unmarried person under the age of 1293  
eighteen. 1294

(J) "Material" means any book, magazine, newspaper, 1295  
pamphlet, poster, print, picture, figure, image, description, 1296  
motion picture film, phonographic record, or tape, or other 1297  
tangible thing capable of arousing interest through sight, 1298  
sound, or touch and includes an image or text appearing on a 1299  
computer monitor, television screen, liquid crystal display, or 1300  
similar display device or an image or text recorded on a 1301  
computer hard disk, computer floppy disk, compact disk, magnetic 1302  
tape, or similar data storage device. 1303

(K) "Performance" means any motion picture, preview, 1304  
trailer, play, show, skit, dance, or other exhibition performed 1305  
before an audience. 1306

(L) "Spouse" means a person married to an offender at the 1307  
time of an alleged offense, except that such person shall not be 1308

considered the spouse when any of the following apply:	1309
(1) When the parties have entered into a written	1310
separation agreement authorized by section 3103.06 of the	1311
Revised Code;	1312
(2) During the pendency of an action between the parties	1313
for annulment, divorce, dissolution of marriage, or legal	1314
separation;	1315
(3) In the case of an action for legal separation, after	1316
the effective date of the judgment for legal separation.	1317
(M) "Minor" means a person under the age of eighteen.	1318
(N) "Mental health client or patient" has the same meaning	1319
as in section 2305.51 of the Revised Code.	1320
(O) "Mental health professional" has the same meaning as	1321
in section 2305.115 of the Revised Code.	1322
(P) "Sado-masochistic abuse" means flagellation or torture	1323
by or upon a person or the condition of being fettered, bound,	1324
or otherwise physically restrained.	1325
(Q) "Place where a person has a reasonable expectation of	1326
privacy" means a place where a reasonable person would believe	1327
that the person could fully disrobe in private.	1328
(R) "Private area" means the genitals, pubic area,	1329
buttocks, or female breast below the top of the areola, where	1330
nude or covered by an undergarment.	1331
<u>(S) "Licensed medical professional" means any of the</u>	1332
<u>following medical professionals:</u>	1333
<u>(1) A physician assistant licensed under Chapter 4730. of</u>	1334
<u>the Revised Code;</u>	1335

(2) A physician authorized under Chapter 4731. of the 1336  
Revised Code to practice medicine and surgery, osteopathic 1337  
medicine and surgery, or podiatric medicine and surgery; 1338

(3) A massage therapist licensed under Chapter 4731. of 1339  
the Revised Code. 1340

**Sec. 2907.02.** (A) (1) No person shall engage in sexual 1341  
conduct with another who is not the spouse of the offender or 1342  
who is the spouse of the offender but is living separate and 1343  
apart from the offender, when any of the following applies: 1344

(a) For the purpose of preventing resistance, the offender 1345  
substantially impairs the other person's judgment or control by 1346  
administering any drug, intoxicant, or controlled substance to 1347  
the other person surreptitiously or by force, threat of force, 1348  
or deception. 1349

(b) The other person is less than thirteen years of age, 1350  
whether or not the offender knows the age of the other person. 1351

(c) The other person's ability to resist or consent is 1352  
substantially impaired because of a mental or physical condition 1353  
or because of advanced age, and the offender knows or has 1354  
reasonable cause to believe that the other person's ability to 1355  
resist or consent is substantially impaired because of a mental 1356  
or physical condition or because of advanced age. 1357

(d) The offender knows that the judgment or control of the 1358  
other person is substantially impaired as a result of the 1359  
influence of any drug or intoxicant administered to the other 1360  
person with the other person's consent for the purpose of any 1361  
kind of medical or dental examination, treatment, or surgery. 1362

(2) No person shall engage in sexual conduct with another 1363  
when the offender purposely compels the other person to submit 1364

by force or threat of force. 1365

(B) Whoever violates this section is guilty of rape, a 1366  
felony of the first degree. If the offender under division (A) 1367  
(1) (a) of this section substantially impairs the other person's 1368  
judgment or control by administering any controlled substance, 1369  
as defined in section 3719.01 of the Revised Code, to the other 1370  
person surreptitiously or by force, threat of force, or 1371  
deception, the prison term imposed upon the offender shall be 1372  
one of the definite prison terms prescribed for a felony of the 1373  
first degree in division (A) (1) (b) of section 2929.14 of the 1374  
Revised Code that is not less than five years, except that if 1375  
the violation is committed on or after March 22, 2019, the court 1376  
shall impose as the minimum prison term for the offense a 1377  
mandatory prison term that is one of the minimum terms 1378  
prescribed for a felony of the first degree in division (A) (1) 1379  
(a) of section 2929.14 of the Revised Code that is not less than 1380  
five years. Except as otherwise provided in this division, 1381  
notwithstanding sections 2929.11 to 2929.14 of the Revised Code, 1382  
an offender under division (A) (1) (b) of this section shall be 1383  
sentenced to a prison term or term of life imprisonment pursuant 1384  
to section 2971.03 of the Revised Code. If an offender is 1385  
convicted of or pleads guilty to a violation of division (A) (1) 1386  
(b) of this section, if the offender was less than sixteen years 1387  
of age at the time the offender committed the violation of that 1388  
division, and if the offender during or immediately after the 1389  
commission of the offense did not cause serious physical harm to 1390  
the victim, the victim was ten years of age or older at the time 1391  
of the commission of the violation, and the offender has not 1392  
previously been convicted of or pleaded guilty to a violation of 1393  
this section or a substantially similar existing or former law 1394  
of this state, another state, or the United States, the court 1395



shall not sentence the offender to a prison term or term of life 1396  
imprisonment pursuant to section 2971.03 of the Revised Code, 1397  
and instead the court shall sentence the offender as otherwise 1398  
provided in this division. If an offender under division (A) (1) 1399  
(b) of this section previously has been convicted of or pleaded 1400  
guilty to violating division (A) (1) (b) of this section or to 1401  
violating an existing or former law of this state, another 1402  
state, or the United States that is substantially similar to 1403  
division (A) (1) (b) of this section, if the offender during or 1404  
immediately after the commission of the offense caused serious 1405  
physical harm to the victim, or if the victim under division (A) 1406  
(1) (b) of this section is less than ten years of age, in lieu of 1407  
sentencing the offender to a prison term or term of life 1408  
imprisonment pursuant to section 2971.03 of the Revised Code, 1409  
except as otherwise provided in this division, the court may 1410  
impose upon the offender a term of life without parole. If the 1411  
court imposes a term of life without parole pursuant to this 1412  
division, division (F) of section 2971.03 of the Revised Code 1413  
applies, and the offender automatically is classified a tier III 1414  
sex offender/child-victim offender, as described in that 1415  
division. A court shall not impose a term of life without parole 1416  
on an offender for rape if the offender was under eighteen years 1417  
of age at the time of the offense. 1418

(C) A victim need not prove physical resistance to the 1419  
offender in prosecutions under this section. 1420

(D) Evidence of specific instances of the victim's sexual 1421  
activity, opinion evidence of the victim's sexual activity, and 1422  
reputation evidence of the victim's sexual activity shall not be 1423  
admitted under this section unless it involves evidence of the 1424  
origin of semen, pregnancy, or sexually transmitted disease or 1425  
infection, or the victim's past sexual activity with the 1426

offender, and only to the extent that the court finds that the 1427  
evidence is material to a fact at issue in the case and that its 1428  
inflammatory or prejudicial nature does not outweigh its 1429  
probative value. 1430

Evidence of specific instances of the defendant's sexual 1431  
activity, opinion evidence of the defendant's sexual activity, 1432  
and reputation evidence of the defendant's sexual activity shall 1433  
not be admitted under this section unless it involves evidence 1434  
of the origin of semen, pregnancy, or sexually transmitted 1435  
disease or infection, the defendant's past sexual activity with 1436  
the victim, or is admissible against the defendant under section 1437  
2945.59 of the Revised Code, and only to the extent that the 1438  
court finds that the evidence is material to a fact at issue in 1439  
the case and that its inflammatory or prejudicial nature does 1440  
not outweigh its probative value. 1441

(E) Prior to taking testimony or receiving evidence of any 1442  
sexual activity of the victim or the defendant in a proceeding 1443  
under this section, the court shall resolve the admissibility of 1444  
the proposed evidence in a hearing in chambers, which shall be 1445  
held at or before preliminary hearing and not less than three 1446  
days before trial, or for good cause shown during the trial. 1447

(F) Upon approval by the court, the victim may be 1448  
represented by counsel in any hearing in chambers or other 1449  
proceeding to resolve the admissibility of evidence. If the 1450  
victim is indigent or otherwise is unable to obtain the services 1451  
of counsel, the court, upon request, may appoint counsel to 1452  
represent the victim without cost to the victim. 1453

(G) It is not a defense to a charge under division (A) (2) 1454  
of this section that the offender and the victim were married or 1455  
were cohabiting at the time of the commission of the offense. 1456

**Sec. 2907.03.** (A) No person shall engage in sexual ~~conduct~~ 1457  
activity with another, not the spouse of the offender; ~~cause~~ 1458  
another, not the spouse of the offender, to engage in sexual 1459  
activity with the offender; or cause two or more other persons 1460  
to engage in sexual activity when any of the following apply: 1461

(1) The offender knowingly coerces the other person, or 1462  
one of the other persons, to submit by any means that would 1463  
prevent resistance by a person of ordinary resolution. 1464

(2) The offender knows that the other person's, or one of 1465  
the other person's, ability to appraise the nature of or control 1466  
the other person's own conduct is substantially impaired. 1467

(3) The offender knows that the other person, or one of 1468  
the other persons, submits because the other person is unaware 1469  
that the act is being committed. 1470

(4) The offender knows that the other person, or one of 1471  
the other persons, submits because the other person mistakenly 1472  
identifies the offender as the other person's spouse. 1473

(5) The offender is the other person's, or one of the 1474  
other person's, natural or adoptive parent, or a stepparent, or 1475  
guardian, custodian, or person in loco parentis of the other 1476  
person. 1477

(6) The other person, or one of the other persons, is in 1478  
custody of law or a patient in a hospital or other institution, 1479  
and the offender has supervisory or disciplinary authority over 1480  
the other person. 1481

(7) The offender is a teacher, administrator, coach, or 1482  
other person in authority employed by or serving in a school for 1483  
which the state board of education prescribes minimum standards 1484  
pursuant to division (D) of section 3301.07 of the Revised Code, 1485

the other person, or one of the other persons, is enrolled in or 1486  
attends that school, and the offender is not enrolled in and 1487  
does not attend that school. 1488

(8) The other person, or one of the other persons, is a 1489  
minor, the offender is a teacher, administrator, coach, or other 1490  
person in authority employed by or serving in an institution of 1491  
higher education, and the other person is enrolled in or attends 1492  
that institution. 1493

(9) The other person, or one of the other persons, is a 1494  
minor, and the offender is the other person's athletic or other 1495  
type of coach, is the other person's instructor, is the leader 1496  
of a scouting troop of which the other person is a member, or is 1497  
a person with temporary or occasional disciplinary control over 1498  
the other person. 1499

(10) The offender is a mental health professional, the 1500  
other person, or one of the other persons, is a mental health 1501  
client or patient of the offender, and the offender induces the 1502  
other person to submit by falsely representing to the other 1503  
person that the sexual conduct is necessary for mental health 1504  
treatment purposes. 1505

(11) The offender is a licensed medical professional, the 1506  
other person, or one of the other persons, is a patient of the 1507  
offender, and the sexual activity occurs in the course of 1508  
medical treatment. 1509

(12) The other person, or one of the other persons, is 1510  
confined in a detention facility, and the offender is an 1511  
employee of that detention facility. 1512

~~(12)~~ (13) The other person, or one of the other persons, 1513  
is a minor, the offender is a cleric, and the other person is a 1514

member of, or attends, the church or congregation served by the 1515  
cleric. 1516

~~(13)~~ (14) The other person, or one of the other persons, 1517  
is a minor, the offender is a peace officer, and the offender is 1518  
more than two years older than the other person. 1519

(B) Whoever violates this section is guilty of sexual 1520  
battery. 1521

~~Except~~ (1) If the sexual activity involved is sexual 1522  
conduct, except as otherwise provided in this division, sexual 1523  
battery is a felony of the third degree. If the other person, or 1524  
one of the other persons, is less than thirteen years of age or 1525  
over and less than eighteen years of age, sexual battery is a 1526  
felony of the second degree, and the court shall impose upon the 1527  
offender a mandatory prison term equal to one of the definite 1528  
prison terms prescribed in division (A) (2) (b) of section 2929.14 1529  
of the Revised Code for a felony of the second degree, except 1530  
that if the violation is committed on or after ~~the effective~~ 1531  
~~date of this amendment~~ March 22, 2019, the court shall impose as 1532  
the minimum prison term for the offense a mandatory prison term 1533  
that is one of the minimum terms prescribed in division (A) (2) 1534  
(a) of that section for a felony of the second degree. 1535

(2) If the sexual activity involved is sexual contact, 1536  
except as otherwise provided in this division, sexual battery is 1537  
a felony of the fifth degree. If the other person, or one of the 1538  
other persons, is less than eighteen years of age, sexual 1539  
battery is a felony of the fourth degree. 1540

(C) As used in this section: 1541

(1) "Cleric" has the same meaning as in section 2317.02 of 1542  
the Revised Code. 1543

(2) "Detention facility" has the same meaning as in 1544  
section 2921.01 of the Revised Code. 1545

(3) "Institution of higher education" means a state 1546  
institution of higher education defined in section 3345.011 of 1547  
the Revised Code, a private nonprofit college or university 1548  
located in this state that possesses a certificate of 1549  
authorization issued by the Ohio board of regents pursuant to 1550  
Chapter 1713. of the Revised Code, or a school certified under 1551  
Chapter 3332. of the Revised Code. 1552

(4) "Peace officer" has the same meaning as in section 1553  
2935.01 of the Revised Code. 1554

(5) "Medical treatment" means in-person examination, 1555  
consultation, health care, treatment, procedure, surgery, or 1556  
other in-person services provided by a licensed medical 1557  
professional under the legal authority conferred by a license or 1558  
certificate. 1559

**Sec. 2907.06.** (A) No person shall have sexual contact with 1560  
another, not the spouse of the offender; cause another, not the 1561  
spouse of the offender, to have sexual contact with the 1562  
offender; or cause two or more other persons to have sexual 1563  
contact when ~~any of the following applies:~~ 1564

~~(1) The the offender knows that the sexual contact is~~ 1565  
~~offensive to the other person, or one of the other persons, or~~ 1566  
~~is reckless in that regard.~~ 1567

~~(2) The offender knows that the other person's, or one of~~ 1568  
~~the other person's, ability to appraise the nature of or control~~ 1569  
~~the offender's or touching person's conduct is substantially~~ 1570  
~~impaired.~~ 1571

~~(3) The offender knows that the other person, or one of~~ 1572

~~the other persons, submits because of being unaware of the~~ 1573  
~~sexual contact.~~ 1574

~~(4) The other person, or one of the other persons, is~~ 1575  
~~thirteen years of age or older but less than sixteen years of~~ 1576  
~~age, whether or not the offender knows the age of such person,~~ 1577  
~~and the offender is at least eighteen years of age and four or~~ 1578  
~~more years older than such other person.~~ 1579

~~(5) The offender is a mental health professional, the~~ 1580  
~~other person or one of the other persons is a mental health~~ 1581  
~~client or patient of the offender, and the offender induces the~~ 1582  
~~other person who is the client or patient to submit by falsely~~ 1583  
~~representing to the other person who is the client or patient~~ 1584  
~~that the sexual contact is necessary for mental health treatment~~ 1585  
~~purposes.~~ 1586

(B) No person shall be convicted of a violation of this 1587  
section solely upon the victim's testimony unsupported by other 1588  
evidence. 1589

(C) Whoever violates this section is guilty of sexual 1590  
imposition, a misdemeanor of the third degree. If the offender 1591  
previously has been convicted of or pleaded guilty to a 1592  
violation of this section or of section 2907.02, 2907.03, 1593  
2907.04, or 2907.05, or former section 2907.12 of the Revised 1594  
Code, a violation of this section is a misdemeanor of the first 1595  
degree. If the offender previously has been convicted of or 1596  
pleaded guilty to three or more violations of this section or 1597  
section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 1598  
2907.12 of the Revised Code, or of any combination of those 1599  
sections, a violation of this section is a misdemeanor of the 1600  
first degree and, notwithstanding the range of jail terms 1601  
prescribed in section 2929.24 of the Revised Code, the court may 1602

impose on the offender a definite jail term of not more than one 1603  
year. 1604

**Sec. 2907.17.** If a mental health professional or a 1605  
licensed medical professional is indicted or charged and bound 1606  
over to the court of common pleas for trial for an alleged 1607  
violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1608  
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1609  
whichever is applicable, the prosecuting attorney handling the 1610  
case shall send written notice of the indictment or the charge 1611  
and bind over to the regulatory or licensing board or agency, if 1612  
any, that has the administrative authority to suspend or revoke 1613  
the mental health professional's or licensed medical 1614  
professional's professional license, certification, 1615  
registration, or authorization. 1616

**Sec. 2907.18.** If a mental health professional or a 1617  
licensed medical professional is convicted of or pleads guilty 1618  
to a violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1619  
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1620  
whichever is applicable, the court shall transmit a certified 1621  
copy of the judgment entry of conviction to the regulatory or 1622  
licensing board or agency, if any, that has the administrative 1623  
authority to suspend or revoke the mental health professional's 1624  
or licensed medical professional's professional license, 1625  
certification, registration, or authorization. 1626

**Sec. 2921.22.** (A) (1) Except as provided in division (A) (2) 1627  
of this section, no person, knowing that a felony has been or is 1628  
being committed, shall knowingly fail to report such information 1629  
to law enforcement authorities. 1630

(2) No person, knowing that a violation of division (B) of 1631  
section 2913.04 of the Revised Code has been, or is being 1632



committed or that the person has received information derived 1633  
from such a violation, shall knowingly fail to report the 1634  
violation to law enforcement authorities. 1635

(B) Except for conditions that are within the scope of 1636  
division (E) of this section, no person giving aid to a sick or 1637  
injured person shall negligently fail to report to law 1638  
enforcement authorities any gunshot or stab wound treated or 1639  
observed by the person, or any serious physical harm to persons 1640  
that the person knows or has reasonable cause to believe 1641  
resulted from an offense of violence. 1642

(C) No person who discovers the body or acquires the first 1643  
knowledge of the death of a person shall fail to report the 1644  
death immediately to a physician or advanced practice registered 1645  
nurse whom the person knows to be treating the deceased for a 1646  
condition from which death at such time would not be unexpected, 1647  
or to a law enforcement officer, an ambulance service, an 1648  
emergency squad, or the coroner in a political subdivision in 1649  
which the body is discovered, the death is believed to have 1650  
occurred, or knowledge concerning the death is obtained. For 1651  
purposes of this division, "advanced practice registered nurse" 1652  
does not include a certified registered nurse anesthetist. 1653

(D) No person shall fail to provide upon request of the 1654  
person to whom a report required by division (C) of this section 1655  
was made, or to any law enforcement officer who has reasonable 1656  
cause to assert the authority to investigate the circumstances 1657  
surrounding the death, any facts within the person's knowledge 1658  
that may have a bearing on the investigation of the death. 1659

(E) (1) As used in this division, "burn injury" means any 1660  
of the following: 1661

- (a) Second or third degree burns; 1662
- (b) Any burns to the upper respiratory tract or laryngeal 1663  
edema due to the inhalation of superheated air; 1664
- (c) Any burn injury or wound that may result in death; 1665
- (d) Any physical harm to persons caused by or as the 1666  
result of the use of fireworks, novelties and trick noisemakers, 1667  
and wire sparklers, as each is defined by section 3743.01 of the 1668  
Revised Code. 1669
- (2) No physician, nurse, physician assistant, or limited 1670  
practitioner who, outside a hospital, sanitarium, or other 1671  
medical facility, attends or treats a person who has sustained a 1672  
burn injury that is inflicted by an explosion or other 1673  
incendiary device or that shows evidence of having been 1674  
inflicted in a violent, malicious, or criminal manner shall fail 1675  
to report the burn injury immediately to the local arson, or 1676  
fire and explosion investigation, bureau, if there is a bureau 1677  
of this type in the jurisdiction in which the person is attended 1678  
or treated, or otherwise to local law enforcement authorities. 1679
- (3) No manager, superintendent, or other person in charge 1680  
of a hospital, sanitarium, or other medical facility in which a 1681  
person is attended or treated for any burn injury that is 1682  
inflicted by an explosion or other incendiary device or that 1683  
shows evidence of having been inflicted in a violent, malicious, 1684  
or criminal manner shall fail to report the burn injury 1685  
immediately to the local arson, or fire and explosion 1686  
investigation, bureau, if there is a bureau of this type in the 1687  
jurisdiction in which the person is attended or treated, or 1688  
otherwise to local law enforcement authorities. 1689
- (4) No person who is required to report any burn injury 1690

under division (E) (2) or (3) of this section shall fail to file, 1691  
within three working days after attending or treating the 1692  
victim, a written report of the burn injury with the office of 1693  
the state fire marshal. The report shall comply with the uniform 1694  
standard developed by the state fire marshal pursuant to 1695  
division (A) (15) of section 3737.22 of the Revised Code. 1696

(5) Anyone participating in the making of reports under 1697  
division (E) of this section or anyone participating in a 1698  
judicial proceeding resulting from the reports is immune from 1699  
any civil or criminal liability that otherwise might be incurred 1700  
or imposed as a result of such actions. Notwithstanding section 1701  
4731.22 of the Revised Code, the physician-patient relationship 1702  
or advanced practice registered nurse-patient relationship is 1703  
not a ground for excluding evidence regarding a person's burn 1704  
injury or the cause of the burn injury in any judicial 1705  
proceeding resulting from a report submitted under division (E) 1706  
of this section. 1707

(F) (1) No person who knows, or has reasonable cause to 1708  
suspect based on facts that would cause a reasonable person in a 1709  
similar position to suspect, that a licensed medical 1710  
professional has committed an offense under Chapter 2907. of the 1711  
Revised Code, a violation of a municipal ordinance that is 1712  
substantially equivalent to such offense, or a substantially 1713  
equivalent criminal offense in another jurisdiction, against a 1714  
patient of the licensed medical professional shall fail to 1715  
report such knowledge or reasonable cause to suspect to law 1716  
enforcement authorities within thirty days of obtaining the 1717  
knowledge or reasonable cause to suspect. 1718

(2) Except for a self-report or participation in the 1719  
offense or violation being reported, any person who makes a 1720

report within the thirty-day period provided in division (F) (1) 1721  
of this section or any person who participates in a judicial 1722  
proceeding that results from such report is immune from civil or 1723  
criminal liability that otherwise might be incurred or imposed 1724  
as a result of making that report or participating in that 1725  
proceeding so long as the person is acting in good faith without 1726  
fraud or malice. 1727

(3) The physician-patient relationship or physician 1728  
assistant-patient relationship is not a ground for excluding 1729  
evidence regarding the person's knowledge of, or reasonable 1730  
cause to suspect, a licensed medical professional's commission 1731  
of an offense or violation reported under division (F) (1) of 1732  
this section, against that licensed medical professional in any 1733  
judicial proceeding resulting from a report made under that 1734  
division. 1735

(4) As used in division (F) of this section, "licensed 1736  
medical professional" has the same meaning as in section 2907.01 1737  
of the Revised Code. 1738

(G) (1) Any doctor of medicine or osteopathic medicine, 1739  
hospital intern or resident, nurse, psychologist, social worker, 1740  
independent social worker, social work assistant, licensed 1741  
professional clinical counselor, licensed professional 1742  
counselor, independent marriage and family therapist, or 1743  
marriage and family therapist who knows or has reasonable cause 1744  
to believe that a patient or client has been the victim of 1745  
domestic violence, as defined in section 3113.31 of the Revised 1746  
Code, shall note that knowledge or belief and the basis for it 1747  
in the patient's or client's records. 1748

(2) Notwithstanding section 4731.22 of the Revised Code, 1749  
the physician-patient privilege or advanced practice registered 1750

nurse-patient privilege shall not be a ground for excluding any 1751  
information regarding the report containing the knowledge or 1752  
belief noted under division ~~(F) (1)~~ (G) (1) of this section, and 1753  
the information may be admitted as evidence in accordance with 1754  
the Rules of Evidence. 1755

~~(G)~~ (H) Divisions (A) and (D) of this section do not 1756  
require disclosure of information, when any of the following 1757  
applies: 1758

(1) The information is privileged by reason of the 1759  
relationship between attorney and client; physician and patient; 1760  
advanced practice registered nurse and patient; licensed 1761  
psychologist or licensed school psychologist and client; 1762  
licensed professional clinical counselor, licensed professional 1763  
counselor, independent social worker, social worker, independent 1764  
marriage and family therapist, or marriage and family therapist 1765  
and client; member of the clergy, rabbi, minister, or priest and 1766  
any person communicating information confidentially to the 1767  
member of the clergy, rabbi, minister, or priest for a religious 1768  
counseling purpose of a professional character; husband and 1769  
wife; or a communications assistant and those who are a party to 1770  
a telecommunications relay service call. 1771

(2) The information would tend to incriminate a member of 1772  
the actor's immediate family. 1773

(3) Disclosure of the information would amount to 1774  
revealing a news source, privileged under section 2739.04 or 1775  
2739.12 of the Revised Code. 1776

(4) Disclosure of the information would amount to 1777  
disclosure by a member of the ordained clergy of an organized 1778  
religious body of a confidential communication made to that 1779

member of the clergy in that member's capacity as a member of 1780  
the clergy by a person seeking the aid or counsel of that member 1781  
of the clergy. 1782

(5) Disclosure would amount to revealing information 1783  
acquired by the actor in the course of the actor's duties in 1784  
connection with a bona fide program of treatment or services for 1785  
persons with drug dependencies or persons in danger of drug 1786  
dependence, which program is maintained or conducted by a 1787  
hospital, clinic, person, agency, or community addiction 1788  
services provider whose alcohol and drug addiction services are 1789  
certified pursuant to section 5119.36 of the Revised Code. 1790

(6) Disclosure would amount to revealing information 1791  
acquired by the actor in the course of the actor's duties in 1792  
connection with a bona fide program for providing counseling 1793  
services to victims of crimes that are violations of section 1794  
2907.02 or 2907.05 of the Revised Code or to victims of 1795  
felonious sexual penetration in violation of former section 1796  
2907.12 of the Revised Code. As used in this division, 1797  
"counseling services" include services provided in an informal 1798  
setting by a person who, by education or experience, is 1799  
competent to provide those services. 1800

~~(H)~~ (I) No disclosure of information pursuant to this 1801  
section gives rise to any liability or recrimination for a 1802  
breach of privilege or confidence. 1803

~~(I)~~ (J) Whoever violates division (A) ~~or~~, (B), or (F) (1) 1804  
of this section is guilty of failure to report a crime. 1805  
Violation of division (A) (1) or (F) (1) of this section is a 1806  
misdemeanor of the fourth degree. Violation of division (A) (2) 1807  
or (B) of this section is a misdemeanor of the second degree. 1808

~~(J)~~ (K) Whoever violates division (C) or (D) of this 1809  
section is guilty of failure to report knowledge of a death, a 1810  
misdemeanor of the fourth degree. 1811

~~(K)~~ ~~(1)~~ (L) (1) Whoever negligently violates division (E) of 1812  
this section is guilty of a minor misdemeanor. 1813

(2) Whoever knowingly violates division (E) of this 1814  
section is guilty of a misdemeanor of the second degree. 1815

~~(I)~~ (M) As used in this section, "nurse" includes an 1816  
advanced practice registered nurse, registered nurse, and 1817  
licensed practical nurse. 1818

**Sec. 2929.42.** (A) The prosecutor in any case against any 1819  
person licensed, certified, registered, or otherwise authorized 1820  
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1821  
4731., 4734., ~~or 4741., 4759., 4760., 4761., 4762., 4774., or~~ 1822  
4778. of the Revised Code shall notify the appropriate licensing 1823  
board, on forms provided by the board, of any of the following 1824  
regarding the person: 1825

(1) A plea of guilty to, or a conviction of, a felony, or 1826  
a court order dismissing a felony charge on technical or 1827  
procedural grounds; 1828

(2) A plea of guilty to, or a conviction of, a misdemeanor 1829  
committed in the course of practice or in the course of 1830  
business, or a court order dismissing such a misdemeanor charge 1831  
on technical or procedural grounds; 1832

(3) A plea of guilty to, or a conviction of, a misdemeanor 1833  
involving moral turpitude, or a court order dismissing such a 1834  
charge on technical or procedural grounds. 1835

(B) The report required by division (A) of this section 1836

shall include the name and address of the person, the nature of 1837  
the offense, and certified copies of court entries in the 1838  
action. 1839

**Sec. 2950.01.** As used in this chapter, unless the context 1840  
clearly requires otherwise: 1841

(A) "Sexually oriented offense" means any of the following 1842  
violations or offenses committed by a person, regardless of the 1843  
person's age: 1844

(1) A violation of section 2907.02, 2907.03, 2907.05, 1845  
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 1846  
2907.322, or 2907.323 of the Revised Code; 1847

(2) A violation of section 2907.04 of the Revised Code 1848  
when the offender is less than four years older than the other 1849  
person with whom the offender engaged in sexual conduct, the 1850  
other person did not consent to the sexual conduct, and the 1851  
offender previously has not been convicted of or pleaded guilty 1852  
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1853  
Revised Code or a violation of former section 2907.12 of the 1854  
Revised Code; 1855

(3) A violation of section 2907.04 of the Revised Code 1856  
when the offender is at least four years older than the other 1857  
person with whom the offender engaged in sexual conduct or when 1858  
the offender is less than four years older than the other person 1859  
with whom the offender engaged in sexual conduct and the 1860  
offender previously has been convicted of or pleaded guilty to a 1861  
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1862  
Code or a violation of former section 2907.12 of the Revised 1863  
Code; 1864

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 1865



the Revised Code when the violation was committed with a sexual 1866  
motivation; 1867

(5) A violation of division (A) of section 2903.04 of the 1868  
Revised Code when the offender committed or attempted to commit 1869  
the felony that is the basis of the violation with a sexual 1870  
motivation; 1871

(6) A violation of division (A) (3) of section 2903.211 of 1872  
the Revised Code; 1873

(7) A violation of division (A) (1), (2), (3), or (5) of 1874  
section 2905.01 of the Revised Code when the offense is 1875  
committed with a sexual motivation; 1876

(8) A violation of division (A) (4) of section 2905.01 of 1877  
the Revised Code; 1878

(9) A violation of division (B) of section 2905.01 of the 1879  
Revised Code when the victim of the offense is under eighteen 1880  
years of age and the offender is not a parent of the victim of 1881  
the offense; 1882

(10) A violation of division (B) of section 2903.03, of 1883  
division (B) of section 2905.02, of division (B) of section 1884  
2905.03, of division (B) of section 2905.05, or of division (B) 1885  
(5) of section 2919.22 of the Revised Code; 1886

(11) A violation of section 2905.32 of the Revised Code 1887  
when either of the following applies: 1888

(a) The violation is a violation of division (A) (1) of 1889  
that section and the offender knowingly recruited, lured, 1890  
enticed, isolated, harbored, transported, provided, obtained, or 1891  
maintained, or knowingly attempted to recruit, lure, entice, 1892  
isolate, harbor, transport, provide, obtain, or maintain, 1893

another person knowing that the person would be compelled to 1894  
engage in sexual activity for hire, engage in a performance that 1895  
was obscene, sexually oriented, or nudity oriented, or be a 1896  
model or participant in the production of material that was 1897  
obscene, sexually oriented, or nudity oriented. 1898

(b) The violation is a violation of division (A) (2) of 1899  
that section and the offender knowingly recruited, lured, 1900  
enticed, isolated, harbored, transported, provided, obtained, or 1901  
maintained, or knowingly attempted to recruit, lure, entice, 1902  
isolate, harbor, transport, provide, obtain, or maintain a 1903  
person who is less than eighteen years of age or is a person 1904  
with a developmental disability whom the offender knows or has 1905  
reasonable cause to believe is a person with a developmental 1906  
disability for any purpose listed in divisions (A) (2) (a) to (c) 1907  
of that section. 1908

(12) A violation of division (B) (4) of section 2907.09 of 1909  
the Revised Code if the sentencing court classifies the offender 1910  
as a tier I sex offender/child-victim offender relative to that 1911  
offense pursuant to division (D) of that section; 1912

(13) A violation of any former law of this state, any 1913  
existing or former municipal ordinance or law of another state 1914  
or the United States, any existing or former law applicable in a 1915  
military court or in an Indian tribal court, or any existing or 1916  
former law of any nation other than the United States that is or 1917  
was substantially equivalent to any offense listed in division 1918  
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or 1919  
(12) of this section; 1920

(14) Any attempt to commit, conspiracy to commit, or 1921  
complicity in committing any offense listed in division (A) (1), 1922  
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 1923

(13) of this section. 1924

(B) (1) "Sex offender" means, subject to division (B) (2) of 1925  
this section, a person who is convicted of, pleads guilty to, 1926  
has been convicted of, has pleaded guilty to, is adjudicated a 1927  
delinquent child for committing, or has been adjudicated a 1928  
delinquent child for committing any sexually oriented offense. 1929

(2) "Sex offender" does not include a person who is 1930  
convicted of, pleads guilty to, has been convicted of, has 1931  
pleaded guilty to, is adjudicated a delinquent child for 1932  
committing, or has been adjudicated a delinquent child for 1933  
committing a sexually oriented offense if the offense involves 1934  
consensual sexual conduct or consensual sexual contact and 1935  
either of the following applies: 1936

(a) The victim of the sexually oriented offense was 1937  
eighteen years of age or older and at the time of the sexually 1938  
oriented offense was not under the custodial authority of the 1939  
person who is convicted of, pleads guilty to, has been convicted 1940  
of, has pleaded guilty to, is adjudicated a delinquent child for 1941  
committing, or has been adjudicated a delinquent child for 1942  
committing the sexually oriented offense. 1943

(b) The victim of the offense was thirteen years of age or 1944  
older, and the person who is convicted of, pleads guilty to, has 1945  
been convicted of, has pleaded guilty to, is adjudicated a 1946  
delinquent child for committing, or has been adjudicated a 1947  
delinquent child for committing the sexually oriented offense is 1948  
not more than four years older than the victim. 1949

(C) "Child-victim oriented offense" means any of the 1950  
following violations or offenses committed by a person, 1951  
regardless of the person's age, when the victim is under 1952

eighteen years of age and is not a child of the person who 1953  
commits the violation: 1954

(1) A violation of division (A)(1), (2), (3), or (5) of 1955  
section 2905.01 of the Revised Code when the violation is not 1956  
included in division (A)(7) of this section; 1957

(2) A violation of division (A) of section 2905.02, 1958  
division (A) of section 2905.03, or division (A) of section 1959  
2905.05 of the Revised Code; 1960

(3) A violation of any former law of this state, any 1961  
existing or former municipal ordinance or law of another state 1962  
or the United States, any existing or former law applicable in a 1963  
military court or in an Indian tribal court, or any existing or 1964  
former law of any nation other than the United States that is or 1965  
was substantially equivalent to any offense listed in division 1966  
(C)(1) or (2) of this section; 1967

(4) Any attempt to commit, conspiracy to commit, or 1968  
complicity in committing any offense listed in division (C)(1), 1969  
(2), or (3) of this section. 1970

(D) "Child-victim offender" means a person who is 1971  
convicted of, pleads guilty to, has been convicted of, has 1972  
pleaded guilty to, is adjudicated a delinquent child for 1973  
committing, or has been adjudicated a delinquent child for 1974  
committing any child-victim oriented offense. 1975

(E) "Tier I sex offender/child-victim offender" means any 1976  
of the following: 1977

(1) A sex offender who is convicted of, pleads guilty to, 1978  
has been convicted of, or has pleaded guilty to any of the 1979  
following sexually oriented offenses: 1980

(a) A violation of section 2907.06, 2907.07, 2907.08,	1981
2907.22, or 2907.32 of the Revised Code;	1982
(b) A violation of section 2907.04 of the Revised Code	1983
when the offender is less than four years older than the other	1984
person with whom the offender engaged in sexual conduct, the	1985
other person did not consent to the sexual conduct, and the	1986
offender previously has not been convicted of or pleaded guilty	1987
to a violation of section 2907.02, 2907.03, or 2907.04 of the	1988
Revised Code or a violation of former section 2907.12 of the	1989
Revised Code;	1990
(c) A violation of division (A) (1), (2), (3), or (5) of	1991
section 2907.05 of the Revised Code;	1992
(d) A violation of division (A) (3) of section 2907.323 of	1993
the Revised Code;	1994
(e) A violation of division (A) (3) of section 2903.211, of	1995
division (B) of section 2905.03, or of division (B) of section	1996
2905.05 of the Revised Code;	1997
(f) A violation of division (B) (4) of section 2907.09 of	1998
the Revised Code if the sentencing court classifies the offender	1999
as a tier I sex offender/child-victim offender relative to that	2000
offense pursuant to division (D) of that section;	2001
(g) A violation of any former law of this state, any	2002
existing or former municipal ordinance or law of another state	2003
or the United States, any existing or former law applicable in a	2004
military court or in an Indian tribal court, or any existing or	2005
former law of any nation other than the United States, that is	2006
or was substantially equivalent to any offense listed in	2007
division (E) (1) (a), (b), (c), (d), (e), or (f) of this section;	2008
(h) Any attempt to commit, conspiracy to commit, or	2009

complicity in committing any offense listed in division (E) (1)	2010
(a), (b), (c), (d), (e), (f), or (g) of this section.	2011
(2) A child-victim offender who is convicted of, pleads	2012
guilty to, has been convicted of, or has pleaded guilty to a	2013
child-victim oriented offense and who is not within either	2014
category of child-victim offender described in division (F) (2)	2015
or (G) (2) of this section.	2016
(3) A sex offender who is adjudicated a delinquent child	2017
for committing or has been adjudicated a delinquent child for	2018
committing any sexually oriented offense and who a juvenile	2019
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85	2020
of the Revised Code, classifies a tier I sex offender/child-	2021
victim offender relative to the offense.	2022
(4) A child-victim offender who is adjudicated a	2023
delinquent child for committing or has been adjudicated a	2024
delinquent child for committing any child-victim oriented	2025
offense and who a juvenile court, pursuant to section 2152.82,	2026
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a	2027
tier I sex offender/child-victim offender relative to the	2028
offense.	2029
(F) "Tier II sex offender/child-victim offender" means any	2030
of the following:	2031
(1) A sex offender who is convicted of, pleads guilty to,	2032
has been convicted of, or has pleaded guilty to any of the	2033
following sexually oriented offenses:	2034
(a) A violation of section 2907.21, 2907.321, or 2907.322	2035
of the Revised Code;	2036
(b) A violation of section 2907.04 of the Revised Code	2037
when the offender is at least four years older than the other	2038

person with whom the offender engaged in sexual conduct, or when 2039  
the offender is less than four years older than the other person 2040  
with whom the offender engaged in sexual conduct and the 2041  
offender previously has been convicted of or pleaded guilty to a 2042  
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 2043  
Code or former section 2907.12 of the Revised Code; 2044

(c) A violation of section 2907.03 of the Revised Code if 2045  
the sexual activity involved is sexual contact; 2046

(d) A violation of division (A) (4) of section 2907.05 or 2047  
of division (A) (1) or (2) of section 2907.323 of the Revised 2048  
Code; 2049

~~(d)~~ (e) A violation of division (A) (1), (2), (3), or (5) 2050  
of section 2905.01 of the Revised Code when the offense is 2051  
committed with a sexual motivation; 2052

~~(e)~~ (f) A violation of division (A) (4) of section 2905.01 2053  
of the Revised Code when the victim of the offense is eighteen 2054  
years of age or older; 2055

~~(f)~~ (g) A violation of division (B) of section 2905.02 or 2056  
of division (B) (5) of section 2919.22 of the Revised Code; 2057

~~(g)~~ (h) A violation of section 2905.32 of the Revised Code 2058  
that is described in division (A) (11) (a) or (b) of this section; 2059

~~(h)~~ (i) A violation of any former law of this state, any 2060  
existing or former municipal ordinance or law of another state 2061  
or the United States, any existing or former law applicable in a 2062  
military court or in an Indian tribal court, or any existing or 2063  
former law of any nation other than the United States that is or 2064  
was substantially equivalent to any offense listed in division 2065  
(F) (1) (a), (b), (c), (d), (e), (f), ~~or (g)~~, or (h) of this 2066  
section; 2067

~~(i)~~ (j) Any attempt to commit, conspiracy to commit, or 2068  
complicity in committing any offense listed in division (F) (1) 2069  
(a), (b), (c), (d), (e), (f), (g), ~~or~~ (h), or (i) of this 2070  
section; 2071

~~(j)~~ (k) Any sexually oriented offense that is committed 2072  
after the sex offender previously has been convicted of, pleaded 2073  
guilty to, or has been adjudicated a delinquent child for 2074  
committing any sexually oriented offense or child-victim 2075  
oriented offense for which the offender was classified a tier I 2076  
sex offender/child-victim offender. 2077

(2) A child-victim offender who is convicted of, pleads 2078  
guilty to, has been convicted of, or has pleaded guilty to any 2079  
child-victim oriented offense when the child-victim oriented 2080  
offense is committed after the child-victim offender previously 2081  
has been convicted of, pleaded guilty to, or been adjudicated a 2082  
delinquent child for committing any sexually oriented offense or 2083  
child-victim oriented offense for which the offender was 2084  
classified a tier I sex offender/child-victim offender. 2085

(3) A sex offender who is adjudicated a delinquent child 2086  
for committing or has been adjudicated a delinquent child for 2087  
committing any sexually oriented offense and who a juvenile 2088  
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2089  
of the Revised Code, classifies a tier II sex offender/child- 2090  
victim offender relative to the offense. 2091

(4) A child-victim offender who is adjudicated a 2092  
delinquent child for committing or has been adjudicated a 2093  
delinquent child for committing any child-victim oriented 2094  
offense and whom a juvenile court, pursuant to section 2152.82, 2095  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2096  
tier II sex offender/child-victim offender relative to the 2097



current offense. 2098

(5) A sex offender or child-victim offender who is not in 2099  
any category of tier II sex offender/child-victim offender set 2100  
forth in division (F)(1), (2), (3), or (4) of this section, who 2101  
prior to January 1, 2008, was adjudicated a delinquent child for 2102  
committing a sexually oriented offense or child-victim oriented 2103  
offense, and who prior to that date was determined to be a 2104  
habitual sex offender or determined to be a habitual child- 2105  
victim offender, unless either of the following applies: 2106

(a) The sex offender or child-victim offender is 2107  
reclassified pursuant to section 2950.031 or 2950.032 of the 2108  
Revised Code as a tier I sex offender/child-victim offender or a 2109  
tier III sex offender/child-victim offender relative to the 2110  
offense. 2111

(b) A juvenile court, pursuant to section 2152.82, 2112  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the 2113  
child a tier I sex offender/child-victim offender or a tier III 2114  
sex offender/child-victim offender relative to the offense. 2115

(G) "Tier III sex offender/child-victim offender" means 2116  
any of the following: 2117

(1) A sex offender who is convicted of, pleads guilty to, 2118  
has been convicted of, or has pleaded guilty to any of the 2119  
following sexually oriented offenses: 2120

(a) A violation of section 2907.02 of the Revised Code or 2121  
a violation of section 2907.03 of the Revised Code if the sexual 2122  
activity involved is sexual conduct; 2123

(b) A violation of division (B) of section 2907.05 of the 2124  
Revised Code; 2125

(c) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;	2126 2127 2128
(d) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;	2129 2130 2131 2132
(e) A violation of division (A) (4) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age;	2133 2134 2135
(f) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;	2136 2137 2138 2139
(g) A violation of division (B) of section 2903.03 of the Revised Code;	2140 2141
(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section;	2142 2143 2144 2145 2146 2147 2148
(i) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (G) (1) (a), (b), (c), (d), (e), (f), (g), or (h) of this section;	2149 2150 2151
(j) Any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing	2152 2153 2154

any sexually oriented offense or child-victim oriented offense 2155  
for which the offender was classified a tier II sex 2156  
offender/child-victim offender or a tier III sex offender/child- 2157  
victim offender. 2158

(2) A child-victim offender who is convicted of, pleads 2159  
guilty to, has been convicted of, or has pleaded guilty to any 2160  
child-victim oriented offense when the child-victim oriented 2161  
offense is committed after the child-victim offender previously 2162  
has been convicted of, pleaded guilty to, or been adjudicated a 2163  
delinquent child for committing any sexually oriented offense or 2164  
child-victim oriented offense for which the offender was 2165  
classified a tier II sex offender/child-victim offender or a 2166  
tier III sex offender/child-victim offender. 2167

(3) A sex offender who is adjudicated a delinquent child 2168  
for committing or has been adjudicated a delinquent child for 2169  
committing any sexually oriented offense and who a juvenile 2170  
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2171  
of the Revised Code, classifies a tier III sex offender/child- 2172  
victim offender relative to the offense. 2173

(4) A child-victim offender who is adjudicated a 2174  
delinquent child for committing or has been adjudicated a 2175  
delinquent child for committing any child-victim oriented 2176  
offense and whom a juvenile court, pursuant to section 2152.82, 2177  
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2178  
tier III sex offender/child-victim offender relative to the 2179  
current offense. 2180

(5) A sex offender or child-victim offender who is not in 2181  
any category of tier III sex offender/child-victim offender set 2182  
forth in division (G)(1), (2), (3), or (4) of this section, who 2183  
prior to January 1, 2008, was convicted of or pleaded guilty to 2184

a sexually oriented offense or child-victim oriented offense or 2185  
was adjudicated a delinquent child for committing a sexually 2186  
oriented offense or child-victim oriented offense and classified 2187  
a juvenile offender registrant, and who prior to that date was 2188  
adjudicated a sexual predator or adjudicated a child-victim 2189  
predator, unless either of the following applies: 2190

(a) The sex offender or child-victim offender is 2191  
reclassified pursuant to section 2950.031 or 2950.032 of the 2192  
Revised Code as a tier I sex offender/child-victim offender or a 2193  
tier II sex offender/child-victim offender relative to the 2194  
offense. 2195

(b) The sex offender or child-victim offender is a 2196  
delinquent child, and a juvenile court, pursuant to section 2197  
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 2198  
classifies the child a tier I sex offender/child-victim offender 2199  
or a tier II sex offender/child-victim offender relative to the 2200  
offense. 2201

(6) A sex offender who is convicted of, pleads guilty to, 2202  
was convicted of, or pleaded guilty to a sexually oriented 2203  
offense, if the sexually oriented offense and the circumstances 2204  
in which it was committed are such that division (F) of section 2205  
2971.03 of the Revised Code automatically classifies the 2206  
offender as a tier III sex offender/child-victim offender; 2207

(7) A sex offender or child-victim offender who is 2208  
convicted of, pleads guilty to, was convicted of, pleaded guilty 2209  
to, is adjudicated a delinquent child for committing, or was 2210  
adjudicated a delinquent child for committing a sexually 2211  
oriented offense or child-victim offense in another state, in a 2212  
federal court, military court, or Indian tribal court, or in a 2213  
court in any nation other than the United States if both of the 2214

following apply: 2215

(a) Under the law of the jurisdiction in which the 2216  
offender was convicted or pleaded guilty or the delinquent child 2217  
was adjudicated, the offender or delinquent child is in a 2218  
category substantially equivalent to a category of tier III sex 2219  
offender/child-victim offender described in division (G) (1), 2220  
(2), (3), (4), (5), or (6) of this section. 2221

(b) Subsequent to the conviction, plea of guilty, or 2222  
adjudication in the other jurisdiction, the offender or 2223  
delinquent child resides, has temporary domicile, attends school 2224  
or an institution of higher education, is employed, or intends 2225  
to reside in this state in any manner and for any period of time 2226  
that subjects the offender or delinquent child to a duty to 2227  
register or provide notice of intent to reside under section 2228  
2950.04 or 2950.041 of the Revised Code. 2229

(H) "Confinement" includes, but is not limited to, a 2230  
community residential sanction imposed pursuant to section 2231  
2929.16 or 2929.26 of the Revised Code. 2232

(I) "Prosecutor" has the same meaning as in section 2233  
2935.01 of the Revised Code. 2234

(J) "Supervised release" means a release of an offender 2235  
from a prison term, a term of imprisonment, or another type of 2236  
confinement that satisfies either of the following conditions: 2237

(1) The release is on parole, a conditional pardon, under 2238  
a community control sanction, under transitional control, or 2239  
under a post-release control sanction, and it requires the 2240  
person to report to or be supervised by a parole officer, 2241  
probation officer, field officer, or another type of supervising 2242  
officer. 2243

(2) The release is any type of release that is not 2244  
described in division (J) (1) of this section and that requires 2245  
the person to report to or be supervised by a probation officer, 2246  
a parole officer, a field officer, or another type of 2247  
supervising officer. 2248

(K) "Sexually violent predator specification," "sexually 2249  
violent predator," "sexually violent offense," "sexual 2250  
motivation specification," "designated homicide, assault, or 2251  
kidnapping offense," and "violent sex offense" have the same 2252  
meanings as in section 2971.01 of the Revised Code. 2253

(L) "Post-release control sanction" and "transitional 2254  
control" have the same meanings as in section 2967.01 of the 2255  
Revised Code. 2256

(M) "Juvenile offender registrant" means a person who is 2257  
adjudicated a delinquent child for committing on or after 2258  
January 1, 2002, a sexually oriented offense or a child-victim 2259  
oriented offense, who is fourteen years of age or older at the 2260  
time of committing the offense, and who a juvenile court judge, 2261  
pursuant to an order issued under section 2152.82, 2152.83, 2262  
2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a 2263  
juvenile offender registrant and specifies has a duty to comply 2264  
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 2265  
Revised Code. "Juvenile offender registrant" includes a person 2266  
who prior to January 1, 2008, was a "juvenile offender 2267  
registrant" under the definition of the term in existence prior 2268  
to January 1, 2008, and a person who prior to July 31, 2003, was 2269  
a "juvenile sex offender registrant" under the former definition 2270  
of that former term. 2271

(N) "Public registry-qualified juvenile offender 2272  
registrant" means a person who is adjudicated a delinquent child 2273

and on whom a juvenile court has imposed a serious youthful 2274  
offender dispositional sentence under section 2152.13 of the 2275  
Revised Code before, on, or after January 1, 2008, and to whom 2276  
all of the following apply: 2277

(1) The person is adjudicated a delinquent child for 2278  
committing, attempting to commit, conspiring to commit, or 2279  
complicity in committing one of the following acts: 2280

(a) A violation of section 2907.02 of the Revised Code, 2281  
division (B) of section 2907.05 of the Revised Code, or section 2282  
2907.03 of the Revised Code if the victim of the violation was 2283  
less than twelve years of age; 2284

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 2285  
the Revised Code that was committed with a purpose to gratify 2286  
the sexual needs or desires of the child; 2287

(c) A violation of division (B) of section 2903.03 of the 2288  
Revised Code. 2289

(2) The person was fourteen, fifteen, sixteen, or 2290  
seventeen years of age at the time of committing the act. 2291

(3) A juvenile court judge, pursuant to an order issued 2292  
under section 2152.86 of the Revised Code, classifies the person 2293  
a juvenile offender registrant, specifies the person has a duty 2294  
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2295  
Revised Code, and classifies the person a public registry- 2296  
qualified juvenile offender registrant, and the classification 2297  
of the person as a public registry-qualified juvenile offender 2298  
registrant has not been terminated pursuant to division (D) of 2299  
section 2152.86 of the Revised Code. 2300

(O) "Secure facility" means any facility that is designed 2301  
and operated to ensure that all of its entrances and exits are 2302

locked and under the exclusive control of its staff and to 2303  
ensure that, because of that exclusive control, no person who is 2304  
institutionalized or confined in the facility may leave the 2305  
facility without permission or supervision. 2306

(P) "Out-of-state juvenile offender registrant" means a 2307  
person who is adjudicated a delinquent child in a court in 2308  
another state, in a federal court, military court, or Indian 2309  
tribal court, or in a court in any nation other than the United 2310  
States for committing a sexually oriented offense or a child- 2311  
victim oriented offense, who on or after January 1, 2002, moves 2312  
to and resides in this state or temporarily is domiciled in this 2313  
state for more than five days, and who has a duty under section 2314  
2950.04 or 2950.041 of the Revised Code to register in this 2315  
state and the duty to otherwise comply with that applicable 2316  
section and sections 2950.05 and 2950.06 of the Revised Code. 2317  
"Out-of-state juvenile offender registrant" includes a person 2318  
who prior to January 1, 2008, was an "out-of-state juvenile 2319  
offender registrant" under the definition of the term in 2320  
existence prior to January 1, 2008, and a person who prior to 2321  
July 31, 2003, was an "out-of-state juvenile sex offender 2322  
registrant" under the former definition of that former term. 2323

(Q) "Juvenile court judge" includes a magistrate to whom 2324  
the juvenile court judge confers duties pursuant to division (A) 2325  
(15) of section 2151.23 of the Revised Code. 2326

(R) "Adjudicated a delinquent child for committing a 2327  
sexually oriented offense" includes a child who receives a 2328  
serious youthful offender dispositional sentence under section 2329  
2152.13 of the Revised Code for committing a sexually oriented 2330  
offense. 2331

(S) "School" and "school premises" have the same meanings 2332



as in section 2925.01 of the Revised Code. 2333

(T) "Residential premises" means the building in which a 2334  
residential unit is located and the grounds upon which that 2335  
building stands, extending to the perimeter of the property. 2336  
"Residential premises" includes any type of structure in which a 2337  
residential unit is located, including, but not limited to, 2338  
multi-unit buildings and mobile and manufactured homes. 2339

(U) "Residential unit" means a dwelling unit for 2340  
residential use and occupancy, and includes the structure or 2341  
part of a structure that is used as a home, residence, or 2342  
sleeping place by one person who maintains a household or two or 2343  
more persons who maintain a common household. "Residential unit" 2344  
does not include a halfway house or a community-based 2345  
correctional facility. 2346

(V) "Multi-unit building" means a building in which is 2347  
located more than twelve residential units that have entry doors 2348  
that open directly into the unit from a hallway that is shared 2349  
with one or more other units. A residential unit is not 2350  
considered located in a multi-unit building if the unit does not 2351  
have an entry door that opens directly into the unit from a 2352  
hallway that is shared with one or more other units or if the 2353  
unit is in a building that is not a multi-unit building as 2354  
described in this division. 2355

(W) "Community control sanction" has the same meaning as 2356  
in section 2929.01 of the Revised Code. 2357

(X) "Halfway house" and "community-based correctional 2358  
facility" have the same meanings as in section 2929.01 of the 2359  
Revised Code. 2360

(Y) A person is in a "restricted offender category" if 2361

both of the following apply with respect to the person: 2362

(1) The person has been convicted of, is convicted of, has 2363  
pleaded guilty to, or pleads guilty to a sexually oriented 2364  
offense where the victim was under the age of eighteen or a 2365  
child-victim oriented offense. 2366

(2) With respect to the offense described in division (Y) 2367  
(1) of this section, one of the following applies: 2368

(a) With respect to that offense, the person is a tier II 2369  
sex offender/child-victim offender or is a tier III sex 2370  
offender/child-victim offender who is subject to the duties 2371  
imposed by sections 2950.04, 2950.041, 2950.05, and 2950.06 of 2372  
the Revised Code. 2373

(b) With respect to that offense if it was committed prior 2374  
to January 1, 2008, under the version of Chapter 2950. of the 2375  
Revised Code in effect prior to January 1, 2008, the person was 2376  
adjudicated a sexual predator, was adjudicated a child-victim 2377  
predator, was classified a habitual sex offender, or was 2378  
classified a habitual child-victim sex offender. 2379

(Z) "Adjudicated a sexual predator," "adjudicated a child- 2380  
victim predator," "habitual sex offender," and "habitual child- 2381  
victim offender" have the meanings of those terms that applied 2382  
to them under Chapter 2950. of the Revised Code prior to January 2383  
1, 2008. 2384

**Sec. 2950.151.** (A) As used in this section, "eligible 2385  
offender" means either of the following: 2386

(1) An offender who was convicted of or pleaded guilty to 2387  
a violation of section 2907.04 of the Revised Code to whom all 2388  
of the following apply: 2389

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

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

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

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

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

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

(2) An offender who was convicted of or pleaded guilty to a violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United

States, any existing or former law applicable in a military 2419  
court or in an Indian trial court, or any existing or former law 2420  
of any nation other than the United States that is or was 2421  
substantially equivalent to a violation of section 2907.04 of 2422  
the Revised Code and to whom all of the factors described in 2423  
divisions (A) (1) (a) to (f) of this section apply. For purposes 2424  
of this division: 2425

(a) The reference in division (A) (1) (b) of this section to 2426  
a community control sanction shall be construed as including 2427  
nonprison sanctions under the law of the jurisdiction in which 2428  
the offender was convicted of or pleaded guilty to the violation 2429  
that is or was substantially equivalent to a violation of 2430  
section 2907.04 of the Revised Code; 2431

(b) The reference in division (A) (1) (d) of this section to 2432  
the violations specified in that division shall be construed as 2433  
including substantially equivalent violations under the law of 2434  
the jurisdiction in which the offender was convicted of or 2435  
pleaded guilty to the violation that is or was substantially 2436  
equivalent to a violation of section 2907.04 of the Revised 2437  
Code. 2438

(B) Upon completion of all community control sanctions 2439  
imposed by the sentencing court for the violation of section 2440  
2907.04 of the Revised Code or the violation of the 2441  
substantially equivalent law or ordinance, whichever is 2442  
applicable, an eligible offender may petition the appropriate 2443  
court specified in division (C) of this section to review the 2444  
effectiveness of the offender's participation in community 2445  
control sanctions and to determine whether to terminate the 2446  
offender's duty to comply with sections 2950.04, 2950.05, and 2447  
2950.06 of the Revised Code, reclassify the offender as a tier I 2448

sex offender/child-victim offender, or continue the offender's 2449  
current classification. 2450

(C) Except as otherwise provided in this division, the 2451  
eligible offender shall file the petition described in division 2452  
(B) of this section in the court in which the eligible offender 2453  
was convicted of or pleaded guilty to the offense. If the 2454  
eligible offender was convicted of or pleaded guilty to the 2455  
offense in a jurisdiction other than this state, the eligible 2456  
offender shall file the petition in whichever of the following 2457  
courts is applicable: 2458

(1) If the eligible offender is a resident of this state, 2459  
in the court of common pleas of the county in which the offender 2460  
resides; 2461

(2) If the eligible offender is not a resident of this 2462  
state, in the court of common pleas of the county in which the 2463  
offender has registered pursuant to section 2950.04 of the 2464  
Revised Code. If the offender has registered addresses of that 2465  
nature in more than one county, the offender may file a petition 2466  
in the court of only one of those counties. 2467

(D) An eligible offender who files a petition under 2468  
division (B) of this section shall include all of the following 2469  
with the petition: 2470

(1) A certified copy of the judgment entry and any other 2471  
documentation of the sentence given for the offense for which 2472  
the eligible offender was convicted or pleaded guilty; 2473

(2) Documentation of the date of discharge from probation 2474  
supervision or other supervision, if applicable; 2475

(3) Evidence that the eligible offender has completed a 2476  
sex offender treatment program certified by the department of 2477

rehabilitation and correction pursuant to section 2950.16 of the Revised Code in the county where the offender was sentenced if the completion of such a program is ordered by the court, or, if completion of such a program is ordered by the court and such a program is not available in the county of sentencing, in another county;

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

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

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

(F) Upon the filing of a petition under division (B) of this section, the court shall schedule a hearing to review the eligible offender's petition and all evidence of rehabilitation accompanying the petition. The court shall notify the offender and the prosecutor of the county in which the petition is filed of the date, time, and place of the hearing. Upon receipt of the notice, the prosecutor shall notify the victim of the date, time, and place of the hearing. The victim may submit a written statement to the prosecutor regarding any knowledge the victim has of the eligible offender's conduct while subject to the duties imposed by sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At least seven days before the hearing date, the

prosecutor may file an objection to the petition with the court 2508  
and serve a copy of the objection to the petition on the 2509  
eligible offender or the eligible offender's attorney. In 2510  
addition to considering the evidence and information included 2511  
with the petition as described in division (D) of this section 2512  
and any risk assessment or professional opinion submitted as 2513  
described in division (E) of this section, in determining the 2514  
type of order to enter in response to the petition, the court 2515  
shall consider any objections submitted by the prosecutor and 2516  
any written statement submitted by the victim. After the 2517  
hearing, the court shall enter one of the following orders: 2518

(1) An order to terminate the offender's duty to comply 2519  
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 2520

(2) If the offender is classified a tier II sex 2521  
offender/child-victim offender, an order to reclassify the 2522  
offender from a tier II sex offender/child-victim offender 2523  
classification to a tier I sex offender/child-victim offender 2524  
classification; 2525

(3) If the offender is classified a tier I sex 2526  
offender/child-victim offender or a tier II sex offender/child- 2527  
victim offender, an order to continue the offender's 2528  
classification as a tier I sex offender/child-victim offender or 2529  
tier II sex offender/child-victim offender, whichever is 2530  
applicable, required to comply with sections 2950.04, 2950.05, 2531  
and 2950.06 of the Revised Code. 2532

(G) After issuing an order pursuant to division (F) of 2533  
this section, the court shall provide a copy of the order to the 2534  
eligible offender and the bureau of criminal identification and 2535  
investigation. The bureau, upon receipt of the copy, shall 2536  
promptly notify the sheriff with whom the offender most recently 2537

registered under section 2950.04 or 2950.05 of the Revised Code 2538  
of the court's order. 2539

(H) (1) An order issued under division (F) (2) or (3) of 2540  
this section shall remain in effect for the duration of the 2541  
eligible offender's duty to comply with sections 2950.04, 2542  
2950.05, and 2950.06 of the Revised Code under the 2543  
reclassification or continuation, whichever is applicable, as 2544  
specified in section 2950.07 of the Revised Code, except that an 2545  
eligible offender may refile a petition under this section at 2546  
the time prescribed under division (H) (2) of this section. An 2547  
order issued under division (F) (2) or (3) of this section shall 2548  
not increase the duration of the offender's duty to comply with 2549  
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2550

(2) After the eligible offender's initial petition filed 2551  
under this section, if the court entered an order continuing the 2552  
offender's classification or reclassifying the offender, the 2553  
offender may file a second petition not earlier than three years 2554  
after the court entered the first order. After the second 2555  
petition, the offender may file one subsequent petition not 2556  
earlier than five years after the most recent order continuing 2557  
the offender's classification or reclassifying the offender. A 2558  
petition filed under this division shall comply with the 2559  
requirements described in divisions (C), (D), and (E) of this 2560  
section. 2561

(3) Upon the filing of a second or subsequent petition by 2562  
an eligible offender pursuant to division (H) (2) of this 2563  
section, the court shall schedule a hearing to review any 2564  
previous order entered under this section, consider all of the 2565  
documents previously submitted, and evaluate any new evidence of 2566  
rehabilitation presented with the petition. The court shall 2567



notify the offender and the prosecutor of the county in which 2568  
the petition is filed of the date, time, and place of the 2569  
hearing. Upon receipt of the notice, the prosecutor shall notify 2570  
the victim of the date, time, and place of the hearing. The 2571  
victim may submit a written statement to the prosecutor 2572  
regarding any knowledge the victim has of the eligible 2573  
offender's conduct while subject to the duties imposed by 2574  
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At 2575  
least seven days before the hearing date, the prosecutor may 2576  
file an objection to the petition with the court and serve a 2577  
copy of the objection to the petition on the eligible offender 2578  
or the eligible offender's attorney. In addition to reviewing 2579  
any previous order, considering the documents previously 2580  
submitted, and evaluating any new evidence of rehabilitation 2581  
presented with the petition as described in this division, in 2582  
determining whether to deny the petition or the type of order to 2583  
enter in response to the petition, the court shall consider any 2584  
objections submitted by the prosecutor and any written statement 2585  
submitted by the victim. After the hearing on the petition, the 2586  
court may deny the petition or enter either of the following 2587  
orders: 2588

(a) If the previous order continued the offender's 2589  
classification as a tier II sex offender/child-victim offender, 2590  
an order to reclassify the offender as a tier I sex 2591  
offender/child-victim offender or terminate the offender's duty 2592  
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2593  
Revised Code; 2594

(b) If the previous order reclassified the offender as a 2595  
tier I sex offender/child-victim offender or continued the 2596  
offender's classification as a tier I sex offender/child-victim 2597  
offender, an order to terminate the offender's duty to comply 2598

with sections 2950.04, 2950.05, and 2950.06 of the Revised Code.	2599
<b>Sec. 2971.01.</b> As used in this chapter:	2600
(A) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.	2601 2602
(B) "Designated homicide, assault, or kidnapping offense" means any of the following:	2603 2604
(1) A violation of section 2903.01, 2903.02, 2903.11, or 2905.01 of the Revised Code or a violation of division (A) of section 2903.04 of the Revised Code;	2605 2606 2607
(2) An attempt to commit or complicity in committing a violation listed in division (B) (1) of this section, if the attempt or complicity is a felony.	2608 2609 2610
(C) "Examiner" has the same meaning as in section 2945.371 of the Revised Code.	2611 2612
(D) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	2613 2614
(E) "Prosecuting attorney" means the prosecuting attorney who prosecuted the case of the offender in question or the successor in office to that prosecuting attorney.	2615 2616 2617
(F) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	2618 2619 2620
(G) "Sexually violent offense" means any of the following:	2621
(1) A violent sex offense;	2622
(2) A designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.	2623 2624

(H) (1) "Sexually violent predator" means a person who, on 2625  
or after January 1, 1997, commits a sexually violent offense and 2626  
is likely to engage in the future in one or more sexually 2627  
violent offenses. 2628

(2) For purposes of division (H) (1) of this section, any 2629  
of the following factors may be considered as evidence tending 2630  
to indicate that there is a likelihood that the person will 2631  
engage in the future in one or more sexually violent offenses: 2632

(a) The person has been convicted two or more times, in 2633  
separate criminal actions, of a sexually oriented offense or a 2634  
child-victim oriented offense. For purposes of this division, 2635  
convictions that result from or are connected with the same act 2636  
or result from offenses committed at the same time are one 2637  
conviction, and a conviction set aside pursuant to law is not a 2638  
conviction. 2639

(b) The person has a documented history from childhood, 2640  
into the juvenile developmental years, that exhibits sexually 2641  
deviant behavior. 2642

(c) Available information or evidence suggests that the 2643  
person chronically commits offenses with a sexual motivation. 2644

(d) The person has committed one or more offenses in which 2645  
the person has tortured or engaged in ritualistic acts with one 2646  
or more victims. 2647

(e) The person has committed one or more offenses in which 2648  
one or more victims were physically harmed to the degree that 2649  
the particular victim's life was in jeopardy. 2650

(f) Any other relevant evidence. 2651

(I) "Sexually violent predator specification" means a 2652

specification, as described in section 2941.148 of the Revised Code, that charges that a person charged with a violent sex offense, or a person charged with a designated homicide, assault, or kidnapping offense and a sexual motivation specification, is a sexually violent predator.

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

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

(L) "Violent sex offense" means any of the following:

(1) A violation of section 2907.02, 2907.03 if the sexual activity involved is sexual conduct, or 2907.12 or of division (A) (4) or (B) of section 2907.05 of the Revised Code;

(2) A felony violation of a former law of this state that is substantially equivalent to a violation listed in division (L) (1) of this section or of an existing or former law of the United States or of another state that is substantially equivalent to a violation listed in division (L) (1) of this section;

(3) An attempt to commit or complicity in committing a violation listed in division (L) (1) or (2) of this section if the attempt or complicity is a felony.

**Sec. 3107.07.** Consent to adoption is not required of any of the following:

(A) A parent of a minor, when it is alleged in the

adoption petition and the court, after proper service of notice 2681  
and hearing, finds by clear and convincing evidence that the 2682  
parent has failed without justifiable cause to provide more than 2683  
de minimis contact with the minor or to provide for the 2684  
maintenance and support of the minor as required by law or 2685  
judicial decree for a period of at least one year immediately 2686  
preceding either the filing of the adoption petition or the 2687  
placement of the minor in the home of the petitioner. 2688

(B) The putative father of a minor if either of the 2689  
following applies: 2690

(1) The putative father fails to register as the minor's 2691  
putative father with the putative father registry established 2692  
under section 3107.062 of the Revised Code not later than 2693  
fifteen days after the minor's birth; 2694

(2) The court finds, after proper service of notice and 2695  
hearing, that any of the following are the case: 2696

(a) The putative father is not the father of the minor; 2697

(b) The putative father has willfully abandoned or failed 2698  
to care for and support the minor; 2699

(c) The putative father has willfully abandoned the mother 2700  
of the minor during her pregnancy and up to the time of her 2701  
surrender of the minor, or the minor's placement in the home of 2702  
the petitioner, whichever occurs first. 2703

(C) Except as provided in section 3107.071 of the Revised 2704  
Code, a parent who has entered into a voluntary permanent 2705  
custody surrender agreement under division (B) of section 2706  
5103.15 of the Revised Code; 2707

(D) A parent whose parental rights have been terminated by 2708

order of a juvenile court under Chapter 2151. of the Revised 2709  
Code; 2710

(E) A parent who is married to the petitioner and supports 2711  
the adoption; 2712

(F) The father, putative father, or mother, of a minor if 2713  
the minor is conceived as the result of the commission of rape 2714  
or sexual battery by the father, putative father, or mother and 2715  
the father, putative father, or mother is convicted of or pleads 2716  
guilty to the commission of that offense. As used in this 2717  
division, "rape" means a violation of section 2907.02 of the 2718  
Revised Code or a similar law of another state and "sexual 2719  
battery" means a violation of section 2907.03 of the Revised 2720  
Code if the sexual activity involved is sexual conduct, or a 2721  
similar law of another state. 2722

(G) A legal guardian or guardian ad litem of a parent 2723  
judicially declared incompetent in a separate court proceeding 2724  
who has failed to respond in writing to a request for consent, 2725  
for a period of thirty days, or who, after examination of the 2726  
written reasons for withholding consent, is found by the court 2727  
to be withholding consent unreasonably; 2728

(H) Any legal guardian or lawful custodian of the person 2729  
to be adopted, other than a parent, who has failed to respond in 2730  
writing to a request for consent, for a period of thirty days, 2731  
or who, after examination of the written reasons for withholding 2732  
consent, is found by the court to be withholding consent 2733  
unreasonably; 2734

(I) The spouse of the person to be adopted, if the failure 2735  
of the spouse to consent to the adoption is found by the court 2736  
to be by reason of prolonged unexplained absence, 2737

unavailability, incapacity, or circumstances that make it 2738  
impossible or unreasonably difficult to obtain the consent or 2739  
refusal of the spouse; 2740

(J) Any parent, legal guardian, or other lawful custodian 2741  
in a foreign country, if the person to be adopted has been 2742  
released for adoption pursuant to the laws of the country in 2743  
which the person resides and the release of such person is in a 2744  
form that satisfies the requirements of the immigration and 2745  
naturalization service of the United States department of 2746  
justice for purposes of immigration to the United States 2747  
pursuant to section 101(b)(1)(F) of the "Immigration and 2748  
Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101(b)(1)(F), 2749  
as amended or reenacted. 2750

(K) Except as provided in divisions (G) and (H) of this 2751  
section, a juvenile court, agency, or person given notice of the 2752  
petition pursuant to division (A)(1) of section 3107.11 of the 2753  
Revised Code that fails to file an objection to the petition 2754  
within fourteen days after proof is filed pursuant to division 2755  
(B) of that section that the notice was given; 2756

(L) Any guardian, custodian, or other party who has 2757  
temporary custody of the child. 2758

**Sec. 3109.50.** As used in sections 3109.501 to 3109.507 of 2759  
the Revised Code: 2760

(A) "Parental rights" means parental rights and 2761  
responsibilities, parenting time, or any other similar right 2762  
established by the laws of this state with respect to a child. 2763  
"Parental rights" does not include the parental duty of support 2764  
for a child. 2765

(B) "Rape" means a violation of section 2907.02 of the 2766

Revised Code or similar law of another state. 2767

(C) "Sexual battery" means a violation of section 2907.03 2768  
of the Revised Code if the sexual activity involved is sexual 2769  
conduct, or similar law of another state. 2770

**Sec. 3111.04.** (A) (1) Except as provided in division (A) (2) 2771  
of this section, an action to determine the existence or 2772  
nonexistence of the father and child relationship may be brought 2773  
by the child or the child's personal representative, the child's 2774  
mother or her personal representative, a man alleged or alleging 2775  
himself to be the child's father, the child support enforcement 2776  
agency of the county in which the child resides if the child's 2777  
mother, father, or alleged father is a recipient of public 2778  
assistance or of services under Title IV-D of the "Social 2779  
Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as 2780  
amended, or the alleged father's personal representative. 2781

(2) A man alleged or alleging himself to be the child's 2782  
father is not eligible to file an action under division (A) (1) 2783  
of this section if the man was convicted of or pleaded guilty to 2784  
rape or sexual battery, the victim of the rape or sexual battery 2785  
was the child's mother, and the child was conceived as a result 2786  
of the rape or sexual battery. 2787

(B) An agreement does not bar an action under this 2788  
section. 2789

(C) If an action under this section is brought before the 2790  
birth of the child and if the action is contested, all 2791  
proceedings, except service of process and the taking of 2792  
depositions to perpetuate testimony, may be stayed until after 2793  
the birth. 2794

(D) A recipient of public assistance or of services under 2795



Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 2796  
42 U.S.C.A. 651, as amended, shall cooperate with the child 2797  
support enforcement agency of the county in which a child 2798  
resides to obtain an administrative determination pursuant to 2799  
sections 3111.38 to 3111.54 of the Revised Code, or, if 2800  
necessary, a court determination pursuant to sections 3111.01 to 2801  
3111.18 of the Revised Code, of the existence or nonexistence of 2802  
a parent and child relationship between the father and the 2803  
child. If the recipient fails to cooperate, the agency may 2804  
commence an action to determine the existence or nonexistence of 2805  
a parent and child relationship between the father and the child 2806  
pursuant to sections 3111.01 to 3111.18 of the Revised Code. 2807

(E) As used in this section: 2808

(1) "Public assistance" means both of the following: 2809

(a) Medicaid; 2810

(b) Ohio works first under Chapter 5107. of the Revised 2811  
Code. 2812

(2) "Rape" means a violation of section 2907.02 of the 2813  
Revised Code or similar law of another state. 2814

(3) "Sexual battery" means a violation of section 2907.03 2815  
of the Revised Code if the sexual activity involved is sexual 2816  
conduct, or similar law of another state. 2817

**Sec. 4730.25.** (A) The state medical board, by an 2818  
affirmative vote of not fewer than six members, may revoke or 2819  
may refuse to grant a license to practice as a physician 2820  
assistant to a person found by the board to have committed 2821  
fraud, misrepresentation, or deception in applying for or 2822  
securing the license. 2823

(B) Except as provided in division (N) of this section, 2824  
the board, by an affirmative vote of not fewer than six members, 2825  
shall, to the extent permitted by law, limit, revoke, or suspend 2826  
an individual's license to practice as a physician assistant or 2827  
prescriber number, refuse to issue a license to an applicant, 2828  
refuse to renew a license, refuse to reinstate a license, or 2829  
reprimand or place on probation the holder of a license for any 2830  
of the following reasons: 2831

(1) Failure to practice in accordance with the supervising 2832  
physician's supervision agreement with the physician assistant, 2833  
including, if applicable, the policies of the health care 2834  
facility in which the supervising physician and physician 2835  
assistant are practicing; 2836

(2) Failure to comply with the requirements of this 2837  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 2838  
by the board; 2839

(3) Violating or attempting to violate, directly or 2840  
indirectly, or assisting in or abetting the violation of, or 2841  
conspiring to violate, any provision of this chapter, Chapter 2842  
4731. of the Revised Code, or the rules adopted by the board; 2843

(4) Inability to practice according to acceptable and 2844  
prevailing standards of care by reason of mental illness or 2845  
physical illness, including physical deterioration that 2846  
adversely affects cognitive, motor, or perceptive skills; 2847

(5) Impairment of ability to practice according to 2848  
acceptable and prevailing standards of care because of habitual 2849  
or excessive use or abuse of drugs, alcohol, or other substances 2850  
that impair ability to practice; 2851

(6) Administering drugs for purposes other than those 2852

authorized under this chapter;	2853
(7) Willfully betraying a professional confidence;	2854
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a license to practice as a physician assistant.	2855 2856 2857 2858 2859 2860 2861
As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.	2862 2863 2864 2865 2866 2867 2868 2869
(9) Representing, with the purpose of obtaining compensation or other advantage personally or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;	2870 2871 2872 2873
(10) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	2874 2875 2876
(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	2877 2878 2879
(12) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was	2880 2881

committed;	2882
(13) A plea of guilty to, a judicial finding of guilt of,	2883
or a judicial finding of eligibility for intervention in lieu of	2884
conviction for, a misdemeanor committed in the course of	2885
practice;	2886
(14) A plea of guilty to, a judicial finding of guilt of,	2887
or a judicial finding of eligibility for intervention in lieu of	2888
conviction for, a misdemeanor involving moral turpitude;	2889
(15) Commission of an act in the course of practice that	2890
constitutes a misdemeanor in this state, regardless of the	2891
jurisdiction in which the act was committed;	2892
(16) Commission of an act involving moral turpitude that	2893
constitutes a misdemeanor in this state, regardless of the	2894
jurisdiction in which the act was committed;	2895
(17) A plea of guilty to, a judicial finding of guilt of,	2896
or a judicial finding of eligibility for intervention in lieu of	2897
conviction for violating any state or federal law regulating the	2898
possession, distribution, or use of any drug, including	2899
trafficking in drugs;	2900
(18) Any of the following actions taken by the state	2901
agency responsible for regulating the practice of physician	2902
assistants in another state, for any reason other than the	2903
nonpayment of fees: the limitation, revocation, or suspension of	2904
an individual's license to practice; acceptance of an	2905
individual's license surrender; denial of a license; refusal to	2906
renew or reinstate a license; imposition of probation; or	2907
issuance of an order of censure or other reprimand;	2908
(19) A departure from, or failure to conform to, minimal	2909
standards of care of similar physician assistants under the same	2910

or similar circumstances, regardless of whether actual injury to	2911
a patient is established;	2912
(20) Violation of the conditions placed by the board on a	2913
license to practice as a physician assistant;	2914
(21) Failure to use universal blood and body fluid	2915
precautions established by rules adopted under section 4731.051	2916
of the Revised Code;	2917
(22) Failure to cooperate in an investigation conducted by	2918
the board under section 4730.26 of the Revised Code, including	2919
failure to comply with a subpoena or order issued by the board	2920
or failure to answer truthfully a question presented by the	2921
board at a deposition or in written interrogatories, except that	2922
failure to cooperate with an investigation shall not constitute	2923
grounds for discipline under this section if a court of	2924
competent jurisdiction has issued an order that either quashes a	2925
subpoena or permits the individual to withhold the testimony or	2926
evidence in issue;	2927
(23) Assisting suicide, as defined in section 3795.01 of	2928
the Revised Code;	2929
(24) Prescribing any drug or device to perform or induce	2930
an abortion, or otherwise performing or inducing an abortion;	2931
(25) Failure to comply with section 4730.53 of the Revised	2932
Code, unless the board no longer maintains a drug database	2933
pursuant to section 4729.75 of the Revised Code;	2934
(26) Failure to comply with the requirements in section	2935
3719.061 of the Revised Code before issuing for a minor a	2936
prescription for an opioid analgesic, as defined in section	2937
3719.01 of the Revised Code;	2938

(27) Having certification by the national commission on 2939  
certification of physician assistants or a successor 2940  
organization expire, lapse, or be suspended or revoked; 2941

(28) The revocation, suspension, restriction, reduction, 2942  
or termination of clinical privileges by the United States 2943  
department of defense or department of veterans affairs or the 2944  
termination or suspension of a certificate of registration to 2945  
prescribe drugs by the drug enforcement administration of the 2946  
United States department of justice; 2947

(29) Failure to comply with terms of a consult agreement 2948  
entered into with a pharmacist pursuant to section 4729.39 of 2949  
the Revised Code. 2950

(C) Disciplinary actions taken by the board under 2951  
divisions (A) and (B) of this section shall be taken pursuant to 2952  
an adjudication under Chapter 119. of the Revised Code, except 2953  
that in lieu of an adjudication, the board may enter into a 2954  
consent agreement with a physician assistant or applicant to 2955  
resolve an allegation of a violation of this chapter or any rule 2956  
adopted under it. A consent agreement, when ratified by an 2957  
affirmative vote of not fewer than six members of the board, 2958  
shall constitute the findings and order of the board with 2959  
respect to the matter addressed in the agreement. If the board 2960  
refuses to ratify a consent agreement, the admissions and 2961  
findings contained in the consent agreement shall be of no force 2962  
or effect. 2963

(D) For purposes of divisions (B) (12), (15), and (16) of 2964  
this section, the commission of the act may be established by a 2965  
finding by the board, pursuant to an adjudication under Chapter 2966  
119. of the Revised Code, that the applicant or license holder 2967  
committed the act in question. The board shall have no 2968

jurisdiction under these divisions in cases where the trial 2969  
court renders a final judgment in the license holder's favor and 2970  
that judgment is based upon an adjudication on the merits. The 2971  
board shall have jurisdiction under these divisions in cases 2972  
where the trial court issues an order of dismissal upon 2973  
technical or procedural grounds. 2974

(E) The sealing or expungement of conviction records by 2975  
any court shall have no effect upon a prior board order entered 2976  
under the provisions of this section or upon the board's 2977  
jurisdiction to take action under the provisions of this section 2978  
if, based upon a plea of guilty, a judicial finding of guilt, or 2979  
a judicial finding of eligibility for intervention in lieu of 2980  
conviction, the board issued a notice of opportunity for a 2981  
hearing prior to the court's order to seal or expunge the 2982  
records. The board shall not be required to seal, destroy, 2983  
redact, or otherwise modify its records to reflect the court's 2984  
sealing or expungement of conviction records. 2985

(F) For purposes of this division, any individual who 2986  
holds a license issued under this chapter, or applies for a 2987  
license issued under this chapter, shall be deemed to have given 2988  
consent to submit to a mental or physical examination when 2989  
directed to do so in writing by the board and to have waived all 2990  
objections to the admissibility of testimony or examination 2991  
reports that constitute a privileged communication. 2992

(1) In enforcing division (B) (4) of this section, the 2993  
board, upon a showing of a possible violation, may compel any 2994  
individual who holds a license issued under this chapter or who 2995  
has applied for a license pursuant to this chapter to submit to 2996  
a mental examination, physical examination, including an HIV 2997  
test, or both a mental and physical examination. The expense of 2998

the examination is the responsibility of the individual 2999  
compelled to be examined. Failure to submit to a mental or 3000  
physical examination or consent to an HIV test ordered by the 3001  
board constitutes an admission of the allegations against the 3002  
individual unless the failure is due to circumstances beyond the 3003  
individual's control, and a default and final order may be 3004  
entered without the taking of testimony or presentation of 3005  
evidence. If the board finds a physician assistant unable to 3006  
practice because of the reasons set forth in division (B)(4) of 3007  
this section, the board shall require the physician assistant to 3008  
submit to care, counseling, or treatment by physicians approved 3009  
or designated by the board, as a condition for an initial, 3010  
continued, reinstated, or renewed license. An individual 3011  
affected under this division shall be afforded an opportunity to 3012  
demonstrate to the board the ability to resume practicing in 3013  
compliance with acceptable and prevailing standards of care. 3014

(2) For purposes of division (B)(5) of this section, if 3015  
the board has reason to believe that any individual who holds a 3016  
license issued under this chapter or any applicant for a license 3017  
suffers such impairment, the board may compel the individual to 3018  
submit to a mental or physical examination, or both. The expense 3019  
of the examination is the responsibility of the individual 3020  
compelled to be examined. Any mental or physical examination 3021  
required under this division shall be undertaken by a treatment 3022  
provider or physician qualified to conduct such examination and 3023  
chosen by the board. 3024

Failure to submit to a mental or physical examination 3025  
ordered by the board constitutes an admission of the allegations 3026  
against the individual unless the failure is due to 3027  
circumstances beyond the individual's control, and a default and 3028  
final order may be entered without the taking of testimony or 3029



presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed licensure, to submit to treatment.

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

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

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

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

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

When the impaired physician assistant resumes practice or prescribing, the board shall require continued monitoring of the

physician assistant. The monitoring shall include compliance 3059  
with the written consent agreement entered into before 3060  
reinstatement or with conditions imposed by board order after a 3061  
hearing, and, upon termination of the consent agreement, 3062  
submission to the board for at least two years of annual written 3063  
progress reports made under penalty of falsification stating 3064  
whether the physician assistant has maintained sobriety. 3065

~~(G)(G) (1) If either of the following circumstances occur,~~ 3066  
the secretary and supervising member ~~determine may recommend~~ 3067  
~~that the board suspend the individual's license without a prior~~ 3068  
~~hearing:~~ 3069

~~(a) The secretary and supervising member determine that~~ 3070  
there is clear and convincing evidence that a physician 3071  
assistant has violated division (B) of this section and that the 3072  
individual's continued practice or prescribing presents a danger 3073  
of immediate and serious harm to the public, ~~they may recommend~~ 3074  
~~that the board suspend the individual's license without a prior~~ 3075  
~~hearing;~~ 3076

~~(b) The board receives verifiable information that a~~ 3077  
~~licensee has been charged in any state or federal court with a~~ 3078  
~~crime classified as a felony under the charging court's law and~~ 3079  
~~the conduct charged constitutes a violation of division (B) of~~ 3080  
~~this section. Written~~ 3081

~~(2) If a recommendation is made to suspend without a prior~~ 3082  
~~hearing pursuant to division (G) (1) of this section, written~~ 3083  
allegations shall be prepared for consideration by the board. 3084

The board, upon review of those allegations and by an 3085  
affirmative vote of not fewer than six of its members, excluding 3086  
the secretary and supervising member, may suspend a license 3087

without a prior hearing. A telephone conference call may be 3088  
utilized for reviewing the allegations and taking the vote on 3089  
the summary suspension. 3090

The board shall issue a written order of suspension by 3091  
certified mail or in person in accordance with section 119.07 of 3092  
the Revised Code. The order shall not be subject to suspension 3093  
by the court during pendency of any appeal filed under section 3094  
119.12 of the Revised Code. If the physician assistant requests 3095  
an adjudicatory hearing by the board, the date set for the 3096  
hearing shall be within fifteen days, but not earlier than seven 3097  
days, after the physician assistant requests the hearing, unless 3098  
otherwise agreed to by both the board and the license holder. 3099

(3) A summary suspension imposed under this division shall 3100  
remain in effect, unless reversed on appeal, until a final 3101  
adjudicative order issued by the board pursuant to this section 3102  
and Chapter 119. of the Revised Code becomes effective. The 3103  
board shall issue its final adjudicative order within sixty days 3104  
after completion of its hearing. Failure to issue the order 3105  
within sixty days shall result in dissolution of the summary 3106  
suspension order, but shall not invalidate any subsequent, final 3107  
adjudicative order. 3108

(H) If the board takes action under division (B) (11), 3109  
(13), or (14) of this section, and the judicial finding of 3110  
guilt, guilty plea, or judicial finding of eligibility for 3111  
intervention in lieu of conviction is overturned on appeal, upon 3112  
exhaustion of the criminal appeal, a petition for 3113  
reconsideration of the order may be filed with the board along 3114  
with appropriate court documents. Upon receipt of a petition and 3115  
supporting court documents, the board shall reinstate the 3116  
individual's license. The board may then hold an adjudication 3117

under Chapter 119. of the Revised Code to determine whether the 3118  
individual committed the act in question. Notice of opportunity 3119  
for hearing shall be given in accordance with Chapter 119. of 3120  
the Revised Code. If the board finds, pursuant to an 3121  
adjudication held under this division, that the individual 3122  
committed the act, or if no hearing is requested, it may order 3123  
any of the sanctions identified under division (B) of this 3124  
section. 3125

(I) The license to practice issued to a physician 3126  
assistant and the physician assistant's practice in this state 3127  
are automatically suspended as of the date the physician 3128  
assistant pleads guilty to, is found by a judge or jury to be 3129  
guilty of, or is subject to a judicial finding of eligibility 3130  
for intervention in lieu of conviction in this state or 3131  
treatment or intervention in lieu of conviction in another state 3132  
for any of the following criminal offenses in this state or a 3133  
substantially equivalent criminal offense in another 3134  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 3135  
felonious assault, trafficking in persons, kidnapping, rape, 3136  
sexual battery, gross sexual imposition, aggravated arson, 3137  
aggravated robbery, or aggravated burglary. Continued practice 3138  
after the suspension shall be considered practicing without a 3139  
license. 3140

The board shall notify the individual subject to the 3141  
suspension by certified mail or in person in accordance with 3142  
section 119.07 of the Revised Code. If an individual whose 3143  
license is suspended under this division fails to make a timely 3144  
request for an adjudication under Chapter 119. of the Revised 3145  
Code, the board shall enter a final order permanently revoking 3146  
the individual's license to practice. 3147

(J) In any instance in which the board is required by 3148  
Chapter 119. of the Revised Code to give notice of opportunity 3149  
for hearing and the individual subject to the notice does not 3150  
timely request a hearing in accordance with section 119.07 of 3151  
the Revised Code, the board is not required to hold a hearing, 3152  
but may adopt, by an affirmative vote of not fewer than six of 3153  
its members, a final order that contains the board's findings. 3154  
In that final order, the board may order any of the sanctions 3155  
identified under division (A) or (B) of this section. 3156

(K) Any action taken by the board under division (B) of 3157  
this section resulting in a suspension shall be accompanied by a 3158  
written statement of the conditions under which the physician 3159  
assistant's license may be reinstated. The board shall adopt 3160  
rules in accordance with Chapter 119. of the Revised Code 3161  
governing conditions to be imposed for reinstatement. 3162  
Reinstatement of a license suspended pursuant to division (B) of 3163  
this section requires an affirmative vote of not fewer than six 3164  
members of the board. 3165

(L) When the board refuses to grant or issue to an 3166  
applicant a license to practice as a physician assistant, 3167  
revokes an individual's license, refuses to renew an 3168  
individual's license, or refuses to reinstate an individual's 3169  
license, the board may specify that its action is permanent. An 3170  
individual subject to a permanent action taken by the board is 3171  
forever thereafter ineligible to hold the license and the board 3172  
shall not accept an application for reinstatement of the license 3173  
or for issuance of a new license. 3174

(M) Notwithstanding any other provision of the Revised 3175  
Code, all of the following apply: 3176

(1) The surrender of a license issued under this chapter 3177

is not effective unless or until accepted by the board. 3178

Reinstatement of a license surrendered to the board requires an 3179  
affirmative vote of not fewer than six members of the board. 3180

(2) An application made under this chapter for a license 3181  
may not be withdrawn without approval of the board. 3182

(3) Failure by an individual to renew a license in 3183  
accordance with section 4730.14 of the Revised Code shall not 3184  
remove or limit the board's jurisdiction to take disciplinary 3185  
action under this section against the individual. 3186

(N) The board shall not refuse to issue a license to an 3187  
applicant because of a conviction, plea of guilty, judicial 3188  
finding of guilt, judicial finding of eligibility for 3189  
intervention in lieu of conviction, or the commission of an act 3190  
that constitutes a criminal offense, unless the refusal is in 3191  
accordance with section 9.79 of the Revised Code. 3192

**Sec. 4730.26.** (A) The state medical board shall 3193  
investigate evidence that appears to show that any person has 3194  
violated this chapter or a rule adopted under it. In an 3195  
investigation involving the practice or supervision of a 3196  
physician assistant pursuant to the policies of a health care 3197  
facility, the board may require that the health care facility 3198  
provide any information the board considers necessary to 3199  
identify either or both of the following: 3200

(1) The facility's policies for the practice of physician 3201  
assistants within the facility; 3202

(2) The services that the facility has authorized a 3203  
particular physician assistant to provide for the facility. 3204

(B) Any person may report to the board in a signed writing 3205  
any information the person has that appears to show a violation 3206

of any provision of this chapter or rule adopted under it. In 3207  
the absence of bad faith, a person who reports such information 3208  
or testifies before the board in an adjudication conducted under 3209  
Chapter 119. of the Revised Code shall not be liable for civil 3210  
damages as a result of reporting the information or providing 3211  
testimony. Each complaint or allegation of a violation received 3212  
by the board shall be assigned a case number and be recorded by 3213  
the board. 3214

(C) Investigations of alleged violations of this chapter 3215  
or rules adopted under it shall be supervised by the supervising 3216  
member elected by the board in accordance with section 4731.02 3217  
of the Revised Code and by the secretary as provided in section 3218  
4730.33 of the Revised Code. The president may designate another 3219  
member of the board to supervise the investigation in place of 3220  
the supervising member. Upon a vote of the majority of the board 3221  
to authorize the addition of a consumer member in the 3222  
supervision of any part of any investigation, the president 3223  
shall designate a consumer member for supervision of 3224  
investigations as determined by the president. The authorization 3225  
of consumer member participation in investigation supervision 3226  
may be rescinded by a majority vote of the board. A member of 3227  
the board who supervises the investigation of a case shall not 3228  
participate in further adjudication of the case. 3229

(D) In investigating a possible violation of this chapter 3230  
or a rule adopted under it, the board may administer oaths, 3231  
order the taking of depositions, issue subpoenas, and compel the 3232  
attendance of witnesses and production of books, accounts, 3233  
papers, records, documents, and testimony, except that a 3234  
subpoena for patient record information or information, 3235  
documents, and records from a peer review committee of a health 3236  
care entity related to sexual misconduct or criminal conduct 3237

shall not be issued without consultation with the attorney 3238  
general's office and approval of the secretary and supervising 3239  
member of the board. Before issuance of a subpoena for patient 3240  
record information or information, documents, and records from a 3241  
peer review committee of a health care entity related to sexual 3242  
misconduct or criminal conduct, the secretary and supervising 3243  
member shall determine whether there is probable cause to 3244  
believe that the complaint filed alleges a violation of this 3245  
chapter or a rule adopted under it and that the records sought 3246  
are relevant to the alleged violation and material to the 3247  
investigation. The subpoena may apply only to records that cover 3248  
a reasonable period of time surrounding the alleged violation. 3249

On failure to comply with any subpoena issued by the board 3250  
and after reasonable notice to the person being subpoenaed, the 3251  
board may move for an order compelling the production of persons 3252  
or records pursuant to the Rules of Civil Procedure. 3253

A subpoena issued by the board may be served by a sheriff, 3254  
the sheriff's deputy, or a board employee designated by the 3255  
board. Service of a subpoena issued by the board may be made by 3256  
delivering a copy of the subpoena to the person named therein, 3257  
reading it to the person, or leaving it at the person's usual 3258  
place of residence. When the person being served is a physician 3259  
assistant, service of the subpoena may be made by certified 3260  
mail, restricted delivery, return receipt requested, and the 3261  
subpoena shall be deemed served on the date delivery is made or 3262  
the date the person refuses to accept delivery. 3263

A sheriff's deputy who serves a subpoena shall receive the 3264  
same fees as a sheriff. Each witness who appears before the 3265  
board in obedience to a subpoena shall receive the fees and 3266  
mileage provided for under section 119.094 of the Revised Code. 3267



(E) ~~All~~ For purposes of section 2305.252 of the Revised Code, all hearings and investigations of the board shall be considered civil actions ~~for the purposes of section 2305.252 of the Revised Code,~~ except those involving allegations of sexual misconduct or criminal conduct, as defined in that section.

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

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

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be

admitted into evidence only in accordance with the Rules of 3298  
Evidence, but the court shall require that appropriate measures 3299  
are taken to ensure that confidentiality is maintained with 3300  
respect to any part of the information that contains names or 3301  
other identifying information about patients or complainants 3302  
whose confidentiality was protected by the state medical board 3303  
when the information was in the board's possession. Measures to 3304  
ensure confidentiality that may be taken by the court include 3305  
sealing its records or deleting specific information from its 3306  
records. 3307

No person shall knowingly access, use, or disclose 3308  
confidential investigatory information in a manner prohibited by 3309  
law. 3310

(G) The state medical board shall develop requirements for 3311  
and provide appropriate initial and continuing training for 3312  
investigators employed by the board to carry out its duties 3313  
under this chapter. The training and continuing education may 3314  
include enrollment in courses operated or approved by the Ohio 3315  
peace officer training commission that the board considers 3316  
appropriate under conditions set forth in section 109.79 of the 3317  
Revised Code. 3318

(H) On a quarterly basis, the board shall prepare a report 3319  
that documents the disposition of all cases during the preceding 3320  
three months. The report shall contain the following information 3321  
for each case with which the board has completed its activities: 3322

(1) The case number assigned to the complaint or alleged 3323  
violation; 3324

(2) The type of license, if any, held by the individual 3325  
against whom the complaint is directed; 3326

(3) A description of the allegations contained in the complaint; 3327  
3328

(4) Whether witnesses were interviewed; 3329

(5) Whether the individual against whom the complaint is directed is the subject of any pending complaints; 3330  
3331

(6) The disposition of the case. 3332

The report shall state how many cases are still pending, 3333  
and shall be prepared in a manner that protects the identity of 3334  
each person involved in each case. The report shall be submitted 3335  
to the physician assistant policy committee of the board and is 3336  
a public record for purposes of section 149.43 of the Revised 3337  
Code. 3338

(I) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity. 3339  
3340  
3341

**Sec. 4730.32.** (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code. 3342  
3343  
3344

(B) (1) Within ~~sixty~~ thirty days after the imposition of 3345  
any formal disciplinary action taken by a health care facility 3346  
against any individual holding a valid license to practice as a 3347  
physician assistant issued under this chapter, the chief 3348  
administrator or executive officer of the facility shall report 3349  
to the state medical board the name of the individual, the 3350  
action taken by the facility, and a summary of the underlying 3351  
facts leading to the action taken. Upon request, the board shall 3352  
be provided certified copies of the patient records that were 3353  
the basis for the facility's action. Prior to release to the 3354  
board, the summary shall be approved by the peer review 3355

committee that reviewed the case or by the governing board of 3356  
the facility. 3357

The filing of a report with the board or decision not to 3358  
file a report, investigation by the board, or any disciplinary 3359  
action taken by the board, does not preclude a health care 3360  
facility from taking disciplinary action against a physician 3361  
assistant. 3362

In the absence of fraud or bad faith, no individual or 3363  
entity that provides patient records to the board shall be 3364  
liable in damages to any person as a result of providing the 3365  
records. 3366

(2) Within thirty days after commencing an investigation 3367  
regarding criminal conduct or sexual misconduct against any 3368  
individual holding a valid license to practice issued pursuant 3369  
to this chapter, a health care facility, including a hospital, 3370  
health care facility operated by a health insuring corporation, 3371  
ambulatory surgical center, or similar facility, shall report to 3372  
the board the name of the individual and a summary of the 3373  
underlying facts related to the investigation being commenced. 3374

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 3375  
of this section and subject to division (C)(3) of this section, 3376  
a physician assistant, professional association or society of 3377  
physician assistants, physician, or professional association or 3378  
society of physicians that believes a violation of any provision 3379  
of this chapter, Chapter 4731. of the Revised Code, or rule of 3380  
the board has occurred shall report to the board the information 3381  
upon which the belief is based. 3382

(2) A physician assistant, professional association or 3383  
society of physician assistants, physician, or professional 3384

association or society of physicians that believes that a 3385  
violation of division (B) (5) of section 4730.25 of the Revised 3386  
Code has occurred shall report the information upon which the 3387  
belief is based to the monitoring organization conducting the 3388  
program established by the board under section 4731.251 of the 3389  
Revised Code. If any such report is made to the board, it shall 3390  
be referred to the monitoring organization unless the board is 3391  
aware that the individual who is the subject of the report does 3392  
not meet the program eligibility requirements of section 3393  
4731.252 of the Revised Code. 3394

(3) If any individual authorized to practice under this 3395  
chapter or any professional association or society of such 3396  
individuals knows or has reasonable cause to suspect based on 3397  
facts that would cause a reasonable person in a similar position 3398  
to suspect that an individual authorized to practice under this 3399  
chapter has committed or participated in criminal conduct or 3400  
sexual misconduct the information upon which the belief is based 3401  
shall be reported to the board within thirty days. 3402

(4) In addition to the self-reporting of criminal offenses 3403  
that is required for license renewal, an individual authorized 3404  
to practice under this chapter shall report to the board 3405  
criminal charges regarding criminal conduct, sexual misconduct, 3406  
or any conduct involving the use of a motor vehicle while under 3407  
the influence of alcohol or drugs, including offenses that are 3408  
equivalent offenses under division (A) of section 4511.181 of 3409  
the Revised Code, violations of division (D) of section 4511.194 3410  
of the Revised Code, and violations of division (C) of section 3411  
4511.79 of the Revised Code. Reports under this division shall 3412  
be made within thirty days of the criminal charge being filed. 3413

~~(C)~~ (D) Any professional association or society composed 3414

primarily of physician assistants that suspends or revokes an 3415  
individual's membership for violations of professional ethics, 3416  
or for reasons of professional incompetence or professional 3417  
malpractice, within ~~sixty~~thirty days after a final decision, 3418  
shall report to the board, on forms prescribed and provided by 3419  
the board, the name of the individual, the action taken by the 3420  
professional organization, and a summary of the underlying facts 3421  
leading to the action taken. 3422

The filing or nonfiling of a report with the board, 3423  
investigation by the board, or any disciplinary action taken by 3424  
the board, shall not preclude a professional organization from 3425  
taking disciplinary action against a physician assistant. 3426

~~(D)~~(E) Any insurer providing professional liability 3427  
insurance to any person holding a valid license to practice as a 3428  
physician assistant issued under this chapter or any other 3429  
entity that seeks to indemnify the professional liability of a 3430  
physician assistant shall notify the board within thirty days 3431  
after the final disposition of any written claim for damages 3432  
where such disposition results in a payment exceeding twenty- 3433  
five thousand dollars. The notice shall contain the following 3434  
information: 3435

(1) The name and address of the person submitting the 3436  
notification; 3437

(2) The name and address of the insured who is the subject 3438  
of the claim; 3439

(3) The name of the person filing the written claim; 3440

(4) The date of final disposition; 3441

(5) If applicable, the identity of the court in which the 3442  
final disposition of the claim took place. 3443

~~(E)~~ (F) The board may investigate possible violations of 3444  
this chapter or the rules adopted under it that are brought to 3445  
its attention as a result of the reporting requirements of this 3446  
section, except that the board shall conduct an investigation if 3447  
a possible violation involves repeated malpractice. As used in 3448  
this division, "repeated malpractice" means three or more claims 3449  
for malpractice within the previous five-year period, each 3450  
resulting in a judgment or settlement in excess of twenty-five 3451  
thousand dollars in favor of the claimant, and each involving 3452  
negligent conduct by the physician assistant. 3453

~~(F)~~ (G) All summaries, reports, and records received and 3454  
maintained by the board pursuant to this section shall be held 3455  
~~in confidence and shall not be subject to discovery or~~ 3456  
~~introduction in evidence in any federal or state civil action~~ 3457  
~~involving a physician assistant, supervising physician, or~~ 3458  
~~health care facility arising out of matters that are the subject~~ 3459  
~~of the reporting required by this section. The board may use the~~ 3460  
~~information obtained only as the basis for an investigation, as~~ 3461  
~~evidence in a disciplinary hearing against a physician assistant~~ 3462  
~~or supervising physician, or in any subsequent trial or appeal~~ 3463  
~~of a board action or order.~~ 3464

~~The board may disclose the summaries and reports it~~ 3465  
~~receives under this section only to health care facility~~ 3466  
~~committees within or outside this state that are involved in~~ 3467  
~~credentialing or recredentialing a physician assistant or~~ 3468  
~~supervising physician or reviewing their privilege to practice~~ 3469  
~~within a particular facility. The board shall indicate whether~~ 3470  
~~or not the information has been verified. Information~~ 3471  
~~transmitted by the board shall be subject to the same~~ 3472  
~~confidentiality provisions as when maintained by the~~ 3473  
~~board~~ confidential pursuant to division (F) of section 4730.26 of 3474

the Revised Code. 3475

~~(G)~~ (H) Except for reports filed by an individual pursuant 3476  
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 3477  
send a copy of any reports or summaries it receives pursuant to 3478  
this section to the physician assistant. The physician assistant 3479  
shall have the right to file a statement with the board 3480  
concerning the correctness or relevance of the information. The 3481  
statement shall at all times accompany that part of the record 3482  
in contention. 3483

~~(H)~~ (I) An individual or entity that reports to the board, 3484  
reports to the monitoring organization described in section 3485  
4731.251 of the Revised Code, or refers an impaired physician 3486  
assistant to a treatment provider approved by the board under 3487  
section 4731.25 of the Revised Code shall not be subject to suit 3488  
for civil damages as a result of the report, referral, or 3489  
provision of the information. 3490

~~(I)~~ (J) In the absence of fraud or bad faith, a 3491  
professional association or society of physician assistants that 3492  
sponsors a committee or program to provide peer assistance to a 3493  
physician assistant with substance abuse problems, a 3494  
representative or agent of such a committee or program, a 3495  
representative or agent of the monitoring organization described 3496  
in section 4731.251 of the Revised Code, and a member of the 3497  
state medical board shall not be held liable in damages to any 3498  
person by reason of actions taken to refer a physician assistant 3499  
to a treatment provider approved under section 4731.25 of the 3500  
Revised Code for examination or treatment. 3501

**Sec. 4730.99.** (A) Whoever violates section 4730.02 of the 3502  
Revised Code is guilty of a misdemeanor of the first degree on a 3503  
first offense; on each subsequent offense, the person is guilty 3504



of a felony of the fourth degree. 3505

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C)  
(1), ~~or (C) (2)~~, (D), or (E) of section 4730.32 of the Revised 3506  
Code is guilty of a minor misdemeanor on a first offense; on 3507  
each subsequent offense the person is guilty of a misdemeanor of 3508  
the fourth degree, except that an individual guilty of a 3509  
subsequent offense shall not be subject to imprisonment, but to 3510  
a fine alone of up to one thousand dollars for each offense. 3511  
3512

(2) Whoever violates division (B) (2) or (C) (3) of section 3513  
4730.32 of the Revised Code is guilty of failure to report 3514  
criminal conduct or sexual misconduct, a misdemeanor of the 3515  
fourth degree. If the offender has previously been convicted of 3516  
a violation of this division, the failure to report is a 3517  
misdemeanor of the first degree. 3518

(C) Whoever violates division (F) of section 4730.26 of 3519  
the Revised Code is guilty of disclosing confidential 3520  
investigatory information, a misdemeanor of the first degree. 3521

**Sec. 4731.22.** (A) The state medical board, by an 3522  
affirmative vote of not fewer than six of its members, may 3523  
limit, revoke, or suspend a license or certificate to practice 3524  
or certificate to recommend, refuse to grant a license or 3525  
certificate, refuse to renew a license or certificate, refuse to 3526  
reinstate a license or certificate, or reprimand or place on 3527  
probation the holder of a license or certificate if the 3528  
individual applying for or holding the license or certificate is 3529  
found by the board to have committed fraud during the 3530  
administration of the examination for a license or certificate 3531  
to practice or to have committed fraud, misrepresentation, or 3532  
deception in applying for, renewing, or securing any license or 3533  
certificate to practice or certificate to recommend issued by 3534

the board. 3535

(B) Except as provided in division (P) of this section, 3536  
the board, by an affirmative vote of not fewer than six members, 3537  
shall, to the extent permitted by law, limit, revoke, or suspend 3538  
a license or certificate to practice or certificate to 3539  
recommend, refuse to issue a license or certificate, refuse to 3540  
renew a license or certificate, refuse to reinstate a license or 3541  
certificate, or reprimand or place on probation the holder of a 3542  
license or certificate for one or more of the following reasons: 3543

(1) Permitting one's name or one's license or certificate 3544  
to practice to be used by a person, group, or corporation when 3545  
the individual concerned is not actually directing the treatment 3546  
given; 3547

(2) Failure to maintain minimal standards applicable to 3548  
the selection or administration of drugs, or failure to employ 3549  
acceptable scientific methods in the selection of drugs or other 3550  
modalities for treatment of disease; 3551

(3) Except as provided in section 4731.97 of the Revised 3552  
Code, selling, giving away, personally furnishing, prescribing, 3553  
or administering drugs for other than legal and legitimate 3554  
therapeutic purposes or a plea of guilty to, a judicial finding 3555  
of guilt of, or a judicial finding of eligibility for 3556  
intervention in lieu of conviction of, a violation of any 3557  
federal or state law regulating the possession, distribution, or 3558  
use of any drug; 3559

(4) Willfully betraying a professional confidence. 3560

For purposes of this division, "willfully betraying a 3561  
professional confidence" does not include providing any 3562  
information, documents, or reports under sections 307.621 to 3563

307.629 of the Revised Code to a child fatality review board; 3564  
does not include providing any information, documents, or 3565  
reports under sections 307.631 to 307.6410 of the Revised Code 3566  
to a drug overdose fatality review committee, a suicide fatality 3567  
review committee, or hybrid drug overdose fatality and suicide 3568  
fatality review committee; does not include providing any 3569  
information, documents, or reports under sections 307.651 to 3570  
307.659 of the Revised Code to a domestic violence fatality 3571  
review board; does not include providing any information, 3572  
documents, or reports to the director of health pursuant to 3573  
guidelines established under section 3701.70 of the Revised 3574  
Code; does not include written notice to a mental health 3575  
professional under section 4731.62 of the Revised Code; does not 3576  
include making a report as described in division (F) of section 3577  
2921.22 and section 4731.224 of the Revised Code; and does not 3578  
include the making of a report of an employee's use of a drug of 3579  
abuse, or a report of a condition of an employee other than one 3580  
involving the use of a drug of abuse, to the employer of the 3581  
employee as described in division (B) of section 2305.33 of the 3582  
Revised Code. Nothing in this division affects the immunity from 3583  
civil liability conferred by section 2305.33 or 4731.62 of the 3584  
Revised Code upon a physician who makes a report in accordance 3585  
with section 2305.33 or notifies a mental health professional in 3586  
accordance with section 4731.62 of the Revised Code. As used in 3587  
this division, "employee," "employer," and "physician" have the 3588  
same meanings as in section 2305.33 of the Revised Code. 3589

(5) Making a false, fraudulent, deceptive, or misleading 3590  
statement in the solicitation of or advertising for patients; in 3591  
relation to the practice of medicine and surgery, osteopathic 3592  
medicine and surgery, podiatric medicine and surgery, or a 3593  
limited branch of medicine; or in securing or attempting to 3594

secure any license or certificate to practice issued by the 3595  
board. 3596

As used in this division, "false, fraudulent, deceptive, 3597  
or misleading statement" means a statement that includes a 3598  
misrepresentation of fact, is likely to mislead or deceive 3599  
because of a failure to disclose material facts, is intended or 3600  
is likely to create false or unjustified expectations of 3601  
favorable results, or includes representations or implications 3602  
that in reasonable probability will cause an ordinarily prudent 3603  
person to misunderstand or be deceived. 3604

(6) A departure from, or the failure to conform to, 3605  
minimal standards of care of similar practitioners under the 3606  
same or similar circumstances, whether or not actual injury to a 3607  
patient is established; 3608

(7) Representing, with the purpose of obtaining 3609  
compensation or other advantage as personal gain or for any 3610  
other person, that an incurable disease or injury, or other 3611  
incurable condition, can be permanently cured; 3612

(8) The obtaining of, or attempting to obtain, money or 3613  
anything of value by fraudulent misrepresentations in the course 3614  
of practice; 3615

(9) A plea of guilty to, a judicial finding of guilt of, 3616  
or a judicial finding of eligibility for intervention in lieu of 3617  
conviction for, a felony; 3618

(10) Commission of an act that constitutes a felony in 3619  
this state, regardless of the jurisdiction in which the act was 3620  
committed; 3621

(11) A plea of guilty to, a judicial finding of guilt of, 3622  
or a judicial finding of eligibility for intervention in lieu of 3623

conviction for, a misdemeanor committed in the course of 3624  
practice; 3625

(12) Commission of an act in the course of practice that 3626  
constitutes a misdemeanor in this state, regardless of the 3627  
jurisdiction in which the act was committed; 3628

(13) A plea of guilty to, a judicial finding of guilt of, 3629  
or a judicial finding of eligibility for intervention in lieu of 3630  
conviction for, a misdemeanor involving moral turpitude; 3631

(14) Commission of an act involving moral turpitude that 3632  
constitutes a misdemeanor in this state, regardless of the 3633  
jurisdiction in which the act was committed; 3634

(15) Violation of the conditions of limitation placed by 3635  
the board upon a license or certificate to practice; 3636

(16) Failure to pay license renewal fees specified in this 3637  
chapter; 3638

(17) Except as authorized in section 4731.31 of the 3639  
Revised Code, engaging in the division of fees for referral of 3640  
patients, or the receiving of a thing of value in return for a 3641  
specific referral of a patient to utilize a particular service 3642  
or business; 3643

(18) Subject to section 4731.226 of the Revised Code, 3644  
violation of any provision of a code of ethics of the American 3645  
medical association, the American osteopathic association, the 3646  
American podiatric medical association, or any other national 3647  
professional organizations that the board specifies by rule. The 3648  
state medical board shall obtain and keep on file current copies 3649  
of the codes of ethics of the various national professional 3650  
organizations. The individual whose license or certificate is 3651  
being suspended or revoked shall not be found to have violated 3652

any provision of a code of ethics of an organization not 3653  
appropriate to the individual's profession. 3654

For purposes of this division, a "provision of a code of 3655  
ethics of a national professional organization" does not include 3656  
any provision that would preclude the making of a report by a 3657  
physician of an employee's use of a drug of abuse, or of a 3658  
condition of an employee other than one involving the use of a 3659  
drug of abuse, to the employer of the employee as described in 3660  
division (B) of section 2305.33 of the Revised Code. Nothing in 3661  
this division affects the immunity from civil liability 3662  
conferred by that section upon a physician who makes either type 3663  
of report in accordance with division (B) of that section. As 3664  
used in this division, "employee," "employer," and "physician" 3665  
have the same meanings as in section 2305.33 of the Revised 3666  
Code. 3667

(19) Inability to practice according to acceptable and 3668  
prevailing standards of care by reason of mental illness or 3669  
physical illness, including, but not limited to, physical 3670  
deterioration that adversely affects cognitive, motor, or 3671  
perceptive skills. 3672

In enforcing this division, the board, upon a showing of a 3673  
possible violation, may compel any individual authorized to 3674  
practice by this chapter or who has submitted an application 3675  
pursuant to this chapter to submit to a mental examination, 3676  
physical examination, including an HIV test, or both a mental 3677  
and a physical examination. The expense of the examination is 3678  
the responsibility of the individual compelled to be examined. 3679  
Failure to submit to a mental or physical examination or consent 3680  
to an HIV test ordered by the board constitutes an admission of 3681  
the allegations against the individual unless the failure is due 3682

to circumstances beyond the individual's control, and a default 3683  
and final order may be entered without the taking of testimony 3684  
or presentation of evidence. If the board finds an individual 3685  
unable to practice because of the reasons set forth in this 3686  
division, the board shall require the individual to submit to 3687  
care, counseling, or treatment by physicians approved or 3688  
designated by the board, as a condition for initial, continued, 3689  
reinstated, or renewed authority to practice. An individual 3690  
affected under this division shall be afforded an opportunity to 3691  
demonstrate to the board the ability to resume practice in 3692  
compliance with acceptable and prevailing standards under the 3693  
provisions of the individual's license or certificate. For the 3694  
purpose of this division, any individual who applies for or 3695  
receives a license or certificate to practice under this chapter 3696  
accepts the privilege of practicing in this state and, by so 3697  
doing, shall be deemed to have given consent to submit to a 3698  
mental or physical examination when directed to do so in writing 3699  
by the board, and to have waived all objections to the 3700  
admissibility of testimony or examination reports that 3701  
constitute a privileged communication. 3702

(20) Except as provided in division (F)(1)(b) of section 3703  
4731.282 of the Revised Code or when civil penalties are imposed 3704  
under section 4731.225 of the Revised Code, and subject to 3705  
section 4731.226 of the Revised Code, violating or attempting to 3706  
violate, directly or indirectly, or assisting in or abetting the 3707  
violation of, or conspiring to violate, any provisions of this 3708  
chapter or any rule promulgated by the board. 3709

This division does not apply to a violation or attempted 3710  
violation of, assisting in or abetting the violation of, or a 3711  
conspiracy to violate, any provision of this chapter or any rule 3712  
adopted by the board that would preclude the making of a report 3713

by a physician of an employee's use of a drug of abuse, or of a 3714  
condition of an employee other than one involving the use of a 3715  
drug of abuse, to the employer of the employee as described in 3716  
division (B) of section 2305.33 of the Revised Code. Nothing in 3717  
this division affects the immunity from civil liability 3718  
conferred by that section upon a physician who makes either type 3719  
of report in accordance with division (B) of that section. As 3720  
used in this division, "employee," "employer," and "physician" 3721  
have the same meanings as in section 2305.33 of the Revised 3722  
Code. 3723

(21) The violation of section 3701.79 of the Revised Code 3724  
or of any abortion rule adopted by the director of health 3725  
pursuant to section 3701.341 of the Revised Code; 3726

(22) Any of the following actions taken by an agency 3727  
responsible for authorizing, certifying, or regulating an 3728  
individual to practice a health care occupation or provide 3729  
health care services in this state or another jurisdiction, for 3730  
any reason other than the nonpayment of fees: the limitation, 3731  
revocation, or suspension of an individual's license to 3732  
practice; acceptance of an individual's license surrender; 3733  
denial of a license; refusal to renew or reinstate a license; 3734  
imposition of probation; or issuance of an order of censure or 3735  
other reprimand; 3736

(23) The violation of section 2919.12 of the Revised Code 3737  
or the performance or inducement of an abortion upon a pregnant 3738  
woman with actual knowledge that the conditions specified in 3739  
division (B) of section 2317.56 of the Revised Code have not 3740  
been satisfied or with a heedless indifference as to whether 3741  
those conditions have been satisfied, unless an affirmative 3742  
defense as specified in division (H) (2) of that section would 3743



apply in a civil action authorized by division (H) (1) of that section; 3744  
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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; 3746  
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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; 3752  
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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. 3755  
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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. 3759  
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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 3768  
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responsibility of the individual compelled to be examined. Any 3773  
mental or physical examination required under this division 3774  
shall be undertaken by a treatment provider or physician who is 3775  
qualified to conduct the examination and who is chosen by the 3776  
board. 3777

Failure to submit to a mental or physical examination 3778  
ordered by the board constitutes an admission of the allegations 3779  
against the individual unless the failure is due to 3780  
circumstances beyond the individual's control, and a default and 3781  
final order may be entered without the taking of testimony or 3782  
presentation of evidence. If the board determines that the 3783  
individual's ability to practice is impaired, the board shall 3784  
suspend the individual's license or certificate or deny the 3785  
individual's application and shall require the individual, as a 3786  
condition for initial, continued, reinstated, or renewed 3787  
licensure or certification to practice, to submit to treatment. 3788

Before being eligible to apply for reinstatement of a 3789  
license or certificate suspended under this division, the 3790  
impaired practitioner shall demonstrate to the board the ability 3791  
to resume practice in compliance with acceptable and prevailing 3792  
standards of care under the provisions of the practitioner's 3793  
license or certificate. The demonstration shall include, but 3794  
shall not be limited to, the following: 3795

(a) Certification from a treatment provider approved under 3796  
section 4731.25 of the Revised Code that the individual has 3797  
successfully completed any required inpatient treatment; 3798

(b) Evidence of continuing full compliance with an 3799  
aftercare contract or consent agreement; 3800

(c) Two written reports indicating that the individual's 3801

ability to practice has been assessed and that the individual 3802  
has been found capable of practicing according to acceptable and 3803  
prevailing standards of care. The reports shall be made by 3804  
individuals or providers approved by the board for making the 3805  
assessments and shall describe the basis for their 3806  
determination. 3807

The board may reinstate a license or certificate suspended 3808  
under this division after that demonstration and after the 3809  
individual has entered into a written consent agreement. 3810

When the impaired practitioner resumes practice, the board 3811  
shall require continued monitoring of the individual. The 3812  
monitoring shall include, but not be limited to, compliance with 3813  
the written consent agreement entered into before reinstatement 3814  
or with conditions imposed by board order after a hearing, and, 3815  
upon termination of the consent agreement, submission to the 3816  
board for at least two years of annual written progress reports 3817  
made under penalty of perjury stating whether the individual has 3818  
maintained sobriety. 3819

(27) A second or subsequent violation of section 4731.66 3820  
or 4731.69 of the Revised Code; 3821

(28) Except as provided in division (N) of this section: 3822

(a) Waiving the payment of all or any part of a deductible 3823  
or copayment that a patient, pursuant to a health insurance or 3824  
health care policy, contract, or plan that covers the 3825  
individual's services, otherwise would be required to pay if the 3826  
waiver is used as an enticement to a patient or group of 3827  
patients to receive health care services from that individual; 3828

(b) Advertising that the individual will waive the payment 3829  
of all or any part of a deductible or copayment that a patient, 3830

pursuant to a health insurance or health care policy, contract, 3831  
or plan that covers the individual's services, otherwise would 3832  
be required to pay. 3833

(29) Failure to use universal blood and body fluid 3834  
precautions established by rules adopted under section 4731.051 3835  
of the Revised Code; 3836

(30) Failure to provide notice to, and receive 3837  
acknowledgment of the notice from, a patient when required by 3838  
section 4731.143 of the Revised Code prior to providing 3839  
nonemergency professional services, or failure to maintain that 3840  
notice in the patient's medical record; 3841

(31) Failure of a physician supervising a physician 3842  
assistant to maintain supervision in accordance with the 3843  
requirements of Chapter 4730. of the Revised Code and the rules 3844  
adopted under that chapter; 3845

(32) Failure of a physician or podiatrist to enter into a 3846  
standard care arrangement with a clinical nurse specialist, 3847  
certified nurse-midwife, or certified nurse practitioner with 3848  
whom the physician or podiatrist is in collaboration pursuant to 3849  
section 4731.27 of the Revised Code or failure to fulfill the 3850  
responsibilities of collaboration after entering into a standard 3851  
care arrangement; 3852

(33) Failure to comply with the terms of a consult 3853  
agreement entered into with a pharmacist pursuant to section 3854  
4729.39 of the Revised Code; 3855

(34) Failure to cooperate in an investigation conducted by 3856  
the board under division (F) of this section, including failure 3857  
to comply with a subpoena or order issued by the board or 3858  
failure to answer truthfully a question presented by the board 3859

in an investigative interview, an investigative office 3860  
conference, at a deposition, or in written interrogatories, 3861  
except that failure to cooperate with an investigation shall not 3862  
constitute grounds for discipline under this section if a court 3863  
of competent jurisdiction has issued an order that either 3864  
quashes a subpoena or permits the individual to withhold the 3865  
testimony or evidence in issue; 3866

(35) Failure to supervise an acupuncturist in accordance 3867  
with Chapter 4762. of the Revised Code and the board's rules for 3868  
providing that supervision; 3869

(36) Failure to supervise an anesthesiologist assistant in 3870  
accordance with Chapter 4760. of the Revised Code and the 3871  
board's rules for supervision of an anesthesiologist assistant; 3872

(37) Assisting suicide, as defined in section 3795.01 of 3873  
the Revised Code; 3874

(38) Failure to comply with the requirements of section 3875  
2317.561 of the Revised Code; 3876

(39) Failure to supervise a radiologist assistant in 3877  
accordance with Chapter 4774. of the Revised Code and the 3878  
board's rules for supervision of radiologist assistants; 3879

(40) Performing or inducing an abortion at an office or 3880  
facility with knowledge that the office or facility fails to 3881  
post the notice required under section 3701.791 of the Revised 3882  
Code; 3883

(41) Failure to comply with the standards and procedures 3884  
established in rules under section 4731.054 of the Revised Code 3885  
for the operation of or the provision of care at a pain 3886  
management clinic; 3887

(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;	3888 3889 3890 3891
(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;	3892 3893 3894 3895
(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;	3896 3897 3898 3899 3900
(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;	3901 3902 3903 3904 3905
(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;	3906 3907 3908 3909
(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;	3910 3911 3912 3913 3914
(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a	3915 3916

prescription for an opioid analgesic, as defined in section 3917  
3719.01 of the Revised Code; 3918

(49) Failure to comply with the requirements of section 3919  
4731.30 of the Revised Code or rules adopted under section 3920  
4731.301 of the Revised Code when recommending treatment with 3921  
medical marijuana; 3922

(50) Practicing at a facility, clinic, or other location 3923  
that is subject to licensure as a category III terminal 3924  
distributor of dangerous drugs with an office-based opioid 3925  
treatment classification unless the person operating that place 3926  
has obtained and maintains the license with the classification; 3927

(51) Owning a facility, clinic, or other location that is 3928  
subject to licensure as a category III terminal distributor of 3929  
dangerous drugs with an office-based opioid treatment 3930  
classification unless that place is licensed with the 3931  
classification; 3932

(52) A pattern of continuous or repeated violations of 3933  
division (E) (2) or (3) of section 3963.02 of the Revised Code; 3934

(53) Failure to fulfill the responsibilities of a 3935  
collaboration agreement entered into with an athletic trainer as 3936  
described in section 4755.621 of the Revised Code; 3937

(54) Failure to take the steps specified in section 3938  
4731.911 of the Revised Code following an abortion or attempted 3939  
abortion in an ambulatory surgical facility or other location 3940  
that is not a hospital when a child is born alive. 3941

(C) Disciplinary actions taken by the board under 3942  
divisions (A) and (B) of this section shall be taken pursuant to 3943  
an adjudication under Chapter 119. of the Revised Code, except 3944  
that in lieu of an adjudication, the board may enter into a 3945

consent agreement with an individual to resolve an allegation of 3946  
a violation of this chapter or any rule adopted under it. A 3947  
consent agreement, when ratified by an affirmative vote of not 3948  
fewer than six members of the board, shall constitute the 3949  
findings and order of the board with respect to the matter 3950  
addressed in the agreement. If the board refuses to ratify a 3951  
consent agreement, the admissions and findings contained in the 3952  
consent agreement shall be of no force or effect. 3953

A telephone conference call may be utilized for 3954  
ratification of a consent agreement that revokes or suspends an 3955  
individual's license or certificate to practice or certificate 3956  
to recommend. The telephone conference call shall be considered 3957  
a special meeting under division (F) of section 121.22 of the 3958  
Revised Code. 3959

If the board takes disciplinary action against an 3960  
individual under division (B) of this section for a second or 3961  
subsequent plea of guilty to, or judicial finding of guilt of, a 3962  
violation of section 2919.123 or 2919.124 of the Revised Code, 3963  
the disciplinary action shall consist of a suspension of the 3964  
individual's license or certificate to practice for a period of 3965  
at least one year or, if determined appropriate by the board, a 3966  
more serious sanction involving the individual's license or 3967  
certificate to practice. Any consent agreement entered into 3968  
under this division with an individual that pertains to a second 3969  
or subsequent plea of guilty to, or judicial finding of guilt 3970  
of, a violation of that section shall provide for a suspension 3971  
of the individual's license or certificate to practice for a 3972  
period of at least one year or, if determined appropriate by the 3973  
board, a more serious sanction involving the individual's 3974  
license or certificate to practice. 3975



(D) For purposes of divisions (B) (10), (12), and (14) of 3976  
this section, the commission of the act may be established by a 3977  
finding by the board, pursuant to an adjudication under Chapter 3978  
119. of the Revised Code, that the individual committed the act. 3979  
The board does not have jurisdiction under those divisions if 3980  
the trial court renders a final judgment in the individual's 3981  
favor and that judgment is based upon an adjudication on the 3982  
merits. The board has jurisdiction under those divisions if the 3983  
trial court issues an order of dismissal upon technical or 3984  
procedural grounds. 3985

(E) The sealing or expungement of conviction records by 3986  
any court shall have no effect upon a prior board order entered 3987  
under this section or upon the board's jurisdiction to take 3988  
action under this section if, based upon a plea of guilty, a 3989  
judicial finding of guilt, or a judicial finding of eligibility 3990  
for intervention in lieu of conviction, the board issued a 3991  
notice of opportunity for a hearing prior to the court's order 3992  
to seal or expunge the records. The board shall not be required 3993  
to seal, expunge, destroy, redact, or otherwise modify its 3994  
records to reflect the court's sealing of conviction records. 3995

(F) (1) The board shall investigate evidence that appears 3996  
to show that a person has violated any provision of this chapter 3997  
or any rule adopted under it. Any person may report to the board 3998  
in a signed writing any information that the person may have 3999  
that appears to show a violation of any provision of this 4000  
chapter or any rule adopted under it. In the absence of bad 4001  
faith, any person who reports information of that nature or who 4002  
testifies before the board in any adjudication conducted under 4003  
Chapter 119. of the Revised Code shall not be liable in damages 4004  
in a civil action as a result of the report or testimony. Each 4005  
complaint or allegation of a violation received by the board 4006

shall be assigned a case number and shall be recorded by the board. 4007  
4008

(2) Investigations of alleged violations of this chapter 4009  
or any rule adopted under it shall be supervised by the 4010  
supervising member elected by the board in accordance with 4011  
section 4731.02 of the Revised Code and by the secretary as 4012  
provided in section 4731.39 of the Revised Code. The president 4013  
may designate another member of the board to supervise the 4014  
investigation in place of the supervising member. Upon a vote of 4015  
the majority of the board to authorize the addition of a 4016  
consumer member in the supervision of any part of any 4017  
investigation, the president shall designate a consumer member 4018  
for supervision of investigations as determined by the 4019  
president. The authorization of consumer member participation in 4020  
investigation supervision may be rescinded by a majority vote of 4021  
the board. No member of the board who supervises the 4022  
investigation of a case shall participate in further 4023  
adjudication of the case. 4024

(3) In investigating a possible violation of this chapter 4025  
or any rule adopted under this chapter, or in conducting an 4026  
inspection under division (E) of section 4731.054 of the Revised 4027  
Code, the board may question witnesses, conduct interviews, 4028  
administer oaths, order the taking of depositions, inspect and 4029  
copy any books, accounts, papers, records, or documents, issue 4030  
subpoenas, and compel the attendance of witnesses and production 4031  
of books, accounts, papers, records, documents, and testimony, 4032  
except that a subpoena for patient record information or 4033  
information, documents, and records from a peer review committee 4034  
of a health care entity related to sexual misconduct or criminal 4035  
conduct shall not be issued without consultation with the 4036  
attorney general's office and approval of the secretary and 4037

supervising member of the board. 4038

(a) Before issuance of a subpoena for patient record 4039  
information or information, documents, and records from a peer 4040  
review committee of a health care entity related to sexual 4041  
misconduct or criminal conduct, the secretary and supervising 4042  
member shall determine whether there is probable cause to 4043  
believe that the complaint filed alleges a violation of this 4044  
chapter or any rule adopted under it and that the records sought 4045  
are relevant to the alleged violation and material to the 4046  
investigation. The subpoena may apply only to records that cover 4047  
a reasonable period of time surrounding the alleged violation. 4048

(b) On failure to comply with any subpoena issued by the 4049  
board and after reasonable notice to the person being 4050  
subpoenaed, the board may move for an order compelling the 4051  
production of persons or records pursuant to the Rules of Civil 4052  
Procedure. 4053

(c) A subpoena issued by the board may be served by a 4054  
sheriff, the sheriff's deputy, or a board employee or agent 4055  
designated by the board. Service of a subpoena issued by the 4056  
board may be made by delivering a copy of the subpoena to the 4057  
person named therein, reading it to the person, or leaving it at 4058  
the person's usual place of residence, usual place of business, 4059  
or address on file with the board. When serving a subpoena to an 4060  
applicant for or the holder of a license or certificate issued 4061  
under this chapter, service of the subpoena may be made by 4062  
certified mail, return receipt requested, and the subpoena shall 4063  
be deemed served on the date delivery is made or the date the 4064  
person refuses to accept delivery. If the person being served 4065  
refuses to accept the subpoena or is not located, service may be 4066  
made to an attorney who notifies the board that the attorney is 4067

representing the person. 4068

(d) A sheriff's deputy who serves a subpoena shall receive 4069  
the same fees as a sheriff. Each witness who appears before the 4070  
board in obedience to a subpoena shall receive the fees and 4071  
mileage provided for under section 119.094 of the Revised Code. 4072

(4) All ~~For purposes of section 2305.252 of the Revised~~ 4073  
Code, all hearings, investigations, and inspections of the board 4074  
shall be considered civil actions ~~for the purposes of section~~ 4075  
2305.252 of the Revised Code, except those involving allegations 4076  
of sexual misconduct or criminal conduct, as defined in that 4077  
section. 4078

(5) A report required to be submitted to the board under 4079  
this chapter, a complaint, or information received by the board 4080  
pursuant to an investigation or pursuant to an inspection under 4081  
division (E) of section 4731.054 of the Revised Code is 4082  
confidential and not subject to discovery in any civil action. 4083

The board shall conduct all investigations or inspections 4084  
and proceedings in a manner that protects the confidentiality of 4085  
patients and persons who file complaints with the board. The 4086  
board shall not make public the names or any other identifying 4087  
information about patients or complainants unless proper consent 4088  
is given or, in the case of a patient, a waiver of the patient 4089  
privilege exists under division (B) of section 2317.02 of the 4090  
Revised Code, except that consent or a waiver of that nature is 4091  
not required if the board possesses reliable and substantial 4092  
evidence that no bona fide physician-patient relationship 4093  
exists. 4094

The board may share any information it receives pursuant 4095  
to an investigation or inspection, including patient records and 4096

patient record information, with law enforcement agencies, other 4097  
licensing boards, and other governmental agencies that are 4098  
prosecuting, adjudicating, or investigating alleged violations 4099  
of statutes or administrative rules. An agency or board that 4100  
receives the information shall comply with the same requirements 4101  
regarding confidentiality as those with which the state medical 4102  
board must comply, notwithstanding any conflicting provision of 4103  
the Revised Code or procedure of the agency or board that 4104  
applies when it is dealing with other information in its 4105  
possession. In a judicial proceeding, the information may be 4106  
admitted into evidence only in accordance with the Rules of 4107  
Evidence, but the court shall require that appropriate measures 4108  
are taken to ensure that confidentiality is maintained with 4109  
respect to any part of the information that contains names or 4110  
other identifying information about patients or complainants 4111  
whose confidentiality was protected by the state medical board 4112  
when the information was in the board's possession. Measures to 4113  
ensure confidentiality that may be taken by the court include 4114  
sealing its records or deleting specific information from its 4115  
records. 4116

No person shall knowingly access, use, or disclose 4117  
confidential investigatory information in a manner prohibited by 4118  
law. 4119

(6) On a quarterly basis, the board shall prepare a report 4120  
that documents the disposition of all cases during the preceding 4121  
three months. The report shall contain the following information 4122  
for each case with which the board has completed its activities: 4123

(a) The case number assigned to the complaint or alleged 4124  
violation; 4125

(b) The type of license or certificate to practice, if 4126

any, held by the individual against whom the complaint is 4127  
directed; 4128

(c) A description of the allegations contained in the 4129  
complaint; 4130

(d) Whether witnesses were interviewed; 4131

(e) Whether the individual against whom the complaint is 4132  
directed is the subject of any pending complaints; 4133

(f) The disposition of the case. 4134

The report shall state how many cases are still pending 4135  
and shall be prepared in a manner that protects the identity of 4136  
each person involved in each case. The report shall be a public 4137  
record under section 149.43 of the Revised Code. 4138

(7) The board may provide a status update regarding an 4139  
investigation to a complaint on request if the board verifies 4140  
the complainant's identity. 4141

~~(G)(1)~~ If either of the following circumstances occur, 4142  
the secretary and supervising member ~~determine both of the~~ 4143  
~~following, they~~ may recommend that the board suspend an 4144  
individual's license or certificate to practice or certificate 4145  
to recommend without a prior hearing: 4146

~~(1)~~ (a) The secretary and supervising member determine 4147  
both of the following: 4148

(i) That there is clear and convincing evidence that an 4149  
individual has violated division (B) of this section; 4150

~~(2)~~ (ii) That the individual's continued practice presents 4151  
a danger of immediate and serious harm to the public. 4152

~~Written~~ (b) The board receives verifiable information that 4153

a licensee has been charged in any state or federal court with a 4154  
crime classified as a felony under the charging court's law and 4155  
the conduct constitutes a violation of division (B) of this 4156  
section. 4157

(2) If a recommendation is made to suspend without a prior 4158  
hearing pursuant to division (G) (1) of this section, written 4159  
allegations shall be prepared for consideration by the board. 4160  
The board, upon review of those allegations and by an 4161  
affirmative vote of not fewer than six of its members, excluding 4162  
the secretary and supervising member, may suspend a license or 4163  
certificate without a prior hearing. A telephone conference call 4164  
may be utilized for reviewing the allegations and taking the 4165  
vote on the summary suspension. 4166

The board shall issue a written order of suspension by 4167  
certified mail or in person in accordance with section 119.07 of 4168  
the Revised Code. The order shall not be subject to suspension 4169  
by the court during pendency of any appeal filed under section 4170  
119.12 of the Revised Code. If the individual subject to the 4171  
summary suspension requests an adjudicatory hearing by the 4172  
board, the date set for the hearing shall be within fifteen 4173  
days, but not earlier than seven days, after the individual 4174  
requests the hearing, unless otherwise agreed to by both the 4175  
board and the individual. 4176

(3) Any summary suspension imposed under this division 4177  
shall remain in effect, unless reversed on appeal, until a final 4178  
adjudicative order issued by the board pursuant to this section 4179  
and Chapter 119. of the Revised Code becomes effective. The 4180  
board shall issue its final adjudicative order within seventy- 4181  
five days after completion of its hearing. A failure to issue 4182  
the order within seventy-five days shall result in dissolution 4183

of the summary suspension order but shall not invalidate any 4184  
subsequent, final adjudicative order. 4185

(H) If the board takes action under division (B) (9), (11), 4186  
or (13) of this section and the judicial finding of guilt, 4187  
guilty plea, or judicial finding of eligibility for intervention 4188  
in lieu of conviction is overturned on appeal, upon exhaustion 4189  
of the criminal appeal, a petition for reconsideration of the 4190  
order may be filed with the board along with appropriate court 4191  
documents. Upon receipt of a petition of that nature and 4192  
supporting court documents, the board shall reinstate the 4193  
individual's license or certificate to practice. The board may 4194  
then hold an adjudication under Chapter 119. of the Revised Code 4195  
to determine whether the individual committed the act in 4196  
question. Notice of an opportunity for a hearing shall be given 4197  
in accordance with Chapter 119. of the Revised Code. If the 4198  
board finds, pursuant to an adjudication held under this 4199  
division, that the individual committed the act or if no hearing 4200  
is requested, the board may order any of the sanctions 4201  
identified under division (B) of this section. 4202

(I) The license or certificate to practice issued to an 4203  
individual under this chapter and the individual's practice in 4204  
this state are automatically suspended as of the date of the 4205  
individual's second or subsequent plea of guilty to, or judicial 4206  
finding of guilt of, a violation of section 2919.123 or 2919.124 4207  
of the Revised Code. In addition, the license or certificate to 4208  
practice or certificate to recommend issued to an individual 4209  
under this chapter and the individual's practice in this state 4210  
are automatically suspended as of the date the individual pleads 4211  
guilty to, is found by a judge or jury to be guilty of, or is 4212  
subject to a judicial finding of eligibility for intervention in 4213  
lieu of conviction in this state or treatment or intervention in 4214



lieu of conviction in another jurisdiction for any of the 4215  
following criminal offenses in this state or a substantially 4216  
equivalent criminal offense in another jurisdiction: aggravated 4217  
murder, murder, voluntary manslaughter, felonious assault, 4218  
trafficking in persons, kidnapping, rape, sexual battery, gross 4219  
sexual imposition, aggravated arson, aggravated robbery, or 4220  
aggravated burglary. Continued practice after suspension shall 4221  
be considered practicing without a license or certificate. 4222

The board shall notify the individual subject to the 4223  
suspension by certified mail or in person in accordance with 4224  
section 119.07 of the Revised Code. If an individual whose 4225  
license or certificate is automatically suspended under this 4226  
division fails to make a timely request for an adjudication 4227  
under Chapter 119. of the Revised Code, the board shall do 4228  
whichever of the following is applicable: 4229

(1) If the automatic suspension under this division is for 4230  
a second or subsequent plea of guilty to, or judicial finding of 4231  
guilt of, a violation of section 2919.123 or 2919.124 of the 4232  
Revised Code, the board shall enter an order suspending the 4233  
individual's license or certificate to practice for a period of 4234  
at least one year or, if determined appropriate by the board, 4235  
imposing a more serious sanction involving the individual's 4236  
license or certificate to practice. 4237

(2) In all circumstances in which division (I)(1) of this 4238  
section does not apply, enter a final order permanently revoking 4239  
the individual's license or certificate to practice. 4240

(J) If the board is required by Chapter 119. of the 4241  
Revised Code to give notice of an opportunity for a hearing and 4242  
if the individual subject to the notice does not timely request 4243  
a hearing in accordance with section 119.07 of the Revised Code, 4244

the board is not required to hold a hearing, but may adopt, by 4245  
an affirmative vote of not fewer than six of its members, a 4246  
final order that contains the board's findings. In that final 4247  
order, the board may order any of the sanctions identified under 4248  
division (A) or (B) of this section. 4249

(K) Any action taken by the board under division (B) of 4250  
this section resulting in a suspension from practice shall be 4251  
accompanied by a written statement of the conditions under which 4252  
the individual's license or certificate to practice may be 4253  
reinstated. The board shall adopt rules governing conditions to 4254  
be imposed for reinstatement. Reinstatement of a license or 4255  
certificate suspended pursuant to division (B) of this section 4256  
requires an affirmative vote of not fewer than six members of 4257  
the board. 4258

(L) When the board refuses to grant or issue a license or 4259  
certificate to practice to an applicant, revokes an individual's 4260  
license or certificate to practice, refuses to renew an 4261  
individual's license or certificate to practice, or refuses to 4262  
reinstatement an individual's license or certificate to practice, 4263  
the board may specify that its action is permanent. An 4264  
individual subject to a permanent action taken by the board is 4265  
forever thereafter ineligible to hold a license or certificate 4266  
to practice and the board shall not accept an application for 4267  
reinstatement of the license or certificate or for issuance of a 4268  
new license or certificate. 4269

(M) Notwithstanding any other provision of the Revised 4270  
Code, all of the following apply: 4271

(1) The surrender of a license or certificate issued under 4272  
this chapter shall not be effective unless or until accepted by 4273  
the board. A telephone conference call may be utilized for 4274

acceptance of the surrender of an individual's license or 4275  
certificate to practice. The telephone conference call shall be 4276  
considered a special meeting under division (F) of section 4277  
121.22 of the Revised Code. Reinstatement of a license or 4278  
certificate surrendered to the board requires an affirmative 4279  
vote of not fewer than six members of the board. 4280

(2) An application for a license or certificate made under 4281  
the provisions of this chapter may not be withdrawn without 4282  
approval of the board. 4283

(3) Failure by an individual to renew a license or 4284  
certificate to practice in accordance with this chapter or a 4285  
certificate to recommend in accordance with rules adopted under 4286  
section 4731.301 of the Revised Code shall not remove or limit 4287  
the board's jurisdiction to take any disciplinary action under 4288  
this section against the individual. 4289

(4) At the request of the board, a license or certificate 4290  
holder shall immediately surrender to the board a license or 4291  
certificate that the board has suspended, revoked, or 4292  
permanently revoked. 4293

(N) Sanctions shall not be imposed under division (B) (28) 4294  
of this section against any person who waives deductibles and 4295  
copayments as follows: 4296

(1) In compliance with the health benefit plan that 4297  
expressly allows such a practice. Waiver of the deductibles or 4298  
copayments shall be made only with the full knowledge and 4299  
consent of the plan purchaser, payer, and third-party 4300  
administrator. Documentation of the consent shall be made 4301  
available to the board upon request. 4302

(2) For professional services rendered to any other person 4303

authorized to practice pursuant to this chapter, to the extent 4304  
allowed by this chapter and rules adopted by the board. 4305

(O) Under the board's investigative duties described in 4306  
this section and subject to division (F) of this section, the 4307  
board shall develop and implement a quality intervention program 4308  
designed to improve through remedial education the clinical and 4309  
communication skills of individuals authorized under this 4310  
chapter to practice medicine and surgery, osteopathic medicine 4311  
and surgery, and podiatric medicine and surgery. In developing 4312  
and implementing the quality intervention program, the board may 4313  
do all of the following: 4314

(1) Offer in appropriate cases as determined by the board 4315  
an educational and assessment program pursuant to an 4316  
investigation the board conducts under this section; 4317

(2) Select providers of educational and assessment 4318  
services, including a quality intervention program panel of case 4319  
reviewers; 4320

(3) Make referrals to educational and assessment service 4321  
providers and approve individual educational programs 4322  
recommended by those providers. The board shall monitor the 4323  
progress of each individual undertaking a recommended individual 4324  
educational program. 4325

(4) Determine what constitutes successful completion of an 4326  
individual educational program and require further monitoring of 4327  
the individual who completed the program or other action that 4328  
the board determines to be appropriate; 4329

(5) Adopt rules in accordance with Chapter 119. of the 4330  
Revised Code to further implement the quality intervention 4331  
program. 4332

An individual who participates in an individual 4333  
educational program pursuant to this division shall pay the 4334  
financial obligations arising from that educational program. 4335

(P) The board shall not refuse to issue a license to an 4336  
applicant because of a conviction, plea of guilty, judicial 4337  
finding of guilt, judicial finding of eligibility for 4338  
intervention in lieu of conviction, or the commission of an act 4339  
that constitutes a criminal offense, unless the refusal is in 4340  
accordance with section 9.79 of the Revised Code. 4341

(Q) A license or certificate to practice or certificate to 4342  
recommend issued to an individual under this chapter and an 4343  
individual's practice under this chapter in this state are 4344  
automatically suspended if the individual's license or 4345  
certificate to practice a health care occupation or provide 4346  
health care services is suspended, revoked, or surrendered or 4347  
relinquished in lieu of discipline by an agency responsible for 4348  
authorizing, certifying, or regulating an individual to practice 4349  
a health care occupation or provide health care services in this 4350  
state or another jurisdiction. The automatic suspension begins 4351  
immediately upon entry of the order by the agency and lasts for 4352  
ninety days to permit the board to investigate the basis for the 4353  
action under this chapter. Continued practice during the 4354  
automatic suspension shall be considered practicing without a 4355  
license or certificate. 4356

The board shall notify the individual subject to the 4357  
automatic suspension by certified mail or in person in 4358  
accordance with section 119.07 of the Revised Code. If an 4359  
individual subject to an automatic suspension under this 4360  
division fails to make a timely request for an adjudication 4361  
under Chapter 119. of the Revised Code, the board is not 4362

required to hold a hearing, but may adopt, by an affirmative 4363  
vote of not fewer than six of its members, a final order that 4364  
contains the board's findings. In that final order, the board 4365  
may order any of the sanctions identified under division (A) or 4366  
(B) of this section. 4367

**Sec. 4731.224.** (A) As used in this section: 4368

(1) "Criminal conduct" means any conduct that would 4369  
constitute a felony, a misdemeanor committed in the course of 4370  
medical practice, an offense of violence, or a sexually oriented 4371  
offense, as defined in section 2950.01 of the Revised Code, 4372  
regardless of whether a criminal charge has been filed or the 4373  
location in this state where the conduct occurred. 4374

(2) "Sexual misconduct" means conduct that exploits the 4375  
licensee-patient relationship in a sexual way, whether verbal or 4376  
physical, and may include the expression of thoughts, feelings, 4377  
or gestures that are sexual or that reasonably may be construed 4378  
by a patient as sexual. Sexual misconduct includes sexual 4379  
impropriety, sexual contact, and sexual interaction as defined 4380  
by the state medical board in rules adopted in accordance with 4381  
Chapter 119. of the Revised Code. 4382

(B)(1) Within ~~sixty~~ thirty days after the imposition of 4383  
any formal disciplinary action taken by any health care 4384  
facility, including a hospital, health care facility operated by 4385  
a health insuring corporation, ambulatory surgical center, or 4386  
similar facility, against any individual holding a valid license 4387  
or certificate to practice issued pursuant to this chapter, the 4388  
chief administrator or executive officer of the facility shall 4389  
report to the state medical board the name of the individual, 4390  
the action taken by the facility, and a summary of the 4391  
underlying facts leading to the action taken. Upon request, the 4392

board shall be provided certified copies of the patient records 4393  
that were the basis for the facility's action. Prior to release 4394  
to the board, the summary shall be approved by the peer review 4395  
committee that reviewed the case or by the governing board of 4396  
the facility. As used in this division, "formal disciplinary 4397  
action" means any action resulting in the revocation, 4398  
restriction, reduction, or termination of clinical privileges 4399  
for violations of professional ethics, or for reasons of medical 4400  
incompetence or medical malpractice. "Formal disciplinary 4401  
action" includes a summary action, an action that takes effect 4402  
notwithstanding any appeal rights that may exist, and an action 4403  
that results in an individual surrendering clinical privileges 4404  
while under investigation and during proceedings regarding the 4405  
action being taken or in return for not being investigated or 4406  
having proceedings held. "Formal disciplinary action" does not 4407  
include any action taken for the sole reason of failure to 4408  
maintain records on a timely basis or failure to attend staff or 4409  
section meetings. 4410

The filing or nonfiling of a report with the board, 4411  
investigation by the board, or any disciplinary action taken by 4412  
the board, shall not preclude any action by a health care 4413  
facility to suspend, restrict, or revoke the individual's 4414  
clinical privileges. 4415

In the absence of fraud or bad faith, no individual or 4416  
entity that provides patient records to the board shall be 4417  
liable in damages to any person as a result of providing the 4418  
records. 4419

(2) Within thirty days after commencing an investigation 4420  
regarding criminal conduct or sexual misconduct against any 4421  
individual holding a valid license or certificate to practice 4422

issued pursuant to this chapter, a health care facility, 4423  
including a hospital, health care facility operated by a health 4424  
insuring corporation, ambulatory surgical center, or similar 4425  
facility, shall report to the board the name of the individual 4426  
and a summary of the underlying facts related to the 4427  
investigation being commenced. 4428

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 4429  
of this section and subject to division (C) (3) of this section, 4430  
if any individual authorized to practice under this chapter or 4431  
any professional association or society of such individuals 4432  
believes that a violation of any provision of this chapter, 4433  
Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 4778. of 4434  
the Revised Code, or any rule of the board has occurred, the 4435  
individual, association, or society shall report to the board 4436  
the information upon which the belief is based. 4437

(2) If any individual authorized to practice under this 4438  
chapter or any professional association or society of such 4439  
individuals believes that a violation of division (B) (26) of 4440  
section 4731.22 of the Revised Code has occurred, the 4441  
individual, association, or society shall report the information 4442  
upon which the belief is based to the monitoring organization 4443  
conducting the program established by the board under section 4444  
4731.251 of the Revised Code. If any such report is made to the 4445  
board, it shall be referred to the monitoring organization 4446  
unless the board is aware that the individual who is the subject 4447  
of the report does not meet the program eligibility requirements 4448  
of section 4731.252 of the Revised Code. 4449

(3) If any individual authorized to practice under this 4450  
chapter or any professional association or society of such 4451  
individuals knows or has reasonable cause to suspect based on 4452



facts that would cause a reasonable person in a similar position 4453  
to suspect that an individual authorized to practice under this 4454  
chapter has committed or participated in criminal conduct or 4455  
sexual misconduct the information upon which the belief is based 4456  
shall be reported to the board within thirty days. 4457

(4) In addition to the self-reporting of criminal offenses 4458  
that is required for license renewal, an individual authorized 4459  
to practice under this chapter shall report to the board 4460  
criminal charges regarding criminal conduct, sexual misconduct, 4461  
or any conduct involving the use of a motor vehicle while under 4462  
the influence of alcohol or drugs, including offenses that are 4463  
equivalent offenses under division (A) of section 4511.181 of 4464  
the Revised Code, violations of division (D) of section 4511.194 4465  
of the Revised Code, and violations of division (C) of section 4466  
4511.79 of the Revised Code. Reports under this division shall 4467  
be made within thirty days of the criminal charge being filed. 4468

~~(C)~~ (D) Any professional association or society composed 4469  
primarily of doctors of medicine and surgery, doctors of 4470  
osteopathic medicine and surgery, doctors of podiatric medicine 4471  
and surgery, or practitioners of limited branches of medicine 4472  
that suspends or revokes an individual's membership for 4473  
violations of professional ethics, or for reasons of 4474  
professional incompetence or professional malpractice, within 4475  
~~sixty~~ thirty days after a final decision shall report to the 4476  
board, on forms prescribed and provided by the board, the name 4477  
of the individual, the action taken by the professional 4478  
organization, and a summary of the underlying facts leading to 4479  
the action taken. 4480

The filing of a report with the board or decision not to 4481  
file a report, investigation by the board, or any disciplinary 4482

action taken by the board, does not preclude a professional 4483  
organization from taking disciplinary action against an 4484  
individual. 4485

~~(D)~~ (E) Any insurer providing professional liability 4486  
insurance to an individual authorized to practice under this 4487  
chapter, or any other entity that seeks to indemnify the 4488  
professional liability of such an individual, shall notify the 4489  
board within thirty days after the final disposition of any 4490  
written claim for damages where such disposition results in a 4491  
payment exceeding twenty-five thousand dollars. The notice shall 4492  
contain the following information: 4493

(1) The name and address of the person submitting the 4494  
notification; 4495

(2) The name and address of the insured who is the subject 4496  
of the claim; 4497

(3) The name of the person filing the written claim; 4498

(4) The date of final disposition; 4499

(5) If applicable, the identity of the court in which the 4500  
final disposition of the claim took place. 4501

~~(E)~~ (F) The board may investigate possible violations of 4502  
this chapter or the rules adopted under it that are brought to 4503  
its attention as a result of the reporting requirements of this 4504  
section, except that the board shall conduct an investigation if 4505  
a possible violation involves repeated malpractice. As used in 4506  
this division, "repeated malpractice" means three or more claims 4507  
for medical malpractice within the previous five-year period, 4508  
each resulting in a judgment or settlement in excess of twenty- 4509  
five thousand dollars in favor of the claimant, and each 4510  
involving negligent conduct by the practicing individual. 4511

~~(F)-(G)~~ All summaries, reports, and records received and 4512  
maintained by the board pursuant to this section shall be held 4513  
~~in confidence and shall not be subject to discovery or~~ 4514  
~~introduction in evidence in any federal or state civil action~~ 4515  
~~involving a health care professional or facility arising out of~~ 4516  
~~matters that are the subject of the reporting required by this~~ 4517  
~~section. The board may use the information obtained only as the~~ 4518  
~~basis for an investigation, as evidence in a disciplinary~~ 4519  
~~hearing against an individual whose practice is regulated under~~ 4520  
~~this chapter, or in any subsequent trial or appeal of a board~~ 4521  
~~action or order.~~ 4522

~~The board may disclose the summaries and reports it~~ 4523  
~~receives under this section only to health care facility~~ 4524  
~~committees within or outside this state that are involved in~~ 4525  
~~credentialing or recredentialing the individual or in reviewing~~ 4526  
~~the individual's clinical privileges. The board shall indicate~~ 4527  
~~whether or not the information has been verified. Information~~ 4528  
~~transmitted by the board shall be subject to the same~~ 4529  
~~confidentiality provisions as when maintained by the~~ 4530  
~~board~~confidential pursuant to division (F)(5) of section 4731.22 4531  
of the Revised Code. 4532

~~(G)-(H)~~ Except for reports filed by an individual pursuant 4533  
to division ~~(B)(B)(2)~~ (C) of this section, the board shall 4534  
send a copy of any reports or summaries it receives pursuant to 4535  
this section to the individual who is the subject of the reports 4536  
or summaries. The individual shall have the right to file a 4537  
statement with the board concerning the correctness or relevance 4538  
of the information. The statement shall at all times accompany 4539  
that part of the record in contention. 4540

~~(H)-(I)~~ An individual or entity that, pursuant to this 4541

section, reports to the board, reports to the monitoring 4542  
organization described in section 4731.251 of the Revised Code, 4543  
or refers an impaired practitioner to a treatment provider 4544  
approved by the board under section 4731.25 of the Revised Code 4545  
shall not be subject to suit for civil damages as a result of 4546  
the report, referral, or provision of the information. 4547

~~(I)~~-(J) In the absence of fraud or bad faith, no 4548  
professional association or society of individuals authorized to 4549  
practice under this chapter that sponsors a committee or program 4550  
to provide peer assistance to practitioners with substance abuse 4551  
problems, no representative or agent of such a committee or 4552  
program, no representative or agent of the monitoring 4553  
organization described in section 4731.251 of the Revised Code, 4554  
and no member of the state medical board shall be held liable in 4555  
damages to any person by reason of actions taken to refer a 4556  
practitioner to a treatment provider approved under section 4557  
4731.25 of the Revised Code for examination or treatment. 4558

**Sec. 4731.2210.** (A) As used in this section: 4559

(1) "Key third party" means an individual closely involved 4560  
in a patient's decision-making regarding health care services, 4561  
including a patient's spouse or partner, parents, children, 4562  
siblings, or guardians. An individual's status as a key third 4563  
party ceases upon termination of a practitioner-patient 4564  
relationship or termination of the relationship between a 4565  
patient and the individual. 4566

(2) "Practitioner" means any of the following: 4567

(a) An individual authorized under this chapter to 4568  
practice medicine and surgery, osteopathic medicine and surgery, 4569  
podiatric medicine and surgery, or a limited branch of medicine; 4570

<u>(b) An individual licensed under Chapter 4730. of the</u>	4571
<u>Revised Code to practice as a physician assistant;</u>	4572
<u>(c) An individual authorized under Chapter 4759. of the</u>	4573
<u>Revised Code to practice as a dietitian;</u>	4574
<u>(d) An individual authorized under Chapter 4760. of the</u>	4575
<u>Revised Code to practice as an anesthesiologist assistant;</u>	4576
<u>(e) An individual authorized under Chapter 4761. of the</u>	4577
<u>Revised Code to practice respiratory care;</u>	4578
<u>(f) An individual authorized under Chapter 4762. of the</u>	4579
<u>Revised Code to practice as an acupuncturist or oriental</u>	4580
<u>medicine practitioner;</u>	4581
<u>(g) An individual authorized under Chapter 4774. of the</u>	4582
<u>Revised Code to practice as a radiologist assistant;</u>	4583
<u>(h) An individual licensed under Chapter 4778. of the</u>	4584
<u>Revised Code to practice as a genetic counselor.</u>	4585
<u>(3) "Sexual misconduct" has the same meaning as in section</u>	4586
<u>4731.224 of the Revised Code.</u>	4587
<u>(B) Except as provided in division (D) of this section,</u>	4588
<u>each practitioner that is subject to a probationary order of the</u>	4589
<u>state medical board that is made on or after the effective date</u>	4590
<u>of this section and that involves a circumstance described in</u>	4591
<u>division (C) of this section shall provide to each patient, or</u>	4592
<u>to the patient's guardian or a key third party, a written</u>	4593
<u>disclosure signed by the practitioner that includes all of the</u>	4594
<u>following:</u>	4595
<u>(1) The practitioner's probation status;</u>	4596
<u>(2) The total length of the probation;</u>	4597

<u>(3) The probation end date;</u>	4598
<u>(4) Practice restrictions placed on the practitioner by the board;</u>	4599 4600
<u>(5) The board's telephone number;</u>	4601
<u>(6) An explanation of how the patient can find additional information regarding the probation on the practitioner's profile page on the board's internet web site.</u>	4602 4603 4604
<u>The written disclosure shall be provided before the patient's first visit following the probationary order of the board. The practitioner shall obtain a copy of the disclosure signed by the patient, or the patient's guardian or a key third party, and maintain the signed copy in the patient's medical record. The signed copy shall be made available to the board immediately upon request.</u>	4605 4606 4607 4608 4609 4610 4611
<u>(C) The written disclosure required by division (B) of this section applies in both of the following circumstances:</u>	4612 4613
<u>(1) Issuance by the board of a final order, final adjudicative order under Chapter 119. of the Revised Code, or a consent agreement that is ratified by an affirmative vote of not fewer than six members of the board establishing any of the following:</u>	4614 4615 4616 4617 4618
<u>(a) Commission of any act of sexual misconduct with a patient or key third party;</u>	4619 4620
<u>(b) Drug or alcohol abuse directly resulting in patient harm, or that impairs the ability of the practitioner to practice safely;</u>	4621 4622 4623
<u>(c) Criminal conviction directly resulting in harm to patient health;</u>	4624 4625

(d) Inappropriate prescribing directly resulting in 4626  
patient harm. 4627

(2) A statement of issues alleged that the practitioner 4628  
committed any of the acts described in divisions (C) (1) (a) 4629  
through (d) and, notwithstanding a lack of admission of guilt, a 4630  
consent agreement ratified by an affirmative vote of not fewer 4631  
than six members of the board includes express acknowledgement 4632  
that the disclosure requirements of this section would serve to 4633  
protect the public interest. 4634

(D) Written disclosure as described in this section is not 4635  
required in the following circumstances: 4636

(1) The patient is unconscious or otherwise unable to 4637  
comprehend the disclosure and sign it, and a guardian or a key 4638  
third party is unavailable to comprehend and sign it; 4639

(2) The direct patient interaction occurs in an emergency 4640  
department or otherwise occurs as an immediate result of a 4641  
medical emergency; 4642

(3) The practitioner does not have a direct treatment 4643  
relationship with the patient and does not have direct contact 4644  
or direct communication with the patient. 4645

(E) The board shall provide the following information 4646  
regarding practitioners on probation and those practicing under 4647  
probationary status, in plain view on a practitioner's profile 4648  
page on the board's internet web site: 4649

(1) Formal action documents detailing the citation, 4650  
reports and recommendations, board order, and consent agreement; 4651

(2) The length of the probation and the end date; 4652

(3) Practice restrictions placed on the practitioner by 4653

the board. 4654

(F) The board shall provide a sample probation disclosure 4655  
letter on its internet web site to be used by practitioners to 4656  
comply with this section. 4657

**Sec. 4731.251.** (A) As used in this section and in sections 4658  
4731.252 to 4731.254 of the Revised Code: 4659

(1) "Applicant" means an individual who has applied under 4660  
Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4661  
4778. of the Revised Code for a license, training or other 4662  
certificate, limited permit, or other authority to practice as 4663  
any one of the following practitioners: a physician assistant, 4664  
physician, podiatrist, limited branch of medicine practitioner, 4665  
dietitian, anesthesiologist assistant, respiratory care 4666  
professional, acupuncturist, radiologist assistant, or genetic 4667  
counselor. "Applicant" may include an individual who has been 4668  
granted authority by the state medical board to practice as one 4669  
type of practitioner, but has applied for authority to practice 4670  
as another type of practitioner. 4671

(2) "Impaired" or "impairment" has the same meaning as in 4672  
division (B) (5) of section 4730.25, division (B) (26) of section 4673  
4731.22, division (A) (18) of section 4759.07, division (B) (6) of 4674  
section 4760.13, division (A) (18) of section 4761.09, division 4675  
(B) (6) of section 4762.13, division (B) (6) of section 4774.13, 4676  
or division (B) (6) of section 4778.14 of the Revised Code. 4677

(3) "Practitioner" means any of the following: 4678

(a) An individual authorized under this chapter to 4679  
practice medicine and surgery, osteopathic medicine and surgery, 4680  
podiatric medicine and surgery, or a limited branch of medicine; 4681

(b) An individual licensed under Chapter 4730. of the 4682



Revised Code to practice as a physician assistant;	4683
(c) An individual authorized under Chapter 4759. of the Revised Code to practice as a dietitian;	4684 4685
(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;	4686 4687
(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care;	4688 4689
(f) An individual authorized under Chapter 4762. of the Revised Code to practice as an acupuncturist;	4690 4691
(g) An individual authorized under Chapter 4774. of the Revised Code to practice as a radiologist assistant;	4692 4693
(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.	4694 4695
(B) The state medical board shall establish a confidential program for the treatment of impaired practitioners and applicants, which shall be known as the one-bite program. The board shall contract with one organization to conduct the program and perform monitoring services.	4696 4697 4698 4699 4700
To be qualified to contract with the board under this section, an organization must meet all of the following requirements:	4701 4702 4703
(1) Be sponsored by one or more professional associations or societies of practitioners;	4704 4705
(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code;	4706 4707 4708
(3) Contract with or employ to serve as the organization's	4709

medical director an individual who is authorized under this 4710  
chapter to practice medicine and surgery or osteopathic medicine 4711  
and surgery and specializes or has training and expertise in 4712  
addiction medicine; 4713

(4) Contract with or employ one or more of the following 4714  
as necessary for the organization's operation: 4715

(a) An individual licensed under Chapter 4758. of the 4716  
Revised Code as an independent chemical dependency counselor- 4717  
clinical supervisor, independent chemical dependency counselor, 4718  
chemical dependency counselor III, or chemical dependency 4719  
counselor II; 4720

(b) An individual licensed under Chapter 4757. of the 4721  
Revised Code as an independent social worker, social worker, 4722  
licensed professional clinical counselor, or licensed 4723  
professional counselor; 4724

(c) An individual licensed under Chapter 4732. of the 4725  
Revised Code as a psychologist. 4726

(C) The monitoring organization shall do all of the 4727  
following pursuant to the contract: 4728

(1) Receive any report of suspected practitioner 4729  
impairment, including a report made under division ~~(B) (2)~~ (C) (2) 4730  
of section 4730.32, division ~~(B) (2)~~ (C) (2) of section 4731.224, 4731  
section 4759.13, division ~~(B) (2)~~ (C) (2) of section 4760.16, 4732  
section 4761.19, division ~~(B) (2)~~ (C) (2) of section 4762.16, 4733  
division ~~(B) (2)~~ (C) (2) of section 4774.16, or section 4778.17 of 4734  
the Revised Code; 4735

(2) Notify a practitioner who is the subject of a report 4736  
received under division (C) (1) of this section that the report 4737  
has been made and that the practitioner may be eligible to 4738

participate in the program conducted under this section; 4739

(3) Receive from the board a referral regarding an 4740  
applicant, as described in section 4731.253 of the Revised Code; 4741

(4) Evaluate the records of an applicant who is the 4742  
subject of a referral received under division (C) (3) of this 4743  
section, in particular records from another jurisdiction 4744  
regarding the applicant's prior treatment for impairment or 4745  
current monitoring; 4746

(5) Determine whether a practitioner reported or applicant 4747  
referred to the monitoring organization is eligible to 4748  
participate in the program and notify the practitioner or 4749  
applicant of the determination; 4750

(6) In the case of a practitioner reported by a treatment 4751  
provider, notify the treatment provider of the eligibility 4752  
determination; 4753

(7) Report to the board any practitioner or applicant who 4754  
is determined ineligible to participate in the program; 4755

(8) Refer an eligible practitioner who chooses to 4756  
participate in the program for evaluation by a treatment 4757  
provider approved by the board under section 4731.25 of the 4758  
Revised Code, unless the report received by the monitoring 4759  
organization was made by an approved treatment provider and the 4760  
practitioner has already been evaluated by the treatment 4761  
provider; 4762

(9) Monitor the evaluation of an eligible practitioner; 4763

(10) Refer an eligible practitioner who chooses to 4764  
participate in the program to a treatment provider approved by 4765  
the board under section 4731.25 of the Revised Code; 4766

(11) Establish, in consultation with the treatment 4767  
provider to which a practitioner is referred, the terms and 4768  
conditions with which the practitioner must comply for continued 4769  
participation in and successful completion of the program; 4770

(12) Report to the board any practitioner who does not 4771  
complete evaluation or treatment or does not comply with any of 4772  
the terms and conditions established by the monitoring 4773  
organization and the treatment provider; 4774

(13) Perform any other activities specified in the 4775  
contract with the board or that the monitoring organization 4776  
considers necessary to comply with this section and sections 4777  
4731.252 to 4731.254 of the Revised Code. 4778

(D) The monitoring organization shall not disclose to the 4779  
board the name of a practitioner or applicant or any records 4780  
relating to a practitioner or applicant, unless any of the 4781  
following occurs: 4782

(1) The practitioner or applicant is determined to be 4783  
ineligible to participate in the program. 4784

(2) The practitioner or applicant requests the disclosure. 4785

(3) The practitioner or applicant is unwilling or unable 4786  
to complete or comply with any part of the program, including 4787  
evaluation, treatment, or monitoring. 4788

(4) The practitioner or applicant presents an imminent 4789  
danger to the public or to the practitioner, as a result of the 4790  
practitioner's or applicant's impairment. 4791

(5) The practitioner has relapsed or the practitioner's 4792  
impairment has not been substantially alleviated by 4793  
participation in the program. 4794

(E) (1) The monitoring organization shall develop	4795
procedures governing each of the following:	4796
(a) Receiving reports of practitioner impairment;	4797
(b) Notifying practitioners of reports and eligibility	4798
determinations;	4799
(c) Receiving applicant referrals as described in section	4800
4731.253 of the Revised Code;	4801
(d) Evaluating records of referred applicants, in	4802
particular records from other jurisdictions regarding prior	4803
treatment for impairment or continued monitoring;	4804
(e) Notifying applicants of eligibility determinations;	4805
(f) Referring eligible practitioners for evaluation or	4806
treatment;	4807
(g) Establishing individualized treatment plans for	4808
eligible practitioners, as recommended by treatment providers;	4809
(h) Establishing individualized terms and conditions with	4810
which eligible practitioners or applicants must comply for	4811
continued participation in and successful completion of the	4812
program.	4813
(2) The monitoring organization, in consultation with the	4814
board, shall develop procedures governing each of the following:	4815
(a) Providing reports to the board on a periodic basis on	4816
the total number of practitioners or applicants participating in	4817
the program, without disclosing the names or records of any	4818
program participants other than those about whom reports are	4819
required by this section;	4820
(b) Reporting to the board any practitioner or applicant	4821

who due to impairment presents an imminent danger to the public 4822  
or to the practitioner or applicant; 4823

(c) Reporting to the board any practitioner or applicant 4824  
who is unwilling or unable to complete or comply with any part 4825  
of the program, including evaluation, treatment, or monitoring; 4826

(d) Reporting to the board any practitioner or applicant 4827  
whose impairment was not substantially alleviated by 4828  
participation in the program or who has relapsed. 4829

(F) The board may adopt any rules it considers necessary 4830  
to implement this section and sections 4731.252 to 4731.254 of 4831  
the Revised Code, including rules regarding the monitoring 4832  
organization and treatment providers that provide treatment to 4833  
practitioners referred by the monitoring organization. Any such 4834  
rules shall be adopted in accordance with Chapter 119. of the 4835  
Revised Code. 4836

**Sec. 4731.99.** (A) Whoever violates section 4731.41, 4837  
4731.43, or 4731.60 of the Revised Code is guilty of a felony of 4838  
the fifth degree on a first offense and a felony of the fourth 4839  
degree on each subsequent offense. 4840

(B) Whoever violates section 4731.49, 4731.50, or 4731.81 4841  
of the Revised Code is guilty of a misdemeanor of the fourth 4842  
degree on a first offense and a misdemeanor of the first degree 4843  
on each subsequent offense. 4844

(C) Whoever violates section 4731.46 or 4731.47 of the 4845  
Revised Code is guilty of a felony of the fifth degree. 4846

(D) Whoever violates section 4731.48 of the Revised Code 4847  
is guilty of a misdemeanor of the fourth degree. 4848

~~(E)~~ (E) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 4849

(1), ~~or (C) (2), (D), or (E)~~ of section 4731.224 of the Revised Code is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

(2) Whoever violates division (B) (2) or (C) (3) of section 4731.224 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree.

(F) Whoever violates section 4731.481 of the Revised Code is guilty of a misdemeanor of the first degree.

(G) Whoever violates division (F) (5) of section 4731.22 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree.

**Sec. 4759.05.** (A) The state medical board shall adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code to carry out the provisions of this chapter, including rules governing the following:

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

(2) The examination of applicants for licensure as a dietitian, as required under division (A) of section 4759.06 of the Revised Code;

(3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least

equivalent to the requirements adopted by the commission on dietetic registration;	4879 4880
(4) Requirements for a person holding a limited permit under division (G) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit and procedures for renewal;	4881 4882 4883 4884
(5) Continuing education requirements for renewal of a license, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who have been disabled by illness or accident or have been absent from the country. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration.	4885 4886 4887 4888 4889 4890 4891 4892
(6) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure;	4893 4894 4895 4896
(7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with those standards of professional responsibility and practice adopted by the academy of nutrition and dietetics;	4897 4898 4899 4900
(8) Formulation of an application form for licensure or license renewal;	4901 4902
(9) Procedures for license renewal;	4903
(10) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.	4904 4905
(B) (1) The board shall investigate evidence that appears	4906



to show that a person has violated any provision of this chapter 4907  
or any rule adopted under it. Any person may report to the board 4908  
in a signed writing any information that the person may have 4909  
that appears to show a violation of any provision of this 4910  
chapter or any rule adopted under it. In the absence of bad 4911  
faith, any person who reports information of that nature or who 4912  
testifies before the board in any adjudication conducted under 4913  
Chapter 119. of the Revised Code shall not be liable in damages 4914  
in a civil action as a result of the report or testimony. Each 4915  
complaint or allegation of a violation received by the board 4916  
shall be assigned a case number and shall be recorded by the 4917  
board. 4918

(2) Investigations of alleged violations of this chapter 4919  
or any rule adopted under it shall be supervised by the 4920  
supervising member elected by the board in accordance with 4921  
section 4731.02 of the Revised Code and by the secretary as 4922  
provided in section 4759.012 of the Revised Code. The president 4923  
may designate another member of the board to supervise the 4924  
investigation in place of the supervising member. Upon a vote of 4925  
the majority of the board to authorize the addition of a 4926  
consumer member in the supervision of any part of any 4927  
investigation, the president shall designate a consumer member 4928  
for supervision of investigations as determined by the 4929  
president. The authorization of consumer member participation in 4930  
investigation supervision may be rescinded by a majority vote of 4931  
the board. No member of the board who supervises the 4932  
investigation of a case shall participate in further 4933  
adjudication of the case. 4934

(3) In investigating a possible violation of this chapter 4935  
or any rule adopted under this chapter, the board may issue 4936  
subpoenas, question witnesses, conduct interviews, administer 4937

oaths, order the taking of depositions, inspect and copy any 4938  
books, accounts, papers, records, or documents, and compel the 4939  
attendance of witnesses and the production of books, accounts, 4940  
papers, records, documents, and testimony, except that a 4941  
subpoena for patient record information or information, 4942  
documents, and records from a peer review committee of a health 4943  
care entity related to sexual misconduct or criminal conduct 4944  
shall not be issued without consultation with the attorney 4945  
general's office and approval of the secretary and supervising 4946  
member of the board. 4947

Before issuance of a subpoena for patient record 4948  
information or information, documents, and records from a peer 4949  
review committee of a health care entity related to sexual 4950  
misconduct or criminal conduct, the secretary and supervising 4951  
member shall determine whether there is probable cause to 4952  
believe that the complaint filed alleges a violation of this 4953  
chapter or any rule adopted under it and that the records sought 4954  
are relevant to the alleged violation and material to the 4955  
investigation. The subpoena may apply only to records that cover 4956  
a reasonable period of time surrounding the alleged violation. 4957

On failure to comply with any subpoena issued by the board 4958  
and after reasonable notice to the person being subpoenaed, the 4959  
board may move for an order compelling the production of persons 4960  
or records pursuant to the Rules of Civil Procedure. 4961

A subpoena issued by the board may be served by a sheriff, 4962  
the sheriff's deputy, or a board employee or agent designated by 4963  
the board. Service of a subpoena issued by the board may be made 4964  
by delivering a copy of the subpoena to the person named 4965  
therein, reading it to the person, or leaving it at the person's 4966  
usual place of residence, usual place of business, or address on 4967

file with the board. When serving a subpoena to an applicant for 4968  
or the holder of a license or limited permit issued under this 4969  
chapter, service of the subpoena may be made by certified mail, 4970  
return receipt requested, and the subpoena shall be deemed 4971  
served on the date delivery is made or the date the person 4972  
refuses to accept delivery. If the person being served refuses 4973  
to accept the subpoena or is not located, service may be made to 4974  
an attorney who notifies the board that the attorney is 4975  
representing the person. 4976

A sheriff's deputy who serves a subpoena shall receive the 4977  
same fees as a sheriff. Each witness who appears before the 4978  
board in obedience to a subpoena shall receive the fees and 4979  
mileage provided for under section 119.094 of the Revised Code. 4980

(4) ~~All~~ For purposes of section 2305.252 of the Revised 4981  
Code, all hearings, investigations, and inspections of the board 4982  
shall be considered civil actions ~~for the purposes of section~~ 4983  
~~2305.252 of the Revised Code, except those involving allegations~~ 4984  
of sexual misconduct or criminal conduct, as defined in that 4985  
section. 4986

(5) A report required to be submitted to the board under 4987  
this chapter, a complaint, or information received by the board 4988  
pursuant to an investigation is confidential and not subject to 4989  
discovery in any civil action. 4990

The board shall conduct all investigations or inspections 4991  
and proceedings in a manner that protects the confidentiality of 4992  
patients and persons who file complaints with the board. The 4993  
board shall not make public the names or any other identifying 4994  
information about patients or complainants unless proper consent 4995  
is given. 4996

The board may share any information it receives pursuant 4997  
to an investigation or inspection, including patient records and 4998  
patient record information, with law enforcement agencies, other 4999  
licensing boards, and other governmental agencies that are 5000  
prosecuting, adjudicating, or investigating alleged violations 5001  
of statutes or administrative rules. An agency or board that 5002  
receives the information shall comply with the same requirements 5003  
regarding confidentiality as those with which the state medical 5004  
board must comply, notwithstanding any conflicting provision of 5005  
the Revised Code or procedure of the agency or board that 5006  
applies when it is dealing with other information in its 5007  
possession. In a judicial proceeding, the information may be 5008  
admitted into evidence only in accordance with the Rules of 5009  
Evidence, but the court shall require that appropriate measures 5010  
are taken to ensure that confidentiality is maintained with 5011  
respect to any part of the information that contains names or 5012  
other identifying information about patients or complainants 5013  
whose confidentiality was protected by the state medical board 5014  
when the information was in the board's possession. Measures to 5015  
ensure confidentiality that may be taken by the court include 5016  
sealing its records or deleting specific information from its 5017  
records. 5018

No person shall knowingly access, use, or disclose 5019  
confidential investigatory information in a manner prohibited by 5020  
law. 5021

(6) On a quarterly basis, the board shall prepare a report 5022  
that documents the disposition of all cases during the preceding 5023  
three months. The report shall contain the following information 5024  
for each case with which the board has completed its activities: 5025

(a) The case number assigned to the complaint or alleged 5026

violation;	5027
(b) The type of license, if any, held by the individual against whom the complaint is directed;	5028 5029
(c) A description of the allegations contained in the complaint;	5030 5031
(d) <u>Whether witnesses were interviewed;</u>	5032
<u>(e) Whether the individual against whom the complaint is     directed is the subject of any pending complaints;</u>	5033 5034
<u>(f) The disposition of the case.</u>	5035
The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.	5036 5037 5038 5039
<u>(7) The board may provide a status update regarding an     investigation to a complainant on request if the board verifies     the complainant's identity.</u>	5040 5041 5042
(C) The board shall keep records as are necessary to carry out the provisions of this chapter.	5043 5044
(D) The board shall maintain and publish on its internet web site the board's rules and requirements for licensure adopted under division (A) of this section.	5045 5046 5047
<b>Sec. 4759.07.</b> (A) The state medical board, by an affirmative vote of not fewer than six members, shall, except as provided in division (B) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited	5048 5049 5050 5051 5052 5053

permit, refuse to reinstate a license or limited permit, or 5054  
reprimand or place on probation the holder of a license or 5055  
limited permit for one or more of the following reasons: 5056

(1) Except when civil penalties are imposed under section 5057  
4759.071 of the Revised Code, violating or attempting to 5058  
violate, directly or indirectly, or assisting in or abetting the 5059  
violation of, or conspiring to violate, any provision of this 5060  
chapter or the rules adopted by the board; 5061

(2) Making a false, fraudulent, deceptive, or misleading 5062  
statement in the solicitation of or advertising for patients; in 5063  
relation to the practice of dietetics; or in securing or 5064  
attempting to secure any license or permit issued by the board 5065  
under this chapter. 5066

As used in division (A)(2) of this section, "false, 5067  
fraudulent, deceptive, or misleading statement" means a 5068  
statement that includes a misrepresentation of fact, is likely 5069  
to mislead or deceive because of a failure to disclose material 5070  
facts, is intended or is likely to create false or unjustified 5071  
expectations of favorable results, or includes representations 5072  
or implications that in reasonable probability will cause an 5073  
ordinarily prudent person to misunderstand or be deceived. 5074

(3) Committing fraud during the administration of the 5075  
examination for a license to practice or committing fraud, 5076  
misrepresentation, or deception in applying for, renewing, or 5077  
securing any license or permit issued by the board; 5078

(4) A plea of guilty to, a judicial finding of guilt of, 5079  
or a judicial finding of eligibility for intervention in lieu of 5080  
conviction for, a felony; 5081

(5) Commission of an act that constitutes a felony in this 5082

state, regardless of the jurisdiction in which the act was 5083  
committed; 5084

(6) A plea of guilty to, a judicial finding of guilt of, 5085  
or a judicial finding of eligibility for intervention in lieu of 5086  
conviction for, a misdemeanor committed in the course of 5087  
practice; 5088

(7) Commission of an act in the course of practice that 5089  
constitutes a misdemeanor in this state, regardless of the 5090  
jurisdiction in which the act was committed; 5091

(8) A plea of guilty to, a judicial finding of guilt of, 5092  
or a judicial finding of eligibility for intervention in lieu of 5093  
conviction for, a misdemeanor involving moral turpitude; 5094

(9) Commission of an act involving moral turpitude that 5095  
constitutes a misdemeanor in this state, regardless of the 5096  
jurisdiction in which the act was committed; 5097

(10) A record of engaging in incompetent or negligent 5098  
conduct in the practice of dietetics; 5099

(11) A departure from, or failure to conform to, minimal 5100  
standards of care of similar practitioners under the same or 5101  
similar circumstances, whether or not actual injury to a patient 5102  
is established; 5103

(12) The obtaining of, or attempting to obtain, money or 5104  
anything of value by fraudulent misrepresentations in the course 5105  
of practice; 5106

(13) Violation of the conditions of limitation placed by 5107  
the board on a license or permit; 5108

(14) Inability to practice according to acceptable and 5109  
prevailing standards of care by reason of mental illness or 5110

physical illness, including, physical deterioration that 5111  
adversely affects cognitive, motor, or perceptive skills; 5112

(15) Any of the following actions taken by an agency 5113  
responsible for authorizing, certifying, or regulating an 5114  
individual to practice a health care occupation or provide 5115  
health care services in this state or another jurisdiction, for 5116  
any reason other than the nonpayment of fees: the limitation, 5117  
revocation, or suspension of an individual's license; acceptance 5118  
of an individual's license surrender; denial of a license; 5119  
refusal to renew or reinstate a license; imposition of 5120  
probation; or issuance of an order of censure or other 5121  
reprimand; 5122

(16) The revocation, suspension, restriction, reduction, 5123  
or termination of practice privileges by the United States 5124  
department of defense or department of veterans affairs; 5125

(17) Termination or suspension from participation in the 5126  
medicare or medicaid programs by the department of health and 5127  
human services or other responsible agency for any act or acts 5128  
that also would constitute a violation of division (A) (11), 5129  
(12), or (14) of this section; 5130

(18) Impairment of ability to practice according to 5131  
acceptable and prevailing standards of care because of habitual 5132  
or excessive use or abuse of drugs, alcohol, or other substances 5133  
that impair ability to practice; 5134

(19) Failure to cooperate in an investigation conducted by 5135  
the board under division (B) of section 4759.05 of the Revised 5136  
Code, including failure to comply with a subpoena or order 5137  
issued by the board or failure to answer truthfully a question 5138  
presented by the board in an investigative interview, an 5139



investigative office conference, at a deposition, or in written 5140  
interrogatories, except that failure to cooperate with an 5141  
investigation shall not constitute grounds for discipline under 5142  
this section if a court of competent jurisdiction has issued an 5143  
order that either quashes a subpoena or permits the individual 5144  
to withhold the testimony or evidence in issue; 5145

(20) Representing with the purpose of obtaining 5146  
compensation or other advantage as personal gain or for any 5147  
other person, that an incurable disease or injury, or other 5148  
incurable condition, can be permanently cured. 5149

(B) The board shall not refuse to issue a license or 5150  
limited permit to an applicant because of a plea of guilty to, a 5151  
judicial finding of guilt of, or a judicial finding of 5152  
eligibility for intervention in lieu of conviction for an 5153  
offense unless the refusal is in accordance with section 9.79 of 5154  
the Revised Code. 5155

(C) Any action taken by the board under division (A) of 5156  
this section resulting in a suspension from practice shall be 5157  
accompanied by a written statement of the conditions under which 5158  
the individual's license or permit may be reinstated. The board 5159  
shall adopt rules governing conditions to be imposed for 5160  
reinstatement. Reinstatement of a license or permit suspended 5161  
pursuant to division (A) of this section requires an affirmative 5162  
vote of not fewer than six members of the board. 5163

(D) When the board refuses to grant or issue a license or 5164  
permit to an applicant, revokes an individual's license or 5165  
permit, refuses to renew an individual's license or permit, or 5166  
refuses to reinstate an individual's license or permit, the 5167  
board may specify that its action is permanent. An individual 5168  
subject to a permanent action taken by the board is forever 5169

thereafter ineligible to hold a license or permit and the board 5170  
shall not accept an application for reinstatement of the license 5171  
or permit or for issuance of a new license or permit. 5172

(E) Disciplinary actions taken by the board under division 5173  
(A) of this section shall be taken pursuant to an adjudication 5174  
under Chapter 119. of the Revised Code, except that in lieu of 5175  
an adjudication, the board may enter into a consent agreement 5176  
with an individual to resolve an allegation of a violation of 5177  
this chapter or any rule adopted under it. A consent agreement, 5178  
when ratified by an affirmative vote of not fewer than six 5179  
members of the board, shall constitute the findings and order of 5180  
the board with respect to the matter addressed in the agreement. 5181  
If the board refuses to ratify a consent agreement, the 5182  
admissions and findings contained in the consent agreement shall 5183  
be of no force or effect. 5184

A telephone conference call may be utilized for 5185  
ratification of a consent agreement that revokes or suspends an 5186  
individual's license or permit. The telephone conference call 5187  
shall be considered a special meeting under division (F) of 5188  
section 121.22 of the Revised Code. 5189

(F) In enforcing division (A)(14) of this section, the 5190  
board, upon a showing of a possible violation, may compel any 5191  
individual authorized to practice by this chapter or who has 5192  
submitted an application pursuant to this chapter to submit to a 5193  
mental examination, physical examination, including an HIV test, 5194  
or both a mental and a physical examination. The expense of the 5195  
examination is the responsibility of the individual compelled to 5196  
be examined. Failure to submit to a mental or physical 5197  
examination or consent to an HIV test ordered by the board 5198  
constitutes an admission of the allegations against the 5199

individual unless the failure is due to circumstances beyond the 5200  
individual's control, and a default and final order may be 5201  
entered without the taking of testimony or presentation of 5202  
evidence. If the board finds an individual unable to practice 5203  
because of the reasons set forth in division (A)(14) of this 5204  
section, the board shall require the individual to submit to 5205  
care, counseling, or treatment by physicians approved or 5206  
designated by the board, as a condition for initial, continued, 5207  
reinstated, or renewed authority to practice. An individual 5208  
affected under this division shall be afforded an opportunity to 5209  
demonstrate to the board the ability to resume practice in 5210  
compliance with acceptable and prevailing standards under the 5211  
provisions of the individual's license or permit. For the 5212  
purpose of division (A)(14) of this section, any individual who 5213  
applies for or receives a license or permit under this chapter 5214  
accepts the privilege of practicing in this state and, by so 5215  
doing, shall be deemed to have given consent to submit to a 5216  
mental or physical examination when directed to do so in writing 5217  
by the board, and to have waived all objections to the 5218  
admissibility of testimony or examination reports that 5219  
constitute a privileged communication. 5220

(G) For the purposes of division (A)(18) of this section, 5221  
any individual authorized to practice by this chapter accepts 5222  
the privilege of practicing in this state subject to supervision 5223  
by the board. By filing an application for or holding a license 5224  
or permit under this chapter, an individual shall be deemed to 5225  
have given consent to submit to a mental or physical examination 5226  
when ordered to do so by the board in writing, and to have 5227  
waived all objections to the admissibility of testimony or 5228  
examination reports that constitute privileged communications. 5229

If it has reason to believe that any individual authorized 5230

to practice by this chapter or any applicant for a license or 5231  
permit suffers such impairment, the board may compel the 5232  
individual to submit to a mental or physical examination, or 5233  
both. The expense of the examination is the responsibility of 5234  
the individual compelled to be examined. Any mental or physical 5235  
examination required under this division shall be undertaken by 5236  
a treatment provider or physician who is qualified to conduct 5237  
the examination and who is chosen by the board. 5238

Failure to submit to a mental or physical examination 5239  
ordered by the board constitutes an admission of the allegations 5240  
against the individual unless the failure is due to 5241  
circumstances beyond the individual's control, and a default and 5242  
final order may be entered without the taking of testimony or 5243  
presentation of evidence. If the board determines that the 5244  
individual's ability to practice is impaired, the board shall 5245  
suspend the individual's license or permit or deny the 5246  
individual's application and shall require the individual, as a 5247  
condition for an initial, continued, reinstated, or renewed 5248  
license or permit, to submit to treatment. 5249

Before being eligible to apply for reinstatement of a 5250  
license or permit suspended under this division, the impaired 5251  
practitioner shall demonstrate to the board the ability to 5252  
resume practice in compliance with acceptable and prevailing 5253  
standards of care under the provisions of the practitioner's 5254  
license or permit. The demonstration shall include, but shall 5255  
not be limited to, the following: 5256

(1) Certification from a treatment provider approved under 5257  
section 4731.25 of the Revised Code that the individual has 5258  
successfully completed any required inpatient treatment; 5259

(2) Evidence of continuing full compliance with an 5260

aftercare contract or consent agreement; 5261

(3) Two written reports indicating that the individual's 5262  
ability to practice has been assessed and that the individual 5263  
has been found capable of practicing according to acceptable and 5264  
prevailing standards of care. The reports shall be made by 5265  
individuals or providers approved by the board for making the 5266  
assessments and shall describe the basis for their 5267  
determination. 5268

The board may reinstate a license or permit suspended 5269  
under this division after that demonstration and after the 5270  
individual has entered into a written consent agreement. 5271

When the impaired practitioner resumes practice, the board 5272  
shall require continued monitoring of the individual. The 5273  
monitoring shall include, but not be limited to, compliance with 5274  
the written consent agreement entered into before reinstatement 5275  
or with conditions imposed by board order after a hearing, and, 5276  
upon termination of the consent agreement, submission to the 5277  
board for at least two years of annual written progress reports 5278  
made under penalty of perjury stating whether the individual has 5279  
maintained sobriety. 5280

~~(H)~~(H) (1) If either of the following circumstances occur, 5281  
the secretary and supervising member ~~determine both of the~~ 5282  
~~following, they~~ may recommend that the board suspend an 5283  
individual's license or permit without a prior hearing: 5284

~~(1)~~(a) The secretary and supervising member determine 5285  
both of the following: 5286

(i) That there is clear and convincing evidence that an 5287  
individual has violated division (A) of this section; 5288

~~(2)~~(ii) That the individual's continued practice presents 5289

a danger of immediate and serious harm to the public. 5290

~~Written~~ (b) The board receives verifiable information that 5291  
a licensee has been charged in any state or federal court for a 5292  
crime classified as a felony under the charging court's law and 5293  
the conduct charged constitutes a violation of division (A) of 5294  
this section. 5295

(2) If a recommendation is made to suspend without a prior 5296  
hearing pursuant to division (H) (1) of this section, written 5297  
allegations shall be prepared for consideration by the board. 5298  
The board, upon review of those allegations and by an 5299  
affirmative vote of not fewer than six of its members, excluding 5300  
the secretary and supervising member, may suspend a license or 5301  
permit without a prior hearing. A telephone conference call may 5302  
be utilized for reviewing the allegations and taking the vote on 5303  
the summary suspension. 5304

The board shall issue a written order of suspension by 5305  
certified mail or in person in accordance with section 119.07 of 5306  
the Revised Code. The order shall not be subject to suspension 5307  
by the court during pendency of any appeal filed under section 5308  
119.12 of the Revised Code. If the individual subject to the 5309  
summary suspension requests an adjudicatory hearing by the 5310  
board, the date set for the hearing shall be within fifteen 5311  
days, but not earlier than seven days, after the individual 5312  
requests the hearing, unless otherwise agreed to by both the 5313  
board and the individual. 5314

(3) Any summary suspension imposed under this division 5315  
shall remain in effect, unless reversed on appeal, until a final 5316  
adjudicative order issued by the board pursuant to this section 5317  
and Chapter 119. of the Revised Code becomes effective. The 5318  
board shall issue its final adjudicative order within seventy- 5319

five days after completion of its hearing. A failure to issue 5320  
the order within seventy-five days shall result in dissolution 5321  
of the summary suspension order but shall not invalidate any 5322  
subsequent, final adjudicative order. 5323

(I) If the board is required by Chapter 119. of the 5324  
Revised Code to give notice of an opportunity for a hearing and 5325  
if the individual subject to the notice does not timely request 5326  
a hearing in accordance with section 119.07 of the Revised Code, 5327  
the board is not required to hold a hearing, but may adopt, by 5328  
an affirmative vote of not fewer than six of its members, a 5329  
final order that contains the board's findings. In the final 5330  
order, the board may order any of the sanctions identified under 5331  
division (A) of this section. 5332

(J) For purposes of divisions (A) (5), (7), and (9) of this 5333  
section, the commission of the act may be established by a 5334  
finding by the board, pursuant to an adjudication under Chapter 5335  
119. of the Revised Code, that the individual committed the act. 5336  
The board does not have jurisdiction under those divisions if 5337  
the trial court renders a final judgment in the individual's 5338  
favor and that judgment is based upon an adjudication on the 5339  
merits. The board has jurisdiction under those divisions if the 5340  
trial court issues an order of dismissal upon technical or 5341  
procedural grounds. 5342

(K) The sealing or expungement of conviction records by 5343  
any court shall have no effect upon a prior board order entered 5344  
under this section or upon the board's jurisdiction to take 5345  
action under this section if, based upon a plea of guilty, a 5346  
judicial finding of guilt, or a judicial finding of eligibility 5347  
for intervention in lieu of conviction, the board issued a 5348  
notice of opportunity for a hearing prior to the court's order 5349

to seal or expunge the records. The board shall not be required 5350  
to seal, destroy, redact, or otherwise modify its records to 5351  
reflect the court's sealing or expungement of conviction 5352  
records. 5353

(L) If the board takes action under division (A) (4), (6), 5354  
or (8) of this section, and the judicial finding of guilt, 5355  
guilty plea, or judicial finding of eligibility for intervention 5356  
in lieu of conviction is overturned on appeal, upon exhaustion 5357  
of the criminal appeal, a petition for reconsideration of the 5358  
order may be filed with the board along with appropriate court 5359  
documents. Upon receipt of a petition for reconsideration and 5360  
supporting court documents, the board shall reinstate the 5361  
individual's license or permit. The board may then hold an 5362  
adjudication under Chapter 119. of the Revised Code to determine 5363  
whether the individual committed the act in question. Notice of 5364  
an opportunity for a hearing shall be given in accordance with 5365  
Chapter 119. of the Revised Code. If the board finds, pursuant 5366  
to an adjudication held under this division, that the individual 5367  
committed the act or if no hearing is requested, the board may 5368  
order any of the sanctions identified under division (A) of this 5369  
section. 5370

(M) The license or permit issued to an individual under 5371  
this chapter and the individual's practice in this state are 5372  
automatically suspended as of the date the individual pleads 5373  
guilty to, is found by a judge or jury to be guilty of, or is 5374  
subject to a judicial finding of eligibility for intervention in 5375  
lieu of conviction in this state or treatment or intervention in 5376  
lieu of conviction in another jurisdiction for any of the 5377  
following criminal offenses in this state or a substantially 5378  
equivalent criminal offense in another jurisdiction: aggravated 5379  
murder, murder, voluntary manslaughter, felonious assault, 5380



trafficking in persons, kidnapping, rape, sexual battery, gross 5381  
sexual imposition, aggravated arson, aggravated robbery, or 5382  
aggravated burglary. Continued practice after suspension shall 5383  
be considered practicing without a license or permit. 5384

The board shall notify the individual subject to the 5385  
suspension by certified mail or in person in accordance with 5386  
section 119.07 of the Revised Code. If an individual whose 5387  
license or permit is automatically suspended under this division 5388  
fails to make a timely request for an adjudication under Chapter 5389  
119. of the Revised Code, the board shall enter a final order 5390  
permanently revoking the individual's license or permit. 5391

(N) Notwithstanding any other provision of the Revised 5392  
Code, all of the following apply: 5393

(1) The surrender of a license or permit issued under this 5394  
chapter shall not be effective unless or until accepted by the 5395  
board. A telephone conference call may be utilized for 5396  
acceptance of the surrender of an individual's license or 5397  
permit. The telephone conference call shall be considered a 5398  
special meeting under division (F) of section 121.22 of the 5399  
Revised Code. Reinstatement of a license or permit surrendered 5400  
to the board requires an affirmative vote of not fewer than six 5401  
members of the board. 5402

(2) An application for a license or permit made under the 5403  
provisions of this chapter may not be withdrawn without approval 5404  
of the board. 5405

(3) Failure by an individual to renew a license or permit 5406  
in accordance with this chapter shall not remove or limit the 5407  
board's jurisdiction to take any disciplinary action under this 5408  
section against the individual. 5409

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

Sec. 4759.14. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B)(1) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

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

(3) In addition to the self-reporting of criminal offenses that is required for license renewal, an individual authorized to practice under this chapter shall report to the board criminal charges regarding criminal conduct, sexual misconduct, or any conduct involving the use of a motor vehicle while under the influence of alcohol or drugs, including offenses that are

equivalent offenses under division (A) of section 4511.181 of 5440  
the Revised Code, violations of division (D) of section 4511.194 5441  
of the Revised Code, and violations of division (C) of section 5442  
4511.79 of the Revised Code. Reports under this division shall 5443  
be made within thirty days of the criminal charge being filed. 5444

**Sec. 4759.99.** Whoever violates section 4759.02 of the 5445  
Revised Code is guilty of a minor misdemeanor. If the offender 5446  
has been previously convicted once of a violation of the 5447  
section, then the violation is a misdemeanor of the fourth 5448  
degree. If the offender has been previously convicted more than 5449  
once of a violation of the section, then the violation is a 5450  
misdemeanor of the first degree. 5451

Whoever violates division (B) (1) or (2) of section 4759.14 5452  
of the Revised Code is guilty of failure to report criminal 5453  
conduct or sexual misconduct, a misdemeanor of the fourth 5454  
degree. If the offender has previously been convicted of a 5455  
violation of this division, the failure to report is a 5456  
misdemeanor of the first degree. 5457

Whoever violates division (B) of section 4759.05 of the 5458  
Revised Code is guilty of disclosing confidential investigatory 5459  
information, a misdemeanor of the first degree. 5460

**Sec. 4760.13.** (A) The state medical board, by an 5461  
affirmative vote of not fewer than six members, may revoke or 5462  
may refuse to grant a license to practice as an anesthesiologist 5463  
assistant to a person found by the board to have committed 5464  
fraud, misrepresentation, or deception in applying for or 5465  
securing the license. 5466

(B) The board, by an affirmative vote of not fewer than 5467  
six members, shall, except as provided in division (C) of this 5468

section, and to the extent permitted by law, limit, revoke, or 5469  
suspend an individual's license to practice as an 5470  
anesthesiologist assistant, refuse to issue a license to an 5471  
applicant, refuse to renew a license, refuse to reinstate a 5472  
license, or reprimand or place on probation the holder of a 5473  
license for any of the following reasons: 5474

(1) Permitting the holder's name or license to be used by 5475  
another person; 5476

(2) Failure to comply with the requirements of this 5477  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 5478  
by the board; 5479

(3) Violating or attempting to violate, directly or 5480  
indirectly, or assisting in or abetting the violation of, or 5481  
conspiring to violate, any provision of this chapter, Chapter 5482  
4731. of the Revised Code, or the rules adopted by the board; 5483

(4) A departure from, or failure to conform to, minimal 5484  
standards of care of similar practitioners under the same or 5485  
similar circumstances whether or not actual injury to the 5486  
patient is established; 5487

(5) Inability to practice according to acceptable and 5488  
prevailing standards of care by reason of mental illness or 5489  
physical illness, including physical deterioration that 5490  
adversely affects cognitive, motor, or perceptive skills; 5491

(6) Impairment of ability to practice according to 5492  
acceptable and prevailing standards of care because of habitual 5493  
or excessive use or abuse of drugs, alcohol, or other substances 5494  
that impair ability to practice; 5495

(7) Willfully betraying a professional confidence; 5496

(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as an anesthesiologist assistant. 5497  
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As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived. 5500  
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(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice; 5508  
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(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony; 5511  
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(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; 5514  
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(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice; 5517  
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(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude; 5521  
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(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the 5524  
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jurisdiction in which the act was committed; 5526

(15) Commission of an act involving moral turpitude that 5527  
constitutes a misdemeanor in this state, regardless of the 5528  
jurisdiction in which the act was committed; 5529

(16) A plea of guilty to, a judicial finding of guilt of, 5530  
or a judicial finding of eligibility for intervention in lieu of 5531  
conviction for violating any state or federal law regulating the 5532  
possession, distribution, or use of any drug, including 5533  
trafficking in drugs; 5534

(17) Any of the following actions taken by the state 5535  
agency responsible for regulating the practice of 5536  
anesthesiologist assistants in another jurisdiction, for any 5537  
reason other than the nonpayment of fees: the limitation, 5538  
revocation, or suspension of an individual's license to 5539  
practice; acceptance of an individual's license surrender; 5540  
denial of a license; refusal to renew or reinstate a license; 5541  
imposition of probation; or issuance of an order of censure or 5542  
other reprimand; 5543

(18) Violation of the conditions placed by the board on a 5544  
license to practice; 5545

(19) Failure to use universal blood and body fluid 5546  
precautions established by rules adopted under section 4731.051 5547  
of the Revised Code; 5548

(20) Failure to cooperate in an investigation conducted by 5549  
the board under section 4760.14 of the Revised Code, including 5550  
failure to comply with a subpoena or order issued by the board 5551  
or failure to answer truthfully a question presented by the 5552  
board at a deposition or in written interrogatories, except that 5553  
failure to cooperate with an investigation shall not constitute 5554

grounds for discipline under this section if a court of 5555  
competent jurisdiction has issued an order that either quashes a 5556  
subpoena or permits the individual to withhold the testimony or 5557  
evidence in issue; 5558

(21) Failure to comply with any code of ethics established 5559  
by the national commission for the certification of 5560  
anesthesiologist assistants; 5561

(22) Failure to notify the state medical board of the 5562  
revocation or failure to maintain certification from the 5563  
national commission for certification of anesthesiologist 5564  
assistants. 5565

(C) The board shall not refuse to issue a certificate to 5566  
an applicant because of a plea of guilty to, a judicial finding 5567  
of guilt of, or a judicial finding of eligibility for 5568  
intervention in lieu of conviction for an offense unless the 5569  
refusal is in accordance with section 9.79 of the Revised Code. 5570

(D) Disciplinary actions taken by the board under 5571  
divisions (A) and (B) of this section shall be taken pursuant to 5572  
an adjudication under Chapter 119. of the Revised Code, except 5573  
that in lieu of an adjudication, the board may enter into a 5574  
consent agreement with an anesthesiologist assistant or 5575  
applicant to resolve an allegation of a violation of this 5576  
chapter or any rule adopted under it. A consent agreement, when 5577  
ratified by an affirmative vote of not fewer than six members of 5578  
the board, shall constitute the findings and order of the board 5579  
with respect to the matter addressed in the agreement. If the 5580  
board refuses to ratify a consent agreement, the admissions and 5581  
findings contained in the consent agreement shall be of no force 5582  
or effect. 5583

(E) For purposes of divisions (B) (11), (14), and (15) of 5584  
this section, the commission of the act may be established by a 5585  
finding by the board, pursuant to an adjudication under Chapter 5586  
119. of the Revised Code, that the applicant or license holder 5587  
committed the act in question. The board shall have no 5588  
jurisdiction under these divisions in cases where the trial 5589  
court renders a final judgment in the license holder's favor and 5590  
that judgment is based upon an adjudication on the merits. The 5591  
board shall have jurisdiction under these divisions in cases 5592  
where the trial court issues an order of dismissal on technical 5593  
or procedural grounds. 5594

(F) The sealing or expungement of conviction records by 5595  
any court shall have no effect on a prior board order entered 5596  
under the provisions of this section or on the board's 5597  
jurisdiction to take action under the provisions of this section 5598  
if, based upon a plea of guilty, a judicial finding of guilt, or 5599  
a judicial finding of eligibility for intervention in lieu of 5600  
conviction, the board issued a notice of opportunity for a 5601  
hearing prior to the court's order to seal or expunge the 5602  
records. The board shall not be required to seal, destroy, 5603  
redact, or otherwise modify its records to reflect the court's 5604  
sealing or expungement of conviction records. 5605

(G) For purposes of this division, any individual who 5606  
holds a license to practice issued under this chapter, or 5607  
applies for a license to practice, shall be deemed to have given 5608  
consent to submit to a mental or physical examination when 5609  
directed to do so in writing by the board and to have waived all 5610  
objections to the admissibility of testimony or examination 5611  
reports that constitute a privileged communication. 5612

(1) In enforcing division (B) (5) of this section, the 5613



board, on a showing of a possible violation, may compel any 5614  
individual who holds a license to practice issued under this 5615  
chapter or who has applied for a license to practice pursuant to 5616  
this chapter to submit to a mental or physical examination, or 5617  
both. A physical examination may include an HIV test. The 5618  
expense of the examination is the responsibility of the 5619  
individual compelled to be examined. Failure to submit to a 5620  
mental or physical examination or consent to an HIV test ordered 5621  
by the board constitutes an admission of the allegations against 5622  
the individual unless the failure is due to circumstances beyond 5623  
the individual's control, and a default and final order may be 5624  
entered without the taking of testimony or presentation of 5625  
evidence. If the board finds an anesthesiologist assistant 5626  
unable to practice because of the reasons set forth in division 5627  
(B) (5) of this section, the board shall require the 5628  
anesthesiologist assistant to submit to care, counseling, or 5629  
treatment by physicians approved or designated by the board, as 5630  
a condition for an initial, continued, reinstated, or renewed 5631  
license to practice. An individual affected by this division 5632  
shall be afforded an opportunity to demonstrate to the board the 5633  
ability to resume practicing in compliance with acceptable and 5634  
prevailing standards of care. 5635

(2) For purposes of division (B) (6) of this section, if 5636  
the board has reason to believe that any individual who holds a 5637  
license to practice issued under this chapter or any applicant 5638  
for a license to practice suffers such impairment, the board may 5639  
compel the individual to submit to a mental or physical 5640  
examination, or both. The expense of the examination is the 5641  
responsibility of the individual compelled to be examined. Any 5642  
mental or physical examination required under this division 5643  
shall be undertaken by a treatment provider or physician 5644

qualified to conduct such examination and chosen by the board. 5645

Failure to submit to a mental or physical examination 5646  
ordered by the board constitutes an admission of the allegations 5647  
against the individual unless the failure is due to 5648  
circumstances beyond the individual's control, and a default and 5649  
final order may be entered without the taking of testimony or 5650  
presentation of evidence. If the board determines that the 5651  
individual's ability to practice is impaired, the board shall 5652  
suspend the individual's license or deny the individual's 5653  
application and shall require the individual, as a condition for 5654  
an initial, continued, reinstated, or renewed license to 5655  
practice, to submit to treatment. 5656

Before being eligible to apply for reinstatement of a 5657  
license suspended under this division, the anesthesiologist 5658  
assistant shall demonstrate to the board the ability to resume 5659  
practice in compliance with acceptable and prevailing standards 5660  
of care. The demonstration shall include the following: 5661

(a) Certification from a treatment provider approved under 5662  
section 4731.25 of the Revised Code that the individual has 5663  
successfully completed any required inpatient treatment; 5664

(b) Evidence of continuing full compliance with an 5665  
aftercare contract or consent agreement; 5666

(c) Two written reports indicating that the individual's 5667  
ability to practice has been assessed and that the individual 5668  
has been found capable of practicing according to acceptable and 5669  
prevailing standards of care. The reports shall be made by 5670  
individuals or providers approved by the board for making such 5671  
assessments and shall describe the basis for their 5672  
determination. 5673

The board may reinstate a license suspended under this 5674  
division after such demonstration and after the individual has 5675  
entered into a written consent agreement. 5676

When the impaired anesthesiologist assistant resumes 5677  
practice, the board shall require continued monitoring of the 5678  
anesthesiologist assistant. The monitoring shall include 5679  
monitoring of compliance with the written consent agreement 5680  
entered into before reinstatement or with conditions imposed by 5681  
board order after a hearing, and, on termination of the consent 5682  
agreement, submission to the board for at least two years of 5683  
annual written progress reports made under penalty of 5684  
falsification stating whether the anesthesiologist assistant has 5685  
maintained sobriety. 5686

~~(H)~~ (H) (1) If either of the following circumstances occur, 5687  
the secretary and supervising member ~~determine may recommend~~ 5688  
that the board suspend the individual's license without a prior 5689  
hearing: 5690

(a) The secretary and supervising member determine that 5691  
there is clear and convincing evidence that an anesthesiologist 5692  
assistant has violated division (B) of this section and that the 5693  
individual's continued practice presents a danger of immediate 5694  
and serious harm to the public, ~~they may recommend that the~~ 5695  
~~board suspend the individual's license without a prior hearing;~~ 5696

(b) The board receives verifiable information that a 5697  
licensee has been charged in any state or federal court for a 5698  
crime classified as a felony under the charging court's law and 5699  
the conduct charged constitutes a violation of division (B) of 5700  
this section. ~~Written~~ 5701

(2) If a recommendation is made to suspend without a prior 5702

hearing pursuant to division (H) (1) of this section, written 5703  
allegations shall be prepared for consideration by the board. 5704

The board, on review of the allegations and by an 5705  
affirmative vote of not fewer than six of its members, excluding 5706  
the secretary and supervising member, may suspend a license 5707  
without a prior hearing. A telephone conference call may be 5708  
utilized for reviewing the allegations and taking the vote on 5709  
the summary suspension. 5710

The board shall issue a written order of suspension by 5711  
certified mail or in person in accordance with section 119.07 of 5712  
the Revised Code. The order shall not be subject to suspension 5713  
by the court during pendency of any appeal filed under section 5714  
119.12 of the Revised Code. If the anesthesiologist assistant 5715  
requests an adjudicatory hearing by the board, the date set for 5716  
the hearing shall be within fifteen days, but not earlier than 5717  
seven days, after the anesthesiologist assistant requests the 5718  
hearing, unless otherwise agreed to by both the board and the 5719  
license holder. 5720

(3) A summary suspension imposed under this division shall 5721  
remain in effect, unless reversed on appeal, until a final 5722  
adjudicative order issued by the board pursuant to this section 5723  
and Chapter 119. of the Revised Code becomes effective. The 5724  
board shall issue its final adjudicative order within sixty days 5725  
after completion of its hearing. Failure to issue the order 5726  
within sixty days shall result in dissolution of the summary 5727  
suspension order, but shall not invalidate any subsequent, final 5728  
adjudicative order. 5729

(I) If the board takes action under division (B) (11), 5730  
(13), or (14) of this section, and the judicial finding of 5731  
guilt, guilty plea, or judicial finding of eligibility for 5732

intervention in lieu of conviction is overturned on appeal, on 5733  
exhaustion of the criminal appeal, a petition for 5734  
reconsideration of the order may be filed with the board along 5735  
with appropriate court documents. On receipt of a petition and 5736  
supporting court documents, the board shall reinstate the 5737  
license to practice. The board may then hold an adjudication 5738  
under Chapter 119. of the Revised Code to determine whether the 5739  
individual committed the act in question. Notice of opportunity 5740  
for hearing shall be given in accordance with Chapter 119. of 5741  
the Revised Code. If the board finds, pursuant to an 5742  
adjudication held under this division, that the individual 5743  
committed the act, or if no hearing is requested, it may order 5744  
any of the sanctions specified in division (B) of this section. 5745

(J) The license to practice of an anesthesiologist 5746  
assistant and the assistant's practice in this state are 5747  
automatically suspended as of the date the anesthesiologist 5748  
assistant pleads guilty to, is found by a judge or jury to be 5749  
guilty of, or is subject to a judicial finding of eligibility 5750  
for intervention in lieu of conviction in this state or 5751  
treatment of intervention in lieu of conviction in another 5752  
jurisdiction for any of the following criminal offenses in this 5753  
state or a substantially equivalent criminal offense in another 5754  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 5755  
felonious assault, trafficking in persons, kidnapping, rape, 5756  
sexual battery, gross sexual imposition, aggravated arson, 5757  
aggravated robbery, or aggravated burglary. Continued practice 5758  
after the suspension shall be considered practicing without a 5759  
license. 5760

The board shall notify the individual subject to the 5761  
suspension by certified mail or in person in accordance with 5762  
section 119.07 of the Revised Code. If an individual whose 5763

license is suspended under this division fails to make a timely 5764  
request for an adjudication under Chapter 119. of the Revised 5765  
Code, the board shall enter a final order permanently revoking 5766  
the individual's license to practice. 5767

(K) In any instance in which the board is required by 5768  
Chapter 119. of the Revised Code to give notice of opportunity 5769  
for hearing and the individual subject to the notice does not 5770  
timely request a hearing in accordance with section 119.07 of 5771  
the Revised Code, the board is not required to hold a hearing, 5772  
but may adopt, by an affirmative vote of not fewer than six of 5773  
its members, a final order that contains the board's findings. 5774  
In the final order, the board may order any of the sanctions 5775  
identified under division (A) or (B) of this section. 5776

(L) Any action taken by the board under division (B) of 5777  
this section resulting in a suspension shall be accompanied by a 5778  
written statement of the conditions under which the 5779  
anesthesiologist assistant's license may be reinstated. The 5780  
board shall adopt rules in accordance with Chapter 119. of the 5781  
Revised Code governing conditions to be imposed for 5782  
reinstatement. Reinstatement of a license suspended pursuant to 5783  
division (B) of this section requires an affirmative vote of not 5784  
fewer than six members of the board. 5785

(M) When the board refuses to grant or issue a license to 5786  
practice as an anesthesiologist assistant to an applicant, 5787  
revokes an individual's license, refuses to renew an 5788  
individual's license, or refuses to reinstate an individual's 5789  
license, the board may specify that its action is permanent. An 5790  
individual subject to a permanent action taken by the board is 5791  
forever thereafter ineligible to hold a license to practice as 5792  
an anesthesiologist assistant and the board shall not accept an 5793

application for reinstatement of the license or for issuance of 5794  
a new license. 5795

(N) Notwithstanding any other provision of the Revised 5796  
Code, all of the following apply: 5797

(1) The surrender of a license to practice issued under 5798  
this chapter is not effective unless or until accepted by the 5799  
board. Reinstatement of a license surrendered to the board 5800  
requires an affirmative vote of not fewer than six members of 5801  
the board. 5802

(2) An application made under this chapter for a license 5803  
to practice may not be withdrawn without approval of the board. 5804

(3) Failure by an individual to renew a license to 5805  
practice in accordance with section 4760.06 of the Revised Code 5806  
shall not remove or limit the board's jurisdiction to take 5807  
disciplinary action under this section against the individual. 5808

**Sec. 4760.14.** (A) The state medical board shall 5809  
investigate evidence that appears to show that any person has 5810  
violated this chapter or the rules adopted under it. Any person 5811  
may report to the board in a signed writing any information the 5812  
person has that appears to show a violation of any provision of 5813  
this chapter or the rules adopted under it. In the absence of 5814  
bad faith, a person who reports such information or testifies 5815  
before the board in an adjudication conducted under Chapter 119. 5816  
of the Revised Code shall not be liable for civil damages as a 5817  
result of reporting the information or providing testimony. Each 5818  
complaint or allegation of a violation received by the board 5819  
shall be assigned a case number and be recorded by the board. 5820

(B) Investigations of alleged violations of this chapter 5821  
or rules adopted under it shall be supervised by the supervising 5822

member elected by the board in accordance with section 4731.02 5823  
of the Revised Code and by the secretary as provided in section 5824  
4760.15 of the Revised Code. The board's president may designate 5825  
another member of the board to supervise the investigation in 5826  
place of the supervising member. Upon a vote of the majority of 5827  
the board to authorize the addition of a consumer member in the 5828  
supervision of any part of any investigation, the president 5829  
shall designate a consumer member for supervision of 5830  
investigations as determined by the president. The authorization 5831  
of consumer member participation in investigation supervision 5832  
may be rescinded by a majority vote of the board. A member of 5833  
the board who supervises the investigation of a case shall not 5834  
participate in further adjudication of the case. 5835

(C) In investigating a possible violation of this chapter 5836  
or the rules adopted under it, the board may administer oaths, 5837  
order the taking of depositions, issue subpoenas, and compel the 5838  
attendance of witnesses and production of books, accounts, 5839  
papers, records, documents, and testimony, except that a 5840  
subpoena for patient record information or information, 5841  
documents, and records from a peer review committee of a health 5842  
care entity related to sexual misconduct or criminal conduct 5843  
shall not be issued without consultation with the attorney 5844  
general's office and approval of the secretary and supervising 5845  
member of the board. Before issuance of a subpoena for patient 5846  
record information or information, documents, and records from a 5847  
peer review committee of a health care entity related to sexual 5848  
misconduct or criminal conduct, the secretary and supervising 5849  
member shall determine whether there is probable cause to 5850  
believe that the complaint filed alleges a violation of this 5851  
chapter or the rules adopted under it and that the records 5852  
sought are relevant to the alleged violation and material to the 5853



investigation. The subpoena may apply only to records that cover 5854  
a reasonable period of time surrounding the alleged violation. 5855

On failure to comply with any subpoena issued by the board 5856  
and after reasonable notice to the person being subpoenaed, the 5857  
board may move for an order compelling the production of persons 5858  
or records pursuant to the Rules of Civil Procedure. 5859

A subpoena issued by the board may be served by a sheriff, 5860  
the sheriff's deputy, or a board employee designated by the 5861  
board. Service of a subpoena issued by the board may be made by 5862  
delivering a copy of the subpoena to the person named therein, 5863  
reading it to the person, or leaving it at the person's usual 5864  
place of residence. When the person being served is an 5865  
anesthesiologist assistant, service of the subpoena may be made 5866  
by certified mail, restricted delivery, return receipt 5867  
requested, and the subpoena shall be deemed served on the date 5868  
delivery is made or the date the person refuses to accept 5869  
delivery. 5870

A sheriff's deputy who serves a subpoena shall receive the 5871  
same fees as a sheriff. Each witness who appears before the 5872  
board in obedience to a subpoena shall receive the fees and 5873  
mileage provided for under section 119.094 of the Revised Code. 5874

(D) All ~~For purposes of section 2305.252 of the Revised~~ 5875  
Code, all hearings and investigations of the board shall be 5876  
~~considered civil actions for the purposes of section 2305.252 of~~ 5877  
~~the Revised Code, except those involving allegations of sexual~~ 5878  
misconduct or criminal conduct, as defined in that section. 5879

(E) Information received by the board pursuant to an 5880  
investigation is confidential and not subject to discovery in 5881  
any civil action. 5882

The board shall conduct all investigations and proceedings 5883  
in a manner that protects the confidentiality of patients and 5884  
persons who file complaints with the board. The board shall not 5885  
make public the names or any other identifying information about 5886  
patients or complainants unless proper consent is given. 5887

The board may share any information it receives pursuant 5888  
to an investigation, including patient records and patient 5889  
record information, with law enforcement agencies, other 5890  
licensing boards, and other governmental agencies that are 5891  
prosecuting, adjudicating, or investigating alleged violations 5892  
of statutes or administrative rules. An agency or board that 5893  
receives the information shall comply with the same requirements 5894  
regarding confidentiality as those with which the state medical 5895  
board must comply, notwithstanding any conflicting provision of 5896  
the Revised Code or procedure of the agency or board that 5897  
applies when it is dealing with other information in its 5898  
possession. In a judicial proceeding, the information may be 5899  
admitted into evidence only in accordance with the Rules of 5900  
Evidence, but the court shall require that appropriate measures 5901  
are taken to ensure that confidentiality is maintained with 5902  
respect to any part of the information that contains names or 5903  
other identifying information about patients or complainants 5904  
whose confidentiality was protected by the state medical board 5905  
when the information was in the board's possession. Measures to 5906  
ensure confidentiality that may be taken by the court include 5907  
sealing its records or deleting specific information from its 5908  
records. 5909

No person shall knowingly access, use, or disclose 5910  
confidential investigatory information in a manner prohibited by 5911  
law. 5912

(F) The state medical board shall develop requirements for 5913  
and provide appropriate initial training and continuing 5914  
education for investigators employed by the board to carry out 5915  
its duties under this chapter. The training and continuing 5916  
education may include enrollment in courses operated or approved 5917  
by the Ohio peace officer training commission that the board 5918  
considers appropriate under conditions set forth in section 5919  
109.79 of the Revised Code. 5920

(G) On a quarterly basis, the board shall prepare a report 5921  
that documents the disposition of all cases during the preceding 5922  
three months. The report shall contain the following information 5923  
for each case with which the board has completed its activities: 5924

(1) The case number assigned to the complaint or alleged 5925  
violation; 5926

(2) The type of license to practice, if any, held by the 5927  
individual against whom the complaint is directed; 5928

(3) A description of the allegations contained in the 5929  
complaint; 5930

(4) Whether witnesses were interviewed; 5931

(5) Whether the individual against whom the complaint is 5932  
directed is the subject of any pending complaints; 5933

(6) The disposition of the case. 5934

The report shall state how many cases are still pending, 5935  
and shall be prepared in a manner that protects the identity of 5936  
each person involved in each case. The report is a public record 5937  
for purposes of section 149.43 of the Revised Code. 5938

(H) The board may provide a status update regarding an 5939  
investigation to a complainant on request if the board verifies 5940

the complainant's identity. 5941

**Sec. 4760.16.** (A) As used in this section, "criminal 5942  
conduct" and "sexual misconduct" have the same meanings as in 5943  
section 4731.224 of the Revised Code. 5944

(B) (1) Within ~~sixty~~-thirty days after the imposition of 5945  
any formal disciplinary action taken by any health care 5946  
facility, including a hospital, health care facility operated by 5947  
a health insuring corporation, ambulatory surgical facility, or 5948  
similar facility, against any individual holding a valid license 5949  
to practice as an anesthesiologist assistant, the chief 5950  
administrator or executive officer of the facility shall report 5951  
to the state medical board the name of the individual, the 5952  
action taken by the facility, and a summary of the underlying 5953  
facts leading to the action taken. On request, the board shall 5954  
be provided certified copies of the patient records that were 5955  
the basis for the facility's action. Prior to release to the 5956  
board, the summary shall be approved by the peer review 5957  
committee that reviewed the case or by the governing board of 5958  
the facility. 5959

The filing of a report with the board or decision not to 5960  
file a report, investigation by the board, or any disciplinary 5961  
action taken by the board, does not preclude a health care 5962  
facility from taking disciplinary action against an 5963  
anesthesiologist assistant. 5964

In the absence of fraud or bad faith, no individual or 5965  
entity that provides patient records to the board shall be 5966  
liable in damages to any person as a result of providing the 5967  
records. 5968

(2) Within thirty days after commencing an investigation 5969

regarding criminal conduct or sexual misconduct against any 5970  
individual holding a valid license to practice issued pursuant 5971  
to this chapter, a health care facility, including a hospital, 5972  
health care facility operated by a health insuring corporation, 5973  
ambulatory surgical center, or similar facility, shall report to 5974  
the board the name of the individual and a summary of the 5975  
underlying facts related to the investigation being commenced. 5976

~~(B) (1)~~ ~~(C) (1)~~ Except as provided in division ~~(B) (2)~~ ~~(C) (2)~~ 5977  
of this section and subject to division (C) (3) of this section, 5978  
an anesthesiologist assistant, professional association or 5979  
society of anesthesiologist assistants, physician, or 5980  
professional association or society of physicians that believes 5981  
a violation of any provision of this chapter, Chapter 4731. of 5982  
the Revised Code, or rule of the board has occurred shall report 5983  
to the board the information on which the belief is based. 5984

(2) An anesthesiologist assistant, professional 5985  
association or society of anesthesiologist assistants, 5986  
physician, or professional association or society of physicians 5987  
that believes that a violation of division (B) (6) of section 5988  
4760.13 of the Revised Code has occurred shall report the 5989  
information upon which the belief is based to the monitoring 5990  
organization conducting the program established by the board 5991  
under section 4731.251 of the Revised Code. If any such report 5992  
is made to the board, it shall be referred to the monitoring 5993  
organization unless the board is aware that the individual who 5994  
is the subject of the report does not meet the program 5995  
eligibility requirements of section 4731.252 of the Revised 5996  
Code. 5997

(3) If any individual authorized to practice under this 5998  
chapter or any professional association or society of such 5999

individuals knows or has reasonable cause to suspect based on 6000  
facts that would cause a reasonable person in a similar position 6001  
to suspect that an individual authorized to practice under this 6002  
chapter has committed or participated in criminal conduct or 6003  
sexual misconduct the information upon which the belief is based 6004  
shall be reported to the board within thirty days. 6005

(4) In addition to the self-reporting of criminal offenses 6006  
that is required for license renewal, an individual authorized 6007  
to practice under this chapter shall report to the board 6008  
criminal charges regarding criminal conduct, sexual misconduct, 6009  
or any conduct involving the use of a motor vehicle while under 6010  
the influence of alcohol or drugs, including offenses that are 6011  
equivalent offenses under division (A) of section 4511.181 of 6012  
the Revised Code, violations of division (D) of section 4511.194 6013  
of the Revised Code, and violations of division (C) of section 6014  
4511.79 of the Revised Code. Reports under this division shall 6015  
be made within thirty days of the criminal charge being filed. 6016

~~(C)~~ (D) Any professional association or society composed 6017  
primarily of anesthesiologist assistants that suspends or 6018  
revokes an individual's membership for violations of 6019  
professional ethics, or for reasons of professional incompetence 6020  
or professional malpractice, within ~~sixty~~ thirty days after a 6021  
final decision, shall report to the board, on forms prescribed 6022  
and provided by the board, the name of the individual, the 6023  
action taken by the professional organization, and a summary of 6024  
the underlying facts leading to the action taken. 6025

The filing of a report with the board or decision not to 6026  
file a report, investigation by the board, or any disciplinary 6027  
action taken by the board, does not preclude a professional 6028  
organization from taking disciplinary action against an 6029

anesthesiologist assistant. 6030

~~(D)~~ (E) Any insurer providing professional liability 6031  
insurance to any person holding a valid license to practice as 6032  
an anesthesiologist assistant or any other entity that seeks to 6033  
indemnify the professional liability of an anesthesiologist 6034  
assistant shall notify the board within thirty days after the 6035  
final disposition of any written claim for damages where such 6036  
disposition results in a payment exceeding twenty-five thousand 6037  
dollars. The notice shall contain the following information: 6038

(1) The name and address of the person submitting the 6039  
notification; 6040

(2) The name and address of the insured who is the subject 6041  
of the claim; 6042

(3) The name of the person filing the written claim; 6043

(4) The date of final disposition; 6044

(5) If applicable, the identity of the court in which the 6045  
final disposition of the claim took place. 6046

~~(E)~~ (F) The board may investigate possible violations of 6047  
this chapter or the rules adopted under it that are brought to 6048  
its attention as a result of the reporting requirements of this 6049  
section, except that the board shall conduct an investigation if 6050  
a possible violation involves repeated malpractice. As used in 6051  
this division, "repeated malpractice" means three or more claims 6052  
for malpractice within the previous five-year period, each 6053  
resulting in a judgment or settlement in excess of twenty-five 6054  
thousand dollars in favor of the claimant, and each involving 6055  
negligent conduct by the anesthesiologist assistant. 6056

~~(F)~~ (G) All summaries, reports, and records received and 6057

maintained by the board pursuant to this section shall be held- 6058  
~~in confidence and shall not be subject to discovery or~~ 6059  
~~introduction in evidence in any federal or state civil action~~ 6060  
~~involving an anesthesiologist assistant, supervising physician,~~ 6061  
~~or health care facility arising out of matters that are the~~ 6062  
~~subject of the reporting required by this section. The board may~~ 6063  
~~use the information obtained only as the basis for an~~ 6064  
~~investigation, as evidence in a disciplinary hearing against an~~ 6065  
~~anesthesiologist assistant or supervising physician, or in any~~ 6066  
~~subsequent trial or appeal of a board action or order.~~ 6067

~~The board may disclose the summaries and reports it~~ 6068  
~~receives under this section only to health care facility~~ 6069  
~~committees within or outside this state that are involved in~~ 6070  
~~credentialing or recredentialing an anesthesiologist assistant~~ 6071  
~~or supervising physician or reviewing their privilege to~~ 6072  
~~practice within a particular facility. The board shall indicate~~ 6073  
~~whether or not the information has been verified. Information~~ 6074  
~~transmitted by the board shall be subject to the same~~ 6075  
~~confidentiality provisions as when maintained by the~~ 6076  
~~board~~confidential pursuant to division (E) of section 4760.14 of 6077  
the Revised Code. 6078

~~(G)~~(H) Except for reports filed by an individual pursuant 6079  
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 6080  
send a copy of any reports or summaries it receives pursuant to 6081  
this section to the anesthesiologist assistant. The 6082  
anesthesiologist assistant shall have the right to file a 6083  
statement with the board concerning the correctness or relevance 6084  
of the information. The statement shall at all times accompany 6085  
that part of the record in contention. 6086

~~(H)~~(I) An individual or entity that reports to the board, 6087



reports to the monitoring organization described in section 6088  
4731.251 of the Revised Code, or refers an impaired 6089  
anesthesiologist assistant to a treatment provider approved by 6090  
the board under section 4731.25 of the Revised Code shall not be 6091  
subject to suit for civil damages as a result of the report, 6092  
referral, or provision of the information. 6093

~~(I)~~ (J) In the absence of fraud or bad faith, a 6094  
professional association or society of anesthesiologist 6095  
assistants that sponsors a committee or program to provide peer 6096  
assistance to an anesthesiologist assistant with substance abuse 6097  
problems, a representative or agent of such a committee or 6098  
program, a representative or agent of the monitoring 6099  
organization described in section 4731.251 of the Revised Code, 6100  
and a member of the state medical board shall not be held liable 6101  
in damages to any person by reason of actions taken to refer an 6102  
anesthesiologist assistant to a treatment provider approved 6103  
under section 4731.25 of the Revised Code for examination or 6104  
treatment. 6105

**Sec. 4760.99.** (A) Whoever violates section 4760.02 of the 6106  
Revised Code is guilty of a misdemeanor of the first degree on a 6107  
first offense; on each subsequent offense, the person is guilty 6108  
of a felony of the fourth degree. 6109

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 6110  
(1), ~~or (C) (2)~~, (D), or (E) of section 4760.16 of the Revised 6111  
Code is guilty of a minor misdemeanor on a first offense; on 6112  
each subsequent offense the person is guilty of a misdemeanor of 6113  
the fourth degree, except that an individual guilty of a 6114  
subsequent offense shall not be subject to imprisonment, but to 6115  
a fine alone of up to one thousand dollars for each offense. 6116

(2) Whoever violates division (B) (2) or (C) (3) of section 6117

4760.16 of the Revised Code is guilty of failure to report 6118  
criminal conduct or sexual misconduct, a misdemeanor of the 6119  
fourth degree. If the offender has previously been convicted of 6120  
a violation of this division, the failure to report is a 6121  
misdemeanor of the first degree. 6122

(C) Whoever violates division (E) of section 4760.14 of 6123  
the Revised Code is guilty of disclosing confidential 6124  
investigatory information, a misdemeanor of the first degree. 6125

**Sec. 4761.03.** (A) The state medical board shall regulate 6126  
the practice of respiratory care in this state and the persons 6127  
to whom the board issues licenses and limited permits under this 6128  
chapter. Rules adopted under this chapter that deal with the 6129  
provision of respiratory care in a hospital, other than rules 6130  
regulating the issuance of licenses or limited permits, shall be 6131  
consistent with the conditions for participation under medicare, 6132  
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 6133  
42 U.S.C.A. 1395, as amended, and with the respiratory care 6134  
accreditation standards of the joint commission or the American 6135  
osteopathic association. 6136

(B) The board shall adopt, and may rescind or amend, rules 6137  
in accordance with Chapter 119. of the Revised Code to carry out 6138  
the purposes of this chapter, including rules prescribing the 6139  
following: 6140

(1) The form and manner for filing applications under 6141  
sections 4761.05 and 4761.06 of the Revised Code; 6142

(2) Standards for the approval of examinations and 6143  
reexaminations administered by national organizations for 6144  
licensure, license renewal, and license reinstatement; 6145

(3) Standards for the approval of educational programs 6146

required to qualify for licensure and approval of continuing education programs required for license renewal; 6147  
6148

(4) Continuing education courses and the number of hour requirements necessary for license renewal under section 4761.06 of the Revised Code, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country; 6149  
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(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees; 6156  
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6158

(6) Procedures for the limitation, suspension, and revocation of licenses and limited permits, the refusal to issue, renew, or reinstate licenses and limited permits, and the imposition of a reprimand or probation under section 4761.09 of the Revised Code; 6159  
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6161  
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(7) Standards of ethical conduct for the practice of respiratory care; 6164  
6165

(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B)(3) of section 4761.10 of the Revised Code; 6166  
6167  
6168  
6169

(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code. 6170  
6171

(C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit. 6172  
6173  
6174  
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(D) The board shall determine the respiratory care 6176  
educational programs that are acceptable for fulfilling the 6177  
requirements of division (A) of section 4761.04 of the Revised 6178  
Code. 6179

(E) (1) The board shall investigate evidence that appears 6180  
to show that a person has violated any provision of this chapter 6181  
or any rule adopted under it. Any person may report to the board 6182  
in a signed writing any information that the person may have 6183  
that appears to show a violation of any provision of this 6184  
chapter or any rule adopted under it. In the absence of bad 6185  
faith, any person who reports information of that nature or who 6186  
testifies before the board in any adjudication conducted under 6187  
Chapter 119. of the Revised Code shall not be liable in damages 6188  
in a civil action as a result of the report or testimony. Each 6189  
complaint or allegation of a violation received by the board 6190  
shall be assigned a case number and shall be recorded by the 6191  
board. 6192

(2) Investigations of alleged violations of this chapter 6193  
or any rule adopted under it shall be supervised by the 6194  
supervising member elected by the board in accordance with 6195  
section 4731.02 of the Revised Code and by the secretary as 6196  
provided in section 4761.012 of the Revised Code. The president 6197  
may designate another member of the board to supervise the 6198  
investigation in place of the supervising member. Upon a vote of 6199  
the majority of the board to authorize the addition of a 6200  
consumer member in the supervision of any part of any 6201  
investigation, the president shall designate a consumer member 6202  
for supervision of investigations as determined by the 6203  
president. The authorization of consumer member participation in 6204  
investigation supervision may be rescinded by a majority vote of 6205  
the board. No member of the board who supervises the 6206

investigation of a case shall participate in further 6207  
adjudication of the case. 6208

(3) In investigating a possible violation of this chapter 6209  
or any rule adopted under it, the board may issue subpoenas, 6210  
administer oaths, question witnesses, conduct interviews, order 6211  
the taking of depositions, inspect and copy any books, accounts, 6212  
papers, records, or documents, and compel the attendance of 6213  
witnesses and production of books, accounts, papers, records, 6214  
documents, and testimony, except that a subpoena for patient 6215  
record information or information, documents, and records from a 6216  
peer review committee of a health care entity related to sexual 6217  
misconduct or criminal conduct shall not be issued without 6218  
consultation with the attorney general's office and approval of 6219  
the secretary and supervising member of the board. 6220

Before issuance of a subpoena for patient record 6221  
information or information, documents, and records from a peer 6222  
review committee of a health care entity related to sexual 6223  
misconduct or criminal conduct, the secretary and supervising 6224  
member shall determine whether there is probable cause to 6225  
believe that the complaint filed alleges a violation of this 6226  
chapter or any rule adopted under it and that the records sought 6227  
are relevant to the alleged violation and material to the 6228  
investigation. The subpoena may apply only to records that cover 6229  
a reasonable period of time surrounding the alleged violation. 6230

On failure to comply with any subpoena issued by the board 6231  
and after reasonable notice to the person being subpoenaed, the 6232  
board may move for an order compelling the production of persons 6233  
or records pursuant to the Rules of Civil Procedure. 6234

A subpoena issued by the board may be served by a sheriff, 6235  
the sheriff's deputy, or a board employee or agent designated by 6236

the board. Service of a subpoena issued by the board may be made 6237  
by delivering a copy of the subpoena to the person named 6238  
therein, reading it to the person, or leaving it at the person's 6239  
usual place of residence, usual place of business, or address on 6240  
file with the board. When serving a subpoena to an applicant for 6241  
or the holder of a license or limited permit issued under this 6242  
chapter, service of the subpoena may be made by certified mail, 6243  
return receipt requested, and the subpoena shall be deemed 6244  
served on the date delivery is made or the date the person 6245  
refuses to accept delivery. If the person being served refuses 6246  
to accept the subpoena or is not located, service may be made to 6247  
an attorney who notifies the board that the attorney is 6248  
representing the person. 6249

A sheriff's deputy who serves a subpoena shall receive the 6250  
same fees as a sheriff. Each witness who appears before the 6251  
board in obedience to a subpoena shall receive the fees and 6252  
mileage provided for under section 119.094 of the Revised Code. 6253

(4) All For purposes of section 2305.252 of the Revised 6254  
Code, all hearings, investigations, and inspections of the board 6255  
shall be considered civil actions ~~for the purposes of section~~ 6256  
~~2305.252 of the Revised Code, except those involving allegations~~ 6257  
of sexual misconduct or criminal conduct, as defined in that 6258  
section. 6259

(5) A report required to be submitted to the board under 6260  
this chapter, a complaint, or information received by the board 6261  
pursuant to an investigation is confidential and not subject to 6262  
discovery in any civil action. 6263

The board shall conduct all investigations or inspections 6264  
and proceedings in a manner that protects the confidentiality of 6265  
patients and persons who file complaints with the board. The 6266

board shall not make public the names or any other identifying 6267  
information about patients or complainants unless proper consent 6268  
is given. 6269

The board may share any information it receives pursuant 6270  
to an investigation or inspection, including patient records and 6271  
patient record information, with law enforcement agencies, other 6272  
licensing boards, and other governmental agencies that are 6273  
prosecuting, adjudicating, or investigating alleged violations 6274  
of statutes or administrative rules. An agency or board that 6275  
receives the information shall comply with the same requirements 6276  
regarding confidentiality as those with which the state medical 6277  
board must comply, notwithstanding any conflicting provision of 6278  
the Revised Code or procedure of the agency or board that 6279  
applies when it is dealing with other information in its 6280  
possession. In a judicial proceeding, the information may be 6281  
admitted into evidence only in accordance with the Rules of 6282  
Evidence, but the court shall require that appropriate measures 6283  
are taken to ensure that confidentiality is maintained with 6284  
respect to any part of the information that contains names or 6285  
other identifying information about patients or complainants 6286  
whose confidentiality was protected by the state medical board 6287  
when the information was in the board's possession. Measures to 6288  
ensure confidentiality that may be taken by the court include 6289  
sealing its records or deleting specific information from its 6290  
records. 6291

No person shall knowingly access, use, or disclose 6292  
confidential investigatory information in a manner prohibited by 6293  
law. 6294

(6) On a quarterly basis, the board shall prepare a report 6295  
that documents the disposition of all cases during the preceding 6296

three months. The report shall contain the following information 6297  
for each case with which the board has completed its activities: 6298

(a) The case number assigned to the complaint or alleged 6299  
violation; 6300

(b) The type of license or limited permit, if any, held by 6301  
the individual against whom the complaint is directed; 6302

(c) A description of the allegations contained in the 6303  
complaint; 6304

(d) Whether witnesses were interviewed; 6305

(e) Whether the individual against whom the complaint is 6306  
directed is the subject of any pending complaints; 6307

(f) The disposition of the case. 6308

The report shall state how many cases are still pending 6309  
and shall be prepared in a manner that protects the identity of 6310  
each person involved in each case. The report shall be a public 6311  
record under section 149.43 of the Revised Code. 6312

(7) The board may provide a status update regarding an 6313  
investigation to a complainant on request if the board verifies 6314  
the complainant's identity. 6315

(F) The board shall keep records of its proceedings and do 6316  
other things as are necessary and proper to carry out and 6317  
enforce the provisions of this chapter. 6318

(G) The board shall maintain and publish on its internet 6319  
web site all of the following: 6320

(1) The requirements for the issuance of licenses and 6321  
limited permits under this chapter and rules adopted by the 6322  
board; 6323



(2) A list of the names and locations of the institutions 6324  
that each year granted degrees or certificates of completion in 6325  
respiratory care. 6326

**Sec. 4761.09.** (A) The state medical board, by an 6327  
affirmative vote of not fewer than six members, shall, except as 6328  
provided in division (B) of this section, and to the extent 6329  
permitted by law, limit, revoke, or suspend an individual's 6330  
license or limited permit, refuse to issue a license or limited 6331  
permit to an individual, refuse to renew a license or limited 6332  
permit, refuse to reinstate a license or limited permit, or 6333  
reprimand or place on probation the holder of a license or 6334  
limited permit for one or more of the following reasons: 6335

(1) A plea of guilty to, a judicial finding of guilt of, 6336  
or a judicial finding of eligibility for intervention in lieu of 6337  
conviction for, a felony; 6338

(2) Commission of an act that constitutes a felony in this 6339  
state, regardless of the jurisdiction in which the act was 6340  
committed; 6341

(3) A plea of guilty to, a judicial finding of guilt of, 6342  
or a judicial finding of eligibility for intervention in lieu of 6343  
conviction for, a misdemeanor committed in the course of 6344  
practice; 6345

(4) Commission of an act in the course of practice that 6346  
constitutes a misdemeanor in this state, regardless of the 6347  
jurisdiction in which the act was committed; 6348

(5) A plea of guilty to, a judicial finding of guilt of, 6349  
or a judicial finding of eligibility for intervention in lieu of 6350  
conviction for, a misdemeanor involving moral turpitude; 6351

(6) Commission of an act involving moral turpitude that 6352

constitutes a misdemeanor in this state, regardless of the 6353  
jurisdiction in which the act was committed; 6354

(7) Except when civil penalties are imposed under section 6355  
4761.091 of the Revised Code, violating or attempting to 6356  
violate, directly or indirectly, or assisting in or abetting the 6357  
violation of, or conspiring to violate, any provision of this 6358  
chapter or the rules adopted by the board; 6359

(8) Making a false, fraudulent, deceptive, or misleading 6360  
statement in the solicitation of or advertising for patients; in 6361  
relation to the practice of respiratory care; or in securing or 6362  
attempting to secure any license or permit issued by the board 6363  
under this chapter. 6364

As used in division (A) (8) of this section, "false, 6365  
fraudulent, deceptive, or misleading statement" means a 6366  
statement that includes a misrepresentation of fact, is likely 6367  
to mislead or deceive because of a failure to disclose material 6368  
facts, is intended or is likely to create false or unjustified 6369  
expectations of favorable results, or includes representations 6370  
or implications that in reasonable probability will cause an 6371  
ordinarily prudent person to misunderstand or be deceived. 6372

(9) Committing fraud during the administration of the 6373  
examination for a license to practice or committing fraud, 6374  
misrepresentation, or deception in applying for, renewing, or 6375  
securing any license or permit issued by the board; 6376

(10) A departure from, or failure to conform to, minimal 6377  
standards of care of similar practitioners under the same or 6378  
similar circumstances, whether or not actual injury to a patient 6379  
is established; 6380

(11) Violating the standards of ethical conduct adopted by 6381

the board, in the practice of respiratory care; 6382

(12) The obtaining of, or attempting to obtain, money or 6383  
anything of value by fraudulent misrepresentations in the course 6384  
of practice; 6385

(13) Violation of the conditions of limitation placed by 6386  
the board upon a license or permit; 6387

(14) Inability to practice according to acceptable and 6388  
prevailing standards of care by reason of mental illness or 6389  
physical illness, including physical deterioration that 6390  
adversely affects cognitive, motor, or perceptive skills; 6391

(15) Any of the following actions taken by an agency 6392  
responsible for authorizing, certifying, or regulating an 6393  
individual to practice a health care occupation or provide 6394  
health care services in this state or another jurisdiction, for 6395  
any reason other than the nonpayment of fees: the limitation, 6396  
revocation, or suspension of an individual's license; acceptance 6397  
of an individual's license surrender; denial of a license; 6398  
refusal to renew or reinstate a license; imposition of 6399  
probation; or issuance of an order of censure or other 6400  
reprimand; 6401

(16) The revocation, suspension, restriction, reduction, 6402  
or termination of practice privileges by the United States 6403  
department of defense or department of veterans affairs; 6404

(17) Termination or suspension from participation in the 6405  
medicare or medicaid programs by the department of health and 6406  
human services or other responsible agency for any act or acts 6407  
that also would constitute a violation of division (A) (10), 6408  
(12), or (14) of this section; 6409

(18) Impairment of ability to practice according to 6410

acceptable and prevailing standards of care because of habitual 6411  
or excessive use or abuse of drugs, alcohol, or other substances 6412  
that impair ability to practice; 6413

(19) Failure to cooperate in an investigation conducted by 6414  
the board under division (E) of section 4761.03 of the Revised 6415  
Code, including failure to comply with a subpoena or order 6416  
issued by the board or failure to answer truthfully a question 6417  
presented by the board in an investigative interview, an 6418  
investigative office conference, at a deposition, or in written 6419  
interrogatories, except that failure to cooperate with an 6420  
investigation shall not constitute grounds for discipline under 6421  
this section if a court of competent jurisdiction has issued an 6422  
order that either quashes a subpoena or permits the individual 6423  
to withhold the testimony or evidence in issue; 6424

(20) Practicing in an area of respiratory care for which 6425  
the person is clearly untrained or incompetent or practicing in 6426  
a manner that conflicts with section 4761.17 of the Revised 6427  
Code; 6428

(21) Employing, directing, or supervising a person who is 6429  
not authorized to practice respiratory care under this chapter 6430  
in the performance of respiratory care procedures; 6431

(22) Misrepresenting educational attainments or authorized 6432  
functions for the purpose of obtaining some benefit related to 6433  
the practice of respiratory care; 6434

(23) Assisting suicide as defined in section 3795.01 of 6435  
the Revised Code; 6436

(24) Representing, with the purpose of obtaining 6437  
compensation or other advantage as personal gain or for any 6438  
other person, that an incurable disease or injury, or other 6439

incurable condition, can be permanently cured. 6440

Disciplinary actions taken by the board under division (A) 6441  
of this section shall be taken pursuant to an adjudication under 6442  
Chapter 119. of the Revised Code, except that in lieu of an 6443  
adjudication, the board may enter into a consent agreement with 6444  
an individual to resolve an allegation of a violation of this 6445  
chapter or any rule adopted under it. A consent agreement, when 6446  
ratified by an affirmative vote of not fewer than six members of 6447  
the board, shall constitute the findings and order of the board 6448  
with respect to the matter addressed in the agreement. If the 6449  
board refuses to ratify a consent agreement, the admissions and 6450  
findings contained in the consent agreement shall be of no 6451  
effect. 6452

A telephone conference call may be utilized for 6453  
ratification of a consent agreement that revokes or suspends an 6454  
individual's license or permit. The telephone conference call 6455  
shall be considered a special meeting under division (F) of 6456  
section 121.22 of the Revised Code. 6457

(B) The board shall not refuse to issue a license or 6458  
limited permit to an applicant because of a plea of guilty to, a 6459  
judicial finding of guilt of, or a judicial finding of 6460  
eligibility for intervention in lieu of conviction for an 6461  
offense unless the refusal is in accordance with section 9.79 of 6462  
the Revised Code. 6463

(C) Any action taken by the board under division (A) of 6464  
this section resulting in a suspension from practice shall be 6465  
accompanied by a written statement of the conditions under which 6466  
the individual's license or permit may be reinstated. The board 6467  
shall adopt rules governing conditions to be imposed for 6468  
reinstatement. Reinstatement of a license or permit suspended 6469

pursuant to division (A) of this section requires an affirmative 6470  
vote of not fewer than six members of the board. 6471

(D) When the board refuses to grant or issue a license or 6472  
permit to an applicant, revokes an individual's license or 6473  
permit, refuses to renew an individual's license or permit, or 6474  
refuses to reinstate an individual's license or permit, the 6475  
board may specify that its action is permanent. An individual 6476  
subject to a permanent action taken by the board is forever 6477  
thereafter ineligible to hold a license or permit and the board 6478  
shall not accept an application for reinstatement of the license 6479  
or permit or for issuance of a new license or permit. 6480

(E) If the board is required by Chapter 119. of the 6481  
Revised Code to give notice of an opportunity for a hearing and 6482  
if the individual subject to the notice does not timely request 6483  
a hearing in accordance with section 119.07 of the Revised Code, 6484  
the board is not required to hold a hearing, but may adopt, by 6485  
an affirmative vote of not fewer than six of its members, a 6486  
final order that contains the board's findings. In the final 6487  
order, the board may order any of the sanctions identified under 6488  
division (A) of this section. 6489

(F) In enforcing division (A)(14) of this section, the 6490  
board, upon a showing of a possible violation, may compel any 6491  
individual authorized to practice by this chapter or who has 6492  
submitted an application pursuant to this chapter to submit to a 6493  
mental examination, physical examination, including an HIV test, 6494  
or both a mental and a physical examination. The expense of the 6495  
examination is the responsibility of the individual compelled to 6496  
be examined. Failure to submit to a mental or physical 6497  
examination or consent to an HIV test ordered by the board 6498  
constitutes an admission of the allegations against the 6499

individual unless the failure is due to circumstances beyond the 6500  
individual's control, and a default and final order may be 6501  
entered without the taking of testimony or presentation of 6502  
evidence. If the board finds an individual unable to practice 6503  
because of the reasons set forth in division (A)(14) of this 6504  
section, the board shall require the individual to submit to 6505  
care, counseling, or treatment by physicians approved or 6506  
designated by the board, as a condition for initial, continued, 6507  
reinstated, or renewed authority to practice. An individual 6508  
affected under this division shall be afforded an opportunity to 6509  
demonstrate to the board the ability to resume practice in 6510  
compliance with acceptable and prevailing standards under the 6511  
provisions of the individual's license or permit. For the 6512  
purpose of division (A)(14) of this section, any individual who 6513  
applies for or receives a license or permit to practice under 6514  
this chapter accepts the privilege of practicing in this state 6515  
and, by so doing, shall be deemed to have given consent to 6516  
submit to a mental or physical examination when directed to do 6517  
so in writing by the board, and to have waived all objections to 6518  
the admissibility of testimony or examination reports that 6519  
constitute a privileged communication. 6520

(G) For the purposes of division (A)(18) of this section, 6521  
any individual authorized to practice by this chapter accepts 6522  
the privilege of practicing in this state subject to supervision 6523  
by the board. By filing an application for or holding a license 6524  
or permit under this chapter, an individual shall be deemed to 6525  
have given consent to submit to a mental or physical examination 6526  
when ordered to do so by the board in writing, and to have 6527  
waived all objections to the admissibility of testimony or 6528  
examination reports that constitute privileged communications. 6529

If it has reason to believe that any individual authorized 6530

to practice by this chapter or any applicant for a license or 6531  
permit suffers such impairment, the board may compel the 6532  
individual to submit to a mental or physical examination, or 6533  
both. The expense of the examination is the responsibility of 6534  
the individual compelled to be examined. Any mental or physical 6535  
examination required under this division shall be undertaken by 6536  
a treatment provider or physician who is qualified to conduct 6537  
the examination and who is chosen by the board. 6538

Failure to submit to a mental or physical examination 6539  
ordered by the board constitutes an admission of the allegations 6540  
against the individual unless the failure is due to 6541  
circumstances beyond the individual's control, and a default and 6542  
final order may be entered without the taking of testimony or 6543  
presentation of evidence. If the board determines that the 6544  
individual's ability to practice is impaired, the board shall 6545  
suspend the individual's license or permit or deny the 6546  
individual's application and shall require the individual, as a 6547  
condition for an initial, continued, reinstated, or renewed 6548  
license or permit, to submit to treatment. 6549

Before being eligible to apply for reinstatement of a 6550  
license or permit suspended under this division, the impaired 6551  
practitioner shall demonstrate to the board the ability to 6552  
resume practice in compliance with acceptable and prevailing 6553  
standards of care under the provisions of the practitioner's 6554  
license or permit. The demonstration shall include, but shall 6555  
not be limited to, the following: 6556

(1) Certification from a treatment provider approved under 6557  
section 4731.25 of the Revised Code that the individual has 6558  
successfully completed any required inpatient treatment; 6559

(2) Evidence of continuing full compliance with an 6560



aftercare contract or consent agreement; 6561

(3) Two written reports indicating that the individual's 6562  
ability to practice has been assessed and that the individual 6563  
has been found capable of practicing according to acceptable and 6564  
prevailing standards of care. The reports shall be made by 6565  
individuals or providers approved by the board for making the 6566  
assessments and shall describe the basis for their 6567  
determination. 6568

The board may reinstate a license or permit suspended 6569  
under this division after that demonstration and after the 6570  
individual has entered into a written consent agreement. 6571

When the impaired practitioner resumes practice, the board 6572  
shall require continued monitoring of the individual. The 6573  
monitoring shall include, but not be limited to, compliance with 6574  
the written consent agreement entered into before reinstatement 6575  
or with conditions imposed by board order after a hearing, and, 6576  
upon termination of the consent agreement, submission to the 6577  
board for at least two years of annual written progress reports 6578  
made under penalty of perjury stating whether the individual has 6579  
maintained sobriety. 6580

~~(H)~~(H) (1) If either of the following circumstances occur, 6581  
the secretary and supervising member ~~determine both of the~~ 6582  
~~following, they~~ may recommend that the board suspend an 6583  
individual's license or permit without a prior hearing: 6584

~~(1)~~(a) The secretary and supervising member determine 6585  
both of the following: 6586

(i) That there is clear and convincing evidence that an 6587  
individual has violated division (A) of this section; 6588

~~(2)~~(ii) That the individual's continued practice presents 6589

a danger of immediate and serious harm to the public. 6590

~~Written~~ (b) The board receives verifiable information that 6591  
a licensee has been charged in any state or federal court for a 6592  
crime classified as a felony under the charging court's law and 6593  
the conduct charged constitutes a violation of division (A) of 6594  
this section. 6595

(2) If a recommendation is made to suspend without a prior 6596  
hearing pursuant to division (H) (1) of this section, written 6597  
allegations shall be prepared for consideration by the board. 6598  
The board, upon review of those allegations and by an 6599  
affirmative vote of not fewer than six of its members, excluding 6600  
the secretary and supervising member, may suspend a license or 6601  
permit without a prior hearing. A telephone conference call may 6602  
be utilized for reviewing the allegations and taking the vote on 6603  
the summary suspension. 6604

The board shall issue a written order of suspension by 6605  
certified mail or in person in accordance with section 119.07 of 6606  
the Revised Code. The order shall not be subject to suspension 6607  
by the court during pendency of any appeal filed under section 6608  
119.12 of the Revised Code. If the individual subject to the 6609  
summary suspension requests an adjudicatory hearing by the 6610  
board, the date set for the hearing shall be within fifteen 6611  
days, but not earlier than seven days, after the individual 6612  
requests the hearing, unless otherwise agreed to by both the 6613  
board and the individual. 6614

(3) Any summary suspension imposed under this division 6615  
shall remain in effect, unless reversed on appeal, until a final 6616  
adjudicative order issued by the board pursuant to this section 6617  
and Chapter 119. of the Revised Code becomes effective. The 6618  
board shall issue its final adjudicative order within seventy- 6619

five days after completion of its hearing. A failure to issue 6620  
the order within seventy-five days shall result in dissolution 6621  
of the summary suspension order but shall not invalidate any 6622  
subsequent, final adjudicative order. 6623

(I) For purposes of divisions (A) (2), (4), and (6) of this 6624  
section, the commission of the act may be established by a 6625  
finding by the board, pursuant to an adjudication under Chapter 6626  
119. of the Revised Code, that the individual committed the act. 6627  
The board does not have jurisdiction under those divisions if 6628  
the trial court renders a final judgment in the individual's 6629  
favor and that judgment is based upon an adjudication on the 6630  
merits. The board has jurisdiction under those divisions if the 6631  
trial court issues an order of dismissal upon technical or 6632  
procedural grounds. 6633

(J) The sealing or expungement of conviction records by 6634  
any court shall have no effect upon a prior board order entered 6635  
under this section or upon the board's jurisdiction to take 6636  
action under this section if, based upon a plea of guilty, a 6637  
judicial finding of guilt, or a judicial finding of eligibility 6638  
for intervention in lieu of conviction, the board issued a 6639  
notice of opportunity for a hearing prior to the court's order 6640  
to seal or expunge the records. The board shall not be required 6641  
to seal, destroy, redact, or otherwise modify its records to 6642  
reflect the court's sealing or expungement of conviction 6643  
records. 6644

(K) If the board takes action under division (A) (1), (3), 6645  
or (5) of this section, and the judicial finding of guilt, 6646  
guilty plea, or judicial finding of eligibility for intervention 6647  
in lieu of conviction is overturned on appeal, upon exhaustion 6648  
of the criminal appeal, a petition for reconsideration of the 6649

order may be filed with the board along with appropriate court documents. Upon receipt of a petition for reconsideration and supporting court documents, the board shall reinstate the individual's license or permit. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (A) of this section.

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

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

119. of the Revised Code, the board shall enter a final order 6681  
permanently revoking the individual's license or permit. 6682

(M) Notwithstanding any other provision of the Revised 6683  
Code, all of the following apply: 6684

(1) The surrender of a license or permit issued under this 6685  
chapter shall not be effective unless or until accepted by the 6686  
board. A telephone conference call may be utilized for 6687  
acceptance of the surrender of an individual's license or 6688  
permit. The telephone conference call shall be considered a 6689  
special meeting under division (F) of section 121.22 of the 6690  
Revised Code. Reinstatement of a license or permit surrendered 6691  
to the board requires an affirmative vote of not fewer than six 6692  
members of the board. 6693

(2) An application for a license or permit made under the 6694  
provisions of this chapter may not be withdrawn without approval 6695  
of the board. 6696

(3) Failure by an individual to renew a license or permit 6697  
in accordance with this chapter shall not remove or limit the 6698  
board's jurisdiction to take any disciplinary action under this 6699  
section against the individual. 6700

(4) At the request of the board, a license or permit 6701  
holder shall immediately surrender to the board a license or 6702  
permit that the board has suspended, revoked, or permanently 6703  
revoked. 6704

**Sec. 4761.14.** (A) As used in this section, "criminal 6705  
conduct" and "sexual misconduct" have the same meanings as in 6706  
section 4731.224 of the Revised Code. 6707

(B) (1) An employer that disciplines or terminates the 6708  
employment of a respiratory care professional or individual 6709

holding a limited permit issued under this chapter because of 6710  
conduct that would be grounds for disciplinary action under 6711  
section 4761.09 of the Revised Code shall, not later than ~~sixty-~~ 6712  
thirty days after the discipline or termination, report the 6713  
action to the state medical board. The report shall state the 6714  
name of the respiratory care professional or individual holding 6715  
the limited permit and the reason the employer took the action. 6716  
If an employer fails to report to the board, the board may seek 6717  
an order from the Franklin county court of common pleas, or any 6718  
other court of competent jurisdiction, compelling submission of 6719  
the report. 6720

(2) Within thirty days after commencing an investigation 6721  
regarding criminal conduct or sexual misconduct against any 6722  
individual holding a valid license or limited permit issued 6723  
pursuant to this chapter, a health care facility, including a 6724  
hospital, health care facility operated by a health insuring 6725  
corporation, ambulatory surgical center, or similar facility or 6726  
employer, shall report to the board the name of the individual 6727  
and a summary of the underlying facts related to the 6728  
investigation being commenced. 6729

(C) If any individual authorized to practice under this 6730  
chapter or any professional association or society of such 6731  
individuals knows or has reasonable cause to suspect based on 6732  
facts that would cause a reasonable person in a similar position 6733  
to suspect that an individual authorized to practice under this 6734  
chapter has committed or participated in criminal conduct or 6735  
sexual misconduct the information upon which the belief is based 6736  
shall be reported to the board within thirty days. 6737

(D) In addition to the self-reporting of criminal offenses 6738  
that is required for license renewal, an individual authorized 6739

to practice under this chapter shall report to the board 6740  
criminal charges regarding criminal conduct, sexual misconduct, 6741  
or any conduct involving the use of a motor vehicle while under 6742  
the influence of alcohol or drugs, including offenses that are 6743  
equivalent offenses under division (A) of section 4511.181 of 6744  
the Revised Code, violations of division (D) of section 4511.194 6745  
of the Revised Code, and violations of division (C) of section 6746  
4511.79 of the Revised Code. Reports under this division shall 6747  
be made within thirty days of the criminal charge being filed. 6748

**Sec. 4761.99.** Whoever violates division (A) of section 6749  
4761.10 of the Revised Code is guilty of a minor misdemeanor on 6750  
a first offense. On a second offense, the person is guilty of a 6751  
misdemeanor of the fourth degree. On each subsequent offense, 6752  
the person is guilty of a misdemeanor of the first degree. 6753

Whoever violates division (B)(2) or (C) of section 4761.14 6754  
of the Revised Code is guilty of failure to report criminal 6755  
conduct or sexual misconduct, a misdemeanor of the fourth 6756  
degree. If the offender has previously been convicted of a 6757  
violation of this division, the failure to report is a 6758  
misdemeanor of the first degree. 6759

Whoever violates division (E)(5) of section 4761.03 of the 6760  
Revised Code is guilty of disclosing confidential investigatory 6761  
information, a misdemeanor of the first degree. 6762

**Sec. 4762.13.** (A) The state medical board, by an 6763  
affirmative vote of not fewer than six members, may revoke or 6764  
may refuse to grant a license to practice as an oriental 6765  
medicine practitioner or license to practice as an acupuncturist 6766  
to a person found by the board to have committed fraud, 6767  
misrepresentation, or deception in applying for or securing the 6768  
license. 6769

(B) The board, by an affirmative vote of not fewer than six members, shall, except as provided in division (C) of this section, and to the extent permitted by law, limit, revoke, or suspend an individual's license to practice, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

(1) Permitting the holder's name or license to be used by another person;

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

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

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

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

(6) 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;

(7) Willfully betraying a professional confidence;



(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for patients or in securing or attempting to secure a license to practice as an oriental medicine practitioner or license to practice as an acupuncturist.

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

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

(10) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;

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

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

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

practice; 6828

(14) A plea of guilty to, a judicial finding of guilt of, 6829  
or a judicial finding of eligibility for intervention in lieu of 6830  
conviction for, a misdemeanor involving moral turpitude; 6831

(15) Commission of an act in the course of practice that 6832  
constitutes a misdemeanor in this state, regardless of the 6833  
jurisdiction in which the act was committed; 6834

(16) Commission of an act involving moral turpitude that 6835  
constitutes a misdemeanor in this state, regardless of the 6836  
jurisdiction in which the act was committed; 6837

(17) A plea of guilty to, a judicial finding of guilt of, 6838  
or a judicial finding of eligibility for intervention in lieu of 6839  
conviction for violating any state or federal law regulating the 6840  
possession, distribution, or use of any drug, including 6841  
trafficking in drugs; 6842

(18) Any of the following actions taken by the state 6843  
agency responsible for regulating the practice of oriental 6844  
medicine or acupuncture in another jurisdiction, for any reason 6845  
other than the nonpayment of fees: the limitation, revocation, 6846  
or suspension of an individual's license to practice; acceptance 6847  
of an individual's license surrender; denial of a license; 6848  
refusal to renew or reinstate a license; imposition of 6849  
probation; or issuance of an order of censure or other 6850  
reprimand; 6851

(19) Violation of the conditions placed by the board on a 6852  
license to practice as an oriental medicine practitioner or 6853  
license to practice as an acupuncturist; 6854

(20) Failure to use universal blood and body fluid 6855  
precautions established by rules adopted under section 4731.051 6856

of the Revised Code; 6857

(21) Failure to cooperate in an investigation conducted by 6858  
the board under section 4762.14 of the Revised Code, including 6859  
failure to comply with a subpoena or order issued by the board 6860  
or failure to answer truthfully a question presented by the 6861  
board at a deposition or in written interrogatories, except that 6862  
failure to cooperate with an investigation shall not constitute 6863  
grounds for discipline under this section if a court of 6864  
competent jurisdiction has issued an order that either quashes a 6865  
subpoena or permits the individual to withhold the testimony or 6866  
evidence in issue; 6867

(22) Failure to comply with the standards of the national 6868  
certification commission for acupuncture and oriental medicine 6869  
regarding professional ethics, commitment to patients, 6870  
commitment to the profession, and commitment to the public; 6871

(23) Failure to have adequate professional liability 6872  
insurance coverage in accordance with section 4762.22 of the 6873  
Revised Code; 6874

(24) Failure to maintain a current and active designation 6875  
as a diplomate in oriental medicine, diplomate of acupuncture 6876  
and Chinese herbology, or diplomate in acupuncture, as 6877  
applicable, from the national certification commission for 6878  
acupuncture and oriental medicine, including revocation by the 6879  
commission of the individual's designation, failure by the 6880  
individual to meet the commission's requirements for 6881  
redesignation, or failure to notify the board that the 6882  
appropriate designation has not been maintained. 6883

(C) The board shall not refuse to issue a certificate to 6884  
an applicant because of a plea of guilty to, a judicial finding 6885

of guilt of, or a judicial finding of eligibility for 6886  
intervention in lieu of conviction for an offense unless the 6887  
refusal is in accordance with section 9.79 of the Revised Code. 6888

(D) Disciplinary actions taken by the board under 6889  
divisions (A) and (B) of this section shall be taken pursuant to 6890  
an adjudication under Chapter 119. of the Revised Code, except 6891  
that in lieu of an adjudication, the board may enter into a 6892  
consent agreement with an oriental medicine practitioner or 6893  
acupuncturist or applicant to resolve an allegation of a 6894  
violation of this chapter or any rule adopted under it. A 6895  
consent agreement, when ratified by an affirmative vote of not 6896  
fewer than six members of the board, shall constitute the 6897  
findings and order of the board with respect to the matter 6898  
addressed in the agreement. If the board refuses to ratify a 6899  
consent agreement, the admissions and findings contained in the 6900  
consent agreement shall be of no force or effect. 6901

(E) For purposes of divisions (B) (12), (15), and (16) of 6902  
this section, the commission of the act may be established by a 6903  
finding by the board, pursuant to an adjudication under Chapter 6904  
119. of the Revised Code, that the applicant or license holder 6905  
committed the act in question. The board shall have no 6906  
jurisdiction under these divisions in cases where the trial 6907  
court renders a final judgment in the license holder's favor and 6908  
that judgment is based upon an adjudication on the merits. The 6909  
board shall have jurisdiction under these divisions in cases 6910  
where the trial court issues an order of dismissal upon 6911  
technical or procedural grounds. 6912

(F) The sealing or expungement of conviction records by 6913  
any court shall have no effect upon a prior board order entered 6914  
under the provisions of this section or upon the board's 6915

jurisdiction to take action under the provisions of this section 6916  
if, based upon a plea of guilty, a judicial finding of guilt, or 6917  
a judicial finding of eligibility for intervention in lieu of 6918  
conviction, the board issued a notice of opportunity for a 6919  
hearing or entered into a consent agreement prior to the court's 6920  
order to seal or expunge the records. The board shall not be 6921  
required to seal, destroy, redact, or otherwise modify its 6922  
records to reflect the court's sealing or expungement of 6923  
conviction records. 6924

(G) For purposes of this division, any individual who 6925  
holds a license to practice issued under this chapter, or 6926  
applies for a license to practice, shall be deemed to have given 6927  
consent to submit to a mental or physical examination when 6928  
directed to do so in writing by the board and to have waived all 6929  
objections to the admissibility of testimony or examination 6930  
reports that constitute a privileged communication. 6931

(1) In enforcing division (B) (5) of this section, the 6932  
board, upon a showing of a possible violation, may compel any 6933  
individual who holds a license to practice issued under this 6934  
chapter or who has applied for a license pursuant to this 6935  
chapter to submit to a mental examination, physical examination, 6936  
including an HIV test, or both a mental and physical 6937  
examination. The expense of the examination is the 6938  
responsibility of the individual compelled to be examined. 6939  
Failure to submit to a mental or physical examination or consent 6940  
to an HIV test ordered by the board constitutes an admission of 6941  
the allegations against the individual unless the failure is due 6942  
to circumstances beyond the individual's control, and a default 6943  
and final order may be entered without the taking of testimony 6944  
or presentation of evidence. If the board finds an oriental 6945  
medicine practitioner or acupuncturist unable to practice 6946

because of the reasons set forth in division (B) (5) of this 6947  
section, the board shall require the individual to submit to 6948  
care, counseling, or treatment by physicians approved or 6949  
designated by the board, as a condition for an initial, 6950  
continued, reinstated, or renewed license to practice. An 6951  
individual affected by this division shall be afforded an 6952  
opportunity to demonstrate to the board the ability to resume 6953  
practicing in compliance with acceptable and prevailing 6954  
standards of care. 6955

(2) For purposes of division (B) (6) of this section, if 6956  
the board has reason to believe that any individual who holds a 6957  
license to practice issued under this chapter or any applicant 6958  
for a license suffers such impairment, the board may compel the 6959  
individual to submit to a mental or physical examination, or 6960  
both. The expense of the examination is the responsibility of 6961  
the individual compelled to be examined. Any mental or physical 6962  
examination required under this division shall be undertaken by 6963  
a treatment provider or physician qualified to conduct such 6964  
examination and chosen by the board. 6965

Failure to submit to a mental or physical examination 6966  
ordered by the board constitutes an admission of the allegations 6967  
against the individual unless the failure is due to 6968  
circumstances beyond the individual's control, and a default and 6969  
final order may be entered without the taking of testimony or 6970  
presentation of evidence. If the board determines that the 6971  
individual's ability to practice is impaired, the board shall 6972  
suspend the individual's license or deny the individual's 6973  
application and shall require the individual, as a condition for 6974  
an initial, continued, reinstated, or renewed license, to submit 6975  
to treatment. 6976

Before being eligible to apply for reinstatement of a 6977  
license suspended under this division, the oriental medicine 6978  
practitioner or acupuncturist shall demonstrate to the board the 6979  
ability to resume practice in compliance with acceptable and 6980  
prevailing standards of care. The demonstration shall include 6981  
the following: 6982

(a) Certification from a treatment provider approved under 6983  
section 4731.25 of the Revised Code that the individual has 6984  
successfully completed any required inpatient treatment; 6985

(b) Evidence of continuing full compliance with an 6986  
aftercare contract or consent agreement; 6987

(c) Two written reports indicating that the individual's 6988  
ability to practice has been assessed and that the individual 6989  
has been found capable of practicing according to acceptable and 6990  
prevailing standards of care. The reports shall be made by 6991  
individuals or providers approved by the board for making such 6992  
assessments and shall describe the basis for their 6993  
determination. 6994

The board may reinstate a license suspended under this 6995  
division after such demonstration and after the individual has 6996  
entered into a written consent agreement. 6997

When the impaired individual resumes practice, the board 6998  
shall require continued monitoring of the individual. The 6999  
monitoring shall include monitoring of compliance with the 7000  
written consent agreement entered into before reinstatement or 7001  
with conditions imposed by board order after a hearing, and, 7002  
upon termination of the consent agreement, submission to the 7003  
board for at least two years of annual written progress reports 7004  
made under penalty of falsification stating whether the 7005

individual has maintained sobriety. 7006

~~(H)~~(H) (1) If either of the following circumstances occur, 7007  
the secretary and supervising member ~~determine both of the~~ 7008  
~~following, they may~~ recommend that the board suspend an 7009  
individual's license to practice without a prior hearing: 7010

~~(1)~~(a) The secretary and supervising member determine 7011  
both of the following: 7012

(i) That there is clear and convincing evidence that an 7013  
oriental medicine practitioner or acupuncturist has violated 7014  
division (B) of this section; 7015

~~(2)~~(ii) That the individual's continued practice presents 7016  
a danger of immediate and serious harm to the public. 7017

~~Written~~(b) The board receives verifiable information that 7018  
a licensee has been charged in any state or federal court for a 7019  
crime classified as a felony under the charging court's law and 7020  
the conduct charged constitutes a violation of division (B) of 7021  
this section. 7022

(2) If a recommendation is made to suspend without a prior 7023  
hearing pursuant to division (H) (1) of this section, written 7024  
allegations shall be prepared for consideration by the board. 7025  
The board, upon review of the allegations and by an affirmative 7026  
vote of not fewer than six of its members, excluding the 7027  
secretary and supervising member, may suspend a license without 7028  
a prior hearing. A telephone conference call may be utilized for 7029  
reviewing the allegations and taking the vote on the summary 7030  
suspension. 7031

The board shall issue a written order of suspension by 7032  
certified mail or in person in accordance with section 119.07 of 7033  
the Revised Code. The order shall not be subject to suspension 7034



by the court during pendency of any appeal filed under section 7035  
119.12 of the Revised Code. If the oriental medicine 7036  
practitioner or acupuncturist requests an adjudicatory hearing 7037  
by the board, the date set for the hearing shall be within 7038  
fifteen days, but not earlier than seven days, after the hearing 7039  
is requested, unless otherwise agreed to by both the board and 7040  
the license holder. 7041

(3) A summary suspension imposed under this division shall 7042  
remain in effect, unless reversed on appeal, until a final 7043  
adjudicative order issued by the board pursuant to this section 7044  
and Chapter 119. of the Revised Code becomes effective. The 7045  
board shall issue its final adjudicative order within sixty days 7046  
after completion of its hearing. Failure to issue the order 7047  
within sixty days shall result in dissolution of the summary 7048  
suspension order, but shall not invalidate any subsequent, final 7049  
adjudicative order. 7050

(I) If the board takes action under division (B) (11), 7051  
(13), or (14) of this section, and the judicial finding of 7052  
guilt, guilty plea, or judicial finding of eligibility for 7053  
intervention in lieu of conviction is overturned on appeal, upon 7054  
exhaustion of the criminal appeal, a petition for 7055  
reconsideration of the order may be filed with the board along 7056  
with appropriate court documents. Upon receipt of a petition and 7057  
supporting court documents, the board shall reinstate the 7058  
license. The board may then hold an adjudication under Chapter 7059  
119. of the Revised Code to determine whether the individual 7060  
committed the act in question. Notice of opportunity for hearing 7061  
shall be given in accordance with Chapter 119. of the Revised 7062  
Code. If the board finds, pursuant to an adjudication held under 7063  
this division, that the individual committed the act, or if no 7064  
hearing is requested, it may order any of the sanctions 7065

specified in division (B) of this section. 7066

(J) The license to practice of an oriental medicine 7067  
practitioner or acupuncturist and the practitioner's or 7068  
acupuncturist's practice in this state are automatically 7069  
suspended as of the date the practitioner or acupuncturist 7070  
pleads guilty to, is found by a judge or jury to be guilty of, 7071  
or is subject to a judicial finding of eligibility for 7072  
intervention in lieu of conviction in this state or treatment or 7073  
intervention in lieu of conviction in another jurisdiction for 7074  
any of the following criminal offenses in this state or a 7075  
substantially equivalent criminal offense in another 7076  
jurisdiction: aggravated murder, murder, voluntary manslaughter, 7077  
felonious assault, trafficking in persons, kidnapping, rape, 7078  
sexual battery, gross sexual imposition, aggravated arson, 7079  
aggravated robbery, or aggravated burglary. Continued practice 7080  
after the suspension shall be considered practicing without a 7081  
license. 7082

The board shall notify the individual subject to the 7083  
suspension by certified mail or in person in accordance with 7084  
section 119.07 of the Revised Code. If an individual whose 7085  
license is suspended under this division fails to make a timely 7086  
request for an adjudication under Chapter 119. of the Revised 7087  
Code, the board shall enter a final order permanently revoking 7088  
the individual's license. 7089

(K) In any instance in which the board is required by 7090  
Chapter 119. of the Revised Code to give notice of opportunity 7091  
for hearing and the individual subject to the notice does not 7092  
timely request a hearing in accordance with section 119.07 of 7093  
the Revised Code, the board is not required to hold a hearing, 7094  
but may adopt, by an affirmative vote of not fewer than six of 7095

its members, a final order that contains the board's findings. 7096  
In the final order, the board may order any of the sanctions 7097  
identified under division (A) or (B) of this section. 7098

(L) Any action taken by the board under division (B) of 7099  
this section resulting in a suspension shall be accompanied by a 7100  
written statement of the conditions under which the license may 7101  
be reinstated. The board shall adopt rules in accordance with 7102  
Chapter 119. of the Revised Code governing conditions to be 7103  
imposed for reinstatement. Reinstatement of a license suspended 7104  
pursuant to division (B) of this section requires an affirmative 7105  
vote of not fewer than six members of the board. 7106

(M) When the board refuses to grant or issue a license to 7107  
an applicant, revokes an individual's license, refuses to renew 7108  
an individual's license, or refuses to reinstate an individual's 7109  
license, the board may specify that its action is permanent. An 7110  
individual subject to a permanent action taken by the board is 7111  
forever thereafter ineligible to hold a license to practice as 7112  
an oriental medicine practitioner or license to practice as an 7113  
acupuncturist and the board shall not accept an application for 7114  
reinstatement of the license or for issuance of a new license. 7115

(N) Notwithstanding any other provision of the Revised 7116  
Code, all of the following apply: 7117

(1) The surrender of a license to practice as an oriental 7118  
medicine practitioner or license to practice as an acupuncturist 7119  
issued under this chapter is not effective unless or until 7120  
accepted by the board. Reinstatement of a license surrendered to 7121  
the board requires an affirmative vote of not fewer than six 7122  
members of the board. 7123

(2) An application made under this chapter for a license 7124

may not be withdrawn without approval of the board. 7125

(3) Failure by an individual to renew a license in 7126  
accordance with section 4762.06 of the Revised Code shall not 7127  
remove or limit the board's jurisdiction to take disciplinary 7128  
action under this section against the individual. 7129

**Sec. 4762.14.** (A) The state medical board shall 7130  
investigate evidence that appears to show that any person has 7131  
violated this chapter or the rules adopted under it. Any person 7132  
may report to the board in a signed writing any information the 7133  
person has that appears to show a violation of any provision of 7134  
this chapter or the rules adopted under it. In the absence of 7135  
bad faith, a person who reports such information or testifies 7136  
before the board in an adjudication conducted under Chapter 119. 7137  
of the Revised Code shall not be liable for civil damages as a 7138  
result of reporting the information or providing testimony. Each 7139  
complaint or allegation of a violation received by the board 7140  
shall be assigned a case number and be recorded by the board. 7141

(B) Investigations of alleged violations of this chapter 7142  
or rules adopted under it shall be supervised by the supervising 7143  
member elected by the board in accordance with section 4731.02 7144  
of the Revised Code and by the secretary as provided in section 7145  
4762.17 of the Revised Code. The board's president may designate 7146  
another member of the board to supervise the investigation in 7147  
place of the supervising member. Upon a vote of the majority of 7148  
the board to authorize the addition of a consumer member in the 7149  
supervision of any part of any investigation, the president 7150  
shall designate a consumer member for supervision of 7151  
investigations as determined by the president. The authorization 7152  
of consumer member participation in investigation supervision 7153  
may be rescinded by a majority vote of the board. A member of 7154

the board who supervises the investigation of a case shall not 7155  
participate in further adjudication of the case. 7156

(C) In investigating a possible violation of this chapter 7157  
or the rules adopted under it, the board may administer oaths, 7158  
order the taking of depositions, issue subpoenas, and compel the 7159  
attendance of witnesses and production of books, accounts, 7160  
papers, records, documents, and testimony, except that a 7161  
subpoena for patient record information or information, 7162  
documents, and records from a peer review committee of a health 7163  
care entity related to sexual misconduct or criminal conduct 7164  
shall not be issued without consultation with the attorney 7165  
general's office and approval of the secretary and supervising 7166  
member of the board. Before issuance of a subpoena for patient 7167  
record information or information, documents, and records from a 7168  
peer review committee of a health care entity related to sexual 7169  
misconduct or criminal conduct, the secretary and supervising 7170  
member shall determine whether there is probable cause to 7171  
believe that the complaint filed alleges a violation of this 7172  
chapter or the rules adopted under it and that the records 7173  
sought are relevant to the alleged violation and material to the 7174  
investigation. The subpoena may apply only to records that cover 7175  
a reasonable period of time surrounding the alleged violation. 7176

On failure to comply with any subpoena issued by the board 7177  
and after reasonable notice to the person being subpoenaed, the 7178  
board may move for an order compelling the production of persons 7179  
or records pursuant to the Rules of Civil Procedure. 7180

A subpoena issued by the board may be served by a sheriff, 7181  
the sheriff's deputy, or a board employee designated by the 7182  
board. Service of a subpoena issued by the board may be made by 7183  
delivering a copy of the subpoena to the person named therein, 7184

reading it to the person, or leaving it at the person's usual 7185  
place of residence. When the person being served is an oriental 7186  
medicine practitioner or acupuncturist, service of the subpoena 7187  
may be made by certified mail, restricted delivery, return 7188  
receipt requested, and the subpoena shall be deemed served on 7189  
the date delivery is made or the date the person refuses to 7190  
accept delivery. 7191

A sheriff's deputy who serves a subpoena shall receive the 7192  
same fees as a sheriff. Each witness who appears before the 7193  
board in obedience to a subpoena shall receive the fees and 7194  
mileage provided for under section 119.094 of the Revised Code. 7195

(D) All For purposes of section 2305.252 of the Revised 7196  
Code, all hearings and investigations of the board shall be 7197  
considered civil actions for the purposes of section 2305.252 of 7198  
the Revised Code, except those involving allegations of sexual 7199  
misconduct or criminal conduct, as defined in that section. 7200

(E) Information received by the board pursuant to an 7201  
investigation is confidential and not subject to discovery in 7202  
any civil action. 7203

The board shall conduct all investigations and proceedings 7204  
in a manner that protects the confidentiality of patients and 7205  
persons who file complaints with the board. The board shall not 7206  
make public the names or any other identifying information about 7207  
patients or complainants unless proper consent is given. 7208

The board may share any information it receives pursuant 7209  
to an investigation, including patient records and patient 7210  
record information, with law enforcement agencies, other 7211  
licensing boards, and other governmental agencies that are 7212  
prosecuting, adjudicating, or investigating alleged violations 7213

of statutes or administrative rules. An agency or board that 7214  
receives the information shall comply with the same requirements 7215  
regarding confidentiality as those with which the state medical 7216  
board must comply, notwithstanding any conflicting provision of 7217  
the Revised Code or procedure of the agency or board that 7218  
applies when it is dealing with other information in its 7219  
possession. In a judicial proceeding, the information may be 7220  
admitted into evidence only in accordance with the Rules of 7221  
Evidence, but the court shall require that appropriate measures 7222  
are taken to ensure that confidentiality is maintained with 7223  
respect to any part of the information that contains names or 7224  
other identifying information about patients or complainants 7225  
whose confidentiality was protected by the state medical board 7226  
when the information was in the board's possession. Measures to 7227  
ensure confidentiality that may be taken by the court include 7228  
sealing its records or deleting specific information from its 7229  
records. 7230

No person shall knowingly access, use, or disclose 7231  
confidential investigatory information in a manner prohibited by 7232  
law. 7233

(F) The state medical board shall develop requirements for 7234  
and provide appropriate initial training and continuing 7235  
education for investigators employed by the board to carry out 7236  
its duties under this chapter. The training and continuing 7237  
education may include enrollment in courses operated or approved 7238  
by the Ohio peace officer training commission that the board 7239  
considers appropriate under conditions set forth in section 7240  
109.79 of the Revised Code. 7241

(G) On a quarterly basis, the board shall prepare a report 7242  
that documents the disposition of all cases during the preceding 7243

three months. The report shall contain the following information 7244  
for each case with which the board has completed its activities: 7245

(1) The case number assigned to the complaint or alleged 7246  
violation; 7247

(2) The type of license, if any, held by the individual 7248  
against whom the complaint is directed; 7249

(3) A description of the allegations contained in the 7250  
complaint; 7251

(4) Whether witnesses were interviewed; 7252

(5) Whether the individual against whom the complaint is 7253  
directed is the subject of any pending complaints; 7254

(6) The disposition of the case. 7255

The report shall state how many cases are still pending, 7256  
and shall be prepared in a manner that protects the identity of 7257  
each person involved in each case. The report is a public record 7258  
for purposes of section 149.43 of the Revised Code. 7259

(H) The board may provide a status update regarding an 7260  
investigation to a complainant on request if the board verifies 7261  
the complainant's identity. 7262

**Sec. 4762.16.** (A) As used in this section, "criminal 7263  
conduct" and "sexual misconduct" have the same meanings as in 7264  
section 4731.224 of the Revised Code. 7265

(B) (1) Within ~~sixty~~-thirty days after the imposition of 7266  
any formal disciplinary action taken by any health care 7267  
facility, including a hospital, health care facility operated by 7268  
a health insuring corporation, ambulatory surgical center, or 7269  
similar facility, against any individual holding a valid license 7270



to practice as an oriental medicine practitioner or valid 7271  
license to practice as an acupuncturist, the chief administrator 7272  
or executive officer of the facility shall report to the state 7273  
medical board the name of the individual, the action taken by 7274  
the facility, and a summary of the underlying facts leading to 7275  
the action taken. Upon request, the board shall be provided 7276  
certified copies of the patient records that were the basis for 7277  
the facility's action. Prior to release to the board, the 7278  
summary shall be approved by the peer review committee that 7279  
reviewed the case or by the governing board of the facility. 7280

The filing of a report with the board or decision not to 7281  
file a report, investigation by the board, or any disciplinary 7282  
action taken by the board, does not preclude a health care 7283  
facility from taking disciplinary action against an oriental 7284  
medicine practitioner or acupuncturist. 7285

In the absence of fraud or bad faith, no individual or 7286  
entity that provides patient records to the board shall be 7287  
liable in damages to any person as a result of providing the 7288  
records. 7289

(2) Within thirty days after commencing an investigation 7290  
regarding criminal conduct or sexual misconduct against any 7291  
individual holding a valid license to practice issued pursuant 7292  
to this chapter, a health care facility, including a hospital, 7293  
health care facility operated by a health insuring corporation, 7294  
ambulatory surgical center, or similar facility, shall report to 7295  
the board the name of the individual and a summary of the 7296  
underlying facts related to the investigation being commenced. 7297

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 7298  
of this section and subject to division (C) (3) of this section, 7299  
an oriental medicine practitioner or acupuncturist, professional 7300

association or society of oriental medicine practitioners or 7301  
acupuncturists, physician, or professional association or 7302  
society of physicians that believes a violation of any provision 7303  
of this chapter, Chapter 4731. of the Revised Code, or rule of 7304  
the board has occurred shall report to the board the information 7305  
upon which the belief is based. 7306

(2) An oriental medicine practitioner or acupuncturist, 7307  
professional association or society of oriental medicine 7308  
practitioners or acupuncturists, physician, or professional 7309  
association or society of physicians that believes a violation 7310  
of division (B) (6) of section 4762.13 of the Revised Code has 7311  
occurred shall report the information upon which the belief is 7312  
based to the monitoring organization conducting the program 7313  
established by the board under section 4731.251 of the Revised 7314  
Code. If any such report is made to the board, it shall be 7315  
referred to the monitoring organization unless the board is 7316  
aware that the individual who is the subject of the report does 7317  
not meet the program eligibility requirements of section 7318  
4731.252 of the Revised Code. 7319

(3) If any individual authorized to practice under this 7320  
chapter or any professional association or society of such 7321  
individuals knows or has reasonable cause to suspect based on 7322  
facts that would cause a reasonable person in a similar position 7323  
to suspect that an individual authorized to practice under this 7324  
chapter has committed or participated in criminal conduct or 7325  
sexual misconduct the information upon which the belief is based 7326  
shall be reported to the board within thirty days. 7327

(4) In addition to the self-reporting of criminal offenses 7328  
that is required for license renewal, an individual authorized 7329  
to practice under this chapter shall report to the board 7330

criminal charges regarding criminal conduct, sexual misconduct, 7331  
or any conduct involving the use of a motor vehicle while under 7332  
the influence of alcohol or drugs, including offenses that are 7333  
equivalent offenses under division (A) of section 4511.181 of 7334  
the Revised Code, violations of division (D) of section 4511.194 7335  
of the Revised Code, and violations of division (C) of section 7336  
4511.79 of the Revised Code. Reports under this division shall 7337  
be made within thirty days of the criminal charge being filed. 7338

~~(C)~~ (D) Any professional association or society composed 7339  
primarily of oriental medicine practitioners or acupuncturists 7340  
that suspends or revokes an individual's membership for 7341  
violations of professional ethics, or for reasons of 7342  
professional incompetence or professional malpractice, within 7343  
~~sixty~~ thirty days after a final decision, shall report to the 7344  
board, on forms prescribed and provided by the board, the name 7345  
of the individual, the action taken by the professional 7346  
organization, and a summary of the underlying facts leading to 7347  
the action taken. 7348

The filing of a report with the board or decision not to 7349  
file a report, investigation by the board, or any disciplinary 7350  
action taken by the board, does not preclude a professional 7351  
organization from taking disciplinary action against an 7352  
individual. 7353

~~(D)~~ (E) Any insurer providing professional liability 7354  
insurance to any person holding a valid license to practice as 7355  
an oriental medicine practitioner or valid license to practice 7356  
as an acupuncturist or any other entity that seeks to indemnify 7357  
the professional liability of an oriental medicine practitioner 7358  
or acupuncturist shall notify the board within thirty days after 7359  
the final disposition of any written claim for damages where 7360

such disposition results in a payment exceeding twenty-five 7361  
thousand dollars. The notice shall contain the following 7362  
information: 7363

(1) The name and address of the person submitting the 7364  
notification; 7365

(2) The name and address of the insured who is the subject 7366  
of the claim; 7367

(3) The name of the person filing the written claim; 7368

(4) The date of final disposition; 7369

(5) If applicable, the identity of the court in which the 7370  
final disposition of the claim took place. 7371

~~(E)~~ (F) The board may investigate possible violations of 7372  
this chapter or the rules adopted under it that are brought to 7373  
its attention as a result of the reporting requirements of this 7374  
section, except that the board shall conduct an investigation if 7375  
a possible violation involves repeated malpractice. As used in 7376  
this division, "repeated malpractice" means three or more claims 7377  
for malpractice within the previous five-year period, each 7378  
resulting in a judgment or settlement in excess of twenty-five 7379  
thousand dollars in favor of the claimant, and each involving 7380  
negligent conduct by the oriental medicine practitioner or 7381  
acupuncturist. 7382

~~(F)~~ (G) All summaries, reports, and records received and 7383  
maintained by the board pursuant to this section shall be held 7384  
~~in confidence and shall not be subject to discovery or~~ 7385  
~~introduction in evidence in any federal or state civil action~~ 7386  
~~involving an oriental medicine practitioner, acupuncturist,~~ 7387  
~~supervising physician, or health care facility arising out of~~ 7388  
~~matters that are the subject of the reporting required by this~~ 7389

~~section. The board may use the information obtained only as the~~ 7390  
~~basis for an investigation, as evidence in a disciplinary~~ 7391  
~~hearing against an oriental medicine practitioner,~~ 7392  
~~acupuncturist, or supervising physician, or in any subsequent~~ 7393  
~~trial or appeal of a board action or order.~~ 7394

~~The board may disclose the summaries and reports it~~ 7395  
~~receives under this section only to health care facility~~ 7396  
~~committees within or outside this state that are involved in~~ 7397  
~~credentialing or recredentialing an oriental medicine~~ 7398  
~~practitioner, acupuncturist, or supervising physician or~~ 7399  
~~reviewing their privilege to practice within a particular~~ 7400  
~~facility. The board shall indicate whether or not the~~ 7401  
~~information has been verified. Information transmitted by the~~ 7402  
~~board shall be subject to the same confidentiality provisions as~~ 7403  
~~when maintained by the board~~confidential pursuant to division 7404  
(E) of section 4762.14 of the Revised Code. 7405

~~(G)~~(H) Except for reports filed by an individual pursuant 7406  
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 7407  
send a copy of any reports or summaries it receives pursuant to 7408  
this section to the acupuncturist. The oriental medicine 7409  
practitioner or acupuncturist shall have the right to file a 7410  
statement with the board concerning the correctness or relevance 7411  
of the information. The statement shall at all times accompany 7412  
that part of the record in contention. 7413

~~(H)~~(I) An individual or entity that reports to the board, 7414  
reports to the monitoring organization described in section 7415  
4731.251 of the Revised Code, or refers an impaired oriental 7416  
medicine practitioner or impaired acupuncturist to a treatment 7417  
provider approved by the board under section 4731.25 of the 7418  
Revised Code shall not be subject to suit for civil damages as a 7419

result of the report, referral, or provision of the information. 7420

~~(I)~~ (J) In the absence of fraud or bad faith, a 7421  
professional association or society of oriental medicine 7422  
practitioners or acupuncturists that sponsors a committee or 7423  
program to provide peer assistance to an oriental medicine 7424  
practitioner or acupuncturist with substance abuse problems, a 7425  
representative or agent of such a committee or program, a 7426  
representative or agent of the monitoring organization described 7427  
in section 4731.251 of the Revised Code, and a member of the 7428  
state medical board shall not be held liable in damages to any 7429  
person by reason of actions taken to refer an oriental medicine 7430  
practitioner or acupuncturist to a treatment provider approved 7431  
under section 4731.25 of the Revised Code for examination or 7432  
treatment. 7433

**Sec. 4762.99.** (A) Whoever violates section 4762.02 of the 7434  
Revised Code is guilty of a misdemeanor of the first degree on a 7435  
first offense; on each subsequent offense, the person is guilty 7436  
of a felony of the fourth degree. 7437

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 7438  
(1), ~~or (C) (2)~~, (D), or (E) of section 4762.16 of the Revised 7439  
Code is guilty of a minor misdemeanor on a first offense; on 7440  
each subsequent offense the person is guilty of a misdemeanor of 7441  
the fourth degree, except that an individual guilty of a 7442  
subsequent offense shall not be subject to imprisonment, but to 7443  
a fine alone of up to one thousand dollars for each offense. 7444

(2) Whoever violates division (B) (2) or (C) (3) of section 7445  
4762.16 of the Revised Code is guilty of failure to report 7446  
criminal conduct or sexual misconduct, a misdemeanor of the 7447  
fourth degree. If the offender has previously been convicted of 7448  
a violation of this division, the failure to report is a 7449

misdemeanor of the first degree. 7450

(C) Whoever violates division (E) of section 4762.14 of 7451  
the Revised Code is guilty of disclosing confidential 7452  
investigatory information, a misdemeanor of the first degree. 7453

**Sec. 4774.13.** (A) The state medical board, by an 7454  
affirmative vote of not fewer than six members, may revoke or 7455  
may refuse to grant a license to practice as a radiologist 7456  
assistant to an individual found by the board to have committed 7457  
fraud, misrepresentation, or deception in applying for or 7458  
securing the license. 7459

(B) The board, by an affirmative vote of not fewer than 7460  
six members, shall, except as provided in division (C) of this 7461  
section, and to the extent permitted by law, limit, revoke, or 7462  
suspend an individual's license to practice as a radiologist 7463  
assistant, refuse to issue a license to an applicant, refuse to 7464  
renew a license, refuse to reinstate a license, or reprimand or 7465  
place on probation the holder of a license for any of the 7466  
following reasons: 7467

(1) Permitting the holder's name or license to be used by 7468  
another person; 7469

(2) Failure to comply with the requirements of this 7470  
chapter, Chapter 4731. of the Revised Code, or any rules adopted 7471  
by the board; 7472

(3) Violating or attempting to violate, directly or 7473  
indirectly, or assisting in or abetting the violation of, or 7474  
conspiring to violate, any provision of this chapter, Chapter 7475  
4731. of the Revised Code, or the rules adopted by the board; 7476

(4) A departure from, or failure to conform to, minimal 7477  
standards of care of similar practitioners under the same or 7478

similar circumstances whether or not actual injury to the 7479  
patient is established; 7480

(5) Inability to practice according to acceptable and 7481  
prevailing standards of care by reason of mental illness or 7482  
physical illness, including physical deterioration that 7483  
adversely affects cognitive, motor, or perceptive skills; 7484

(6) Impairment of ability to practice according to 7485  
acceptable and prevailing standards of care because of habitual 7486  
or excessive use or abuse of drugs, alcohol, or other substances 7487  
that impair ability to practice; 7488

(7) Willfully betraying a professional confidence; 7489

(8) Making a false, fraudulent, deceptive, or misleading 7490  
statement in securing or attempting to secure a license to 7491  
practice as a radiologist assistant. 7492

As used in this division, "false, fraudulent, deceptive, 7493  
or misleading statement" means a statement that includes a 7494  
misrepresentation of fact, is likely to mislead or deceive 7495  
because of a failure to disclose material facts, is intended or 7496  
is likely to create false or unjustified expectations of 7497  
favorable results, or includes representations or implications 7498  
that in reasonable probability will cause an ordinarily prudent 7499  
person to misunderstand or be deceived. 7500

(9) The obtaining of, or attempting to obtain, money or a 7501  
thing of value by fraudulent misrepresentations in the course of 7502  
practice; 7503

(10) A plea of guilty to, a judicial finding of guilt of, 7504  
or a judicial finding of eligibility for intervention in lieu of 7505  
conviction for, a felony; 7506



(11) Commission of an act that constitutes a felony in 7507  
this state, regardless of the jurisdiction in which the act was 7508  
committed; 7509

(12) A plea of guilty to, a judicial finding of guilt of, 7510  
or a judicial finding of eligibility for intervention in lieu of 7511  
conviction for, a misdemeanor committed in the course of 7512  
practice; 7513

(13) A plea of guilty to, a judicial finding of guilt of, 7514  
or a judicial finding of eligibility for intervention in lieu of 7515  
conviction for, a misdemeanor involving moral turpitude; 7516

(14) Commission of an act in the course of practice that 7517  
constitutes a misdemeanor in this state, regardless of the 7518  
jurisdiction in which the act was committed; 7519

(15) Commission of an act involving moral turpitude that 7520  
constitutes a misdemeanor in this state, regardless of the 7521  
jurisdiction in which the act was committed; 7522

(16) A plea of guilty to, a judicial finding of guilt of, 7523  
or a judicial finding of eligibility for intervention in lieu of 7524  
conviction for violating any state or federal law regulating the 7525  
possession, distribution, or use of any drug, including 7526  
trafficking in drugs; 7527

(17) Any of the following actions taken by the state 7528  
agency responsible for regulating the practice of radiologist 7529  
assistants in another jurisdiction, for any reason other than 7530  
the nonpayment of fees: the limitation, revocation, or 7531  
suspension of an individual's license to practice; acceptance of 7532  
an individual's license surrender; denial of a license; refusal 7533  
to renew or reinstate a license; imposition of probation; or 7534  
issuance of an order of censure or other reprimand; 7535

- (18) Violation of the conditions placed by the board on a license to practice as a radiologist assistant; 7536  
7537
- (19) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code; 7538  
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7540
- (20) Failure to cooperate in an investigation conducted by the board under section 4774.14 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; 7541  
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- (21) Failure to maintain a license as a radiographer under Chapter 4773. of the Revised Code; 7551  
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- (22) Failure to maintain certification as a registered radiologist assistant from the American registry of radiologic technologists, including revocation by the registry of the assistant's certification or failure by the assistant to meet the registry's requirements for annual registration, or failure to notify the board that the certification as a registered radiologist assistant has not been maintained; 7553  
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- (23) Failure to comply with any of the rules of ethics included in the standards of ethics established by the American registry of radiologic technologists, as those rules apply to an individual who holds the registry's certification as a registered radiologist assistant. 7560  
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(C) The board shall not refuse to issue a license to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

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

(E) For purposes of divisions (B) (11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

(F) The sealing or expungement of conviction records by

any court shall have no effect on a prior board order entered 7595  
under the provisions of this section or on the board's 7596  
jurisdiction to take action under the provisions of this section 7597  
if, based upon a plea of guilty, a judicial finding of guilt, or 7598  
a judicial finding of eligibility for intervention in lieu of 7599  
conviction, the board issued a notice of opportunity for a 7600  
hearing prior to the court's order to seal or expunge the 7601  
records. The board shall not be required to seal, destroy, 7602  
redact, or otherwise modify its records to reflect the court's 7603  
sealing or expungement of conviction records. 7604

(G) For purposes of this division, any individual who 7605  
holds a license to practice as a radiologist assistant issued 7606  
under this chapter, or applies for a license, shall be deemed to 7607  
have given consent to submit to a mental or physical examination 7608  
when directed to do so in writing by the board and to have 7609  
waived all objections to the admissibility of testimony or 7610  
examination reports that constitute a privileged communication. 7611

(1) In enforcing division (B)(5) of this section, the 7612  
board, on a showing of a possible violation, may compel any 7613  
individual who holds a license to practice as a radiologist 7614  
assistant issued under this chapter or who has applied for a 7615  
license to submit to a mental or physical examination, or both. 7616  
A physical examination may include an HIV test. The expense of 7617  
the examination is the responsibility of the individual 7618  
compelled to be examined. Failure to submit to a mental or 7619  
physical examination or consent to an HIV test ordered by the 7620  
board constitutes an admission of the allegations against the 7621  
individual unless the failure is due to circumstances beyond the 7622  
individual's control, and a default and final order may be 7623  
entered without the taking of testimony or presentation of 7624  
evidence. If the board finds a radiologist assistant unable to 7625

practice because of the reasons set forth in division (B) (5) of 7626  
this section, the board shall require the radiologist assistant 7627  
to submit to care, counseling, or treatment by physicians 7628  
approved or designated by the board, as a condition for an 7629  
initial, continued, reinstated, or renewed license. An 7630  
individual affected by this division shall be afforded an 7631  
opportunity to demonstrate to the board the ability to resume 7632  
practicing in compliance with acceptable and prevailing 7633  
standards of care. 7634

(2) For purposes of division (B) (6) of this section, if 7635  
the board has reason to believe that any individual who holds a 7636  
license to practice as a radiologist assistant issued under this 7637  
chapter or any applicant for a license suffers such impairment, 7638  
the board may compel the individual to submit to a mental or 7639  
physical examination, or both. The expense of the examination is 7640  
the responsibility of the individual compelled to be examined. 7641  
Any mental or physical examination required under this division 7642  
shall be undertaken by a treatment provider or physician 7643  
qualified to conduct such examination and chosen by the board. 7644

Failure to submit to a mental or physical examination 7645  
ordered by the board constitutes an admission of the allegations 7646  
against the individual unless the failure is due to 7647  
circumstances beyond the individual's control, and a default and 7648  
final order may be entered without the taking of testimony or 7649  
presentation of evidence. If the board determines that the 7650  
individual's ability to practice is impaired, the board shall 7651  
suspend the individual's license or deny the individual's 7652  
application and shall require the individual, as a condition for 7653  
an initial, continued, reinstated, or renewed license to 7654  
practice, to submit to treatment. 7655

Before being eligible to apply for reinstatement of a 7656  
license suspended under this division, the radiologist assistant 7657  
shall demonstrate to the board the ability to resume practice in 7658  
compliance with acceptable and prevailing standards of care. The 7659  
demonstration shall include the following: 7660

(a) Certification from a treatment provider approved under 7661  
section 4731.25 of the Revised Code that the individual has 7662  
successfully completed any required inpatient treatment; 7663

(b) Evidence of continuing full compliance with an 7664  
aftercare contract or consent agreement; 7665

(c) Two written reports indicating that the individual's 7666  
ability to practice has been assessed and that the individual 7667  
has been found capable of practicing according to acceptable and 7668  
prevailing standards of care. The reports shall be made by 7669  
individuals or providers approved by the board for making such 7670  
assessments and shall describe the basis for their 7671  
determination. 7672

The board may reinstate a license suspended under this 7673  
division after such demonstration and after the individual has 7674  
entered into a written consent agreement. 7675

When the impaired radiologist assistant resumes practice, 7676  
the board shall require continued monitoring of the radiologist 7677  
assistant. The monitoring shall include monitoring of compliance 7678  
with the written consent agreement entered into before 7679  
reinstatement or with conditions imposed by board order after a 7680  
hearing, and, on termination of the consent agreement, 7681  
submission to the board for at least two years of annual written 7682  
progress reports made under penalty of falsification stating 7683  
whether the radiologist assistant has maintained sobriety. 7684

~~(H)~~(H) (1) If either of the following circumstances occur, 7685  
the secretary and supervising member ~~determine may recommend~~ 7686  
that the board suspend the individual's license to practice 7687  
without a prior hearing: 7688

(a) The secretary and supervising member determine that 7689  
there is clear and convincing evidence that a radiologist 7690  
assistant has violated division (B) of this section and that the 7691  
individual's continued practice presents a danger of immediate 7692  
and serious harm to the public, ~~they may recommend that the~~ 7693  
~~board suspend the individual's license to practice without a~~ 7694  
~~prior hearing;~~ 7695

(b) The board receives verifiable information that a 7696  
licensee has been charged in any state or federal court for a 7697  
crime classified as a felony under the charging court's law and 7698  
the conduct charged constitutes a violation of division (B) of 7699  
this section. ~~Written~~ 7700

(2) If a recommendation is made to suspend without a prior 7701  
hearing pursuant to division (H) (1) of this section, written 7702  
allegations shall be prepared for consideration by the board. 7703

The board, on review of the allegations and by an 7704  
affirmative vote of not fewer than six of its members, excluding 7705  
the secretary and supervising member, may suspend a license 7706  
without a prior hearing. A telephone conference call may be 7707  
utilized for reviewing the allegations and taking the vote on 7708  
the summary suspension. 7709

The board shall issue a written order of suspension by 7710  
certified mail or in person in accordance with section 119.07 of 7711  
the Revised Code. The order shall not be subject to suspension 7712  
by the court during pendency of any appeal filed under section 7713

119.12 of the Revised Code. If the radiologist assistant 7714  
requests an adjudicatory hearing by the board, the date set for 7715  
the hearing shall be within fifteen days, but not earlier than 7716  
seven days, after the radiologist assistant requests the 7717  
hearing, unless otherwise agreed to by both the board and the 7718  
license holder. 7719

(3) A summary suspension imposed under this division shall 7720  
remain in effect, unless reversed on appeal, until a final 7721  
adjudicative order issued by the board pursuant to this section 7722  
and Chapter 119. of the Revised Code becomes effective. The 7723  
board shall issue its final adjudicative order within sixty days 7724  
after completion of its hearing. Failure to issue the order 7725  
within sixty days shall result in dissolution of the summary 7726  
suspension order, but shall not invalidate any subsequent, final 7727  
adjudicative order. 7728

(I) If the board takes action under division (B) (10), 7729  
(12), or (13) of this section, and the judicial finding of 7730  
guilt, guilty plea, or judicial finding of eligibility for 7731  
intervention in lieu of conviction is overturned on appeal, on 7732  
exhaustion of the criminal appeal, a petition for 7733  
reconsideration of the order may be filed with the board along 7734  
with appropriate court documents. On receipt of a petition and 7735  
supporting court documents, the board shall reinstate the 7736  
license to practice as a radiologist assistant. The board may 7737  
then hold an adjudication under Chapter 119. of the Revised Code 7738  
to determine whether the individual committed the act in 7739  
question. Notice of opportunity for hearing shall be given in 7740  
accordance with Chapter 119. of the Revised Code. If the board 7741  
finds, pursuant to an adjudication held under this division, 7742  
that the individual committed the act, or if no hearing is 7743  
requested, it may order any of the sanctions specified in 7744



division (B) of this section. 7745

(J) The license to practice of a radiologist assistant and 7746  
the assistant's practice in this state are automatically 7747  
suspended as of the date the radiologist assistant pleads guilty 7748  
to, is found by a judge or jury to be guilty of, or is subject 7749  
to a judicial finding of eligibility for intervention in lieu of 7750  
conviction in this state or treatment of intervention in lieu of 7751  
conviction in another jurisdiction for any of the following 7752  
criminal offenses in this state or a substantially equivalent 7753  
criminal offense in another jurisdiction: aggravated murder, 7754  
murder, voluntary manslaughter, felonious assault, trafficking 7755  
in persons, kidnapping, rape, sexual battery, gross sexual 7756  
imposition, aggravated arson, aggravated robbery, or aggravated 7757  
burglary. Continued practice after the suspension shall be 7758  
considered practicing without a license. 7759

The board shall notify the individual subject to the 7760  
suspension by certified mail or in person in accordance with 7761  
section 119.07 of the Revised Code. If an individual whose 7762  
license is suspended under this division fails to make a timely 7763  
request for an adjudication under Chapter 119. of the Revised 7764  
Code, the board shall enter a final order permanently revoking 7765  
the individual's license. 7766

(K) In any instance in which the board is required by 7767  
Chapter 119. of the Revised Code to give notice of opportunity 7768  
for hearing and the individual subject to the notice does not 7769  
timely request a hearing in accordance with section 119.07 of 7770  
the Revised Code, the board is not required to hold a hearing, 7771  
but may adopt, by an affirmative vote of not fewer than six of 7772  
its members, a final order that contains the board's findings. 7773  
In the final order, the board may order any of the sanctions 7774

identified under division (A) or (B) of this section. 7775

(L) Any action taken by the board under division (B) of 7776  
this section resulting in a suspension shall be accompanied by a 7777  
written statement of the conditions under which the radiologist 7778  
assistant's license may be reinstated. The board shall adopt 7779  
rules in accordance with Chapter 119. of the Revised Code 7780  
governing conditions to be imposed for reinstatement. 7781  
Reinstatement of a license suspended pursuant to division (B) of 7782  
this section requires an affirmative vote of not fewer than six 7783  
members of the board. 7784

(M) When the board refuses to grant or issue a license to 7785  
practice as a radiologist assistant to an applicant, revokes an 7786  
individual's license, refuses to renew an individual's license, 7787  
or refuses to reinstate an individual's license, the board may 7788  
specify that its action is permanent. An individual subject to a 7789  
permanent action taken by the board is forever thereafter 7790  
ineligible to hold a license to practice as a radiologist 7791  
assistant and the board shall not accept an application for 7792  
reinstatement of the license or for issuance of a new license. 7793

(N) Notwithstanding any other provision of the Revised 7794  
Code, all of the following apply: 7795

(1) The surrender of a license to practice as a 7796  
radiologist assistant issued under this chapter is not effective 7797  
unless or until accepted by the board. Reinstatement of a 7798  
license surrendered to the board requires an affirmative vote of 7799  
not fewer than six members of the board. 7800

(2) An application made under this chapter for a license 7801  
to practice may not be withdrawn without approval of the board. 7802

(3) Failure by an individual to renew a license to 7803

practice in accordance with section 4774.06 of the Revised Code 7804  
shall not remove or limit the board's jurisdiction to take 7805  
disciplinary action under this section against the individual. 7806

**Sec. 4774.14.** (A) The state medical board shall 7807  
investigate evidence that appears to show that any person has 7808  
violated this chapter or the rules adopted under it. Any person 7809  
may report to the board in a signed writing any information the 7810  
person has that appears to show a violation of any provision of 7811  
this chapter or the rules adopted under it. In the absence of 7812  
bad faith, a person who reports such information or testifies 7813  
before the board in an adjudication conducted under Chapter 119. 7814  
of the Revised Code shall not be liable for civil damages as a 7815  
result of reporting the information or providing testimony. Each 7816  
complaint or allegation of a violation received by the board 7817  
shall be assigned a case number and be recorded by the board. 7818

(B) Investigations of alleged violations of this chapter 7819  
or rules adopted under it shall be supervised by the supervising 7820  
member elected by the board in accordance with section 4731.02 7821  
of the Revised Code and by the secretary as provided in section 7822  
4774.17 of the Revised Code. The board's president may designate 7823  
another member of the board to supervise the investigation in 7824  
place of the supervising member. Upon a vote of the majority of 7825  
the board to authorize the addition of a consumer member in the 7826  
supervision of any part of any investigation, the president 7827  
shall designate a consumer member for supervision of 7828  
investigations as determined by the president. The authorization 7829  
of consumer member participation in investigation supervision 7830  
may be rescinded by a majority vote of the board. A member of 7831  
the board who supervises the investigation of a case shall not 7832  
participate in further adjudication of the case. 7833

(C) In investigating a possible violation of this chapter 7834  
or the rules adopted under it, the board may administer oaths, 7835  
order the taking of depositions, issue subpoenas, and compel the 7836  
attendance of witnesses and production of books, accounts, 7837  
papers, records, documents, and testimony, except that a 7838  
subpoena for patient record information or information, 7839  
documents, and records from a peer review committee of a health 7840  
care entity related to sexual misconduct or criminal conduct 7841  
shall not be issued without consultation with the attorney 7842  
general's office and approval of the secretary and supervising 7843  
member of the board. Before issuance of a subpoena for patient 7844  
record information or information, documents, and records from a 7845  
peer review committee of a health care entity related to sexual 7846  
misconduct or criminal conduct, the secretary and supervising 7847  
member shall determine whether there is probable cause to 7848  
believe that the complaint filed alleges a violation of this 7849  
chapter or the rules adopted under it and that the records 7850  
sought are relevant to the alleged violation and material to the 7851  
investigation. The subpoena may apply only to records that cover 7852  
a reasonable period of time surrounding the alleged violation. 7853

On failure to comply with any subpoena issued by the board 7854  
and after reasonable notice to the person being subpoenaed, the 7855  
board may move for an order compelling the production of persons 7856  
or records pursuant to the Rules of Civil Procedure. 7857

A subpoena issued by the board may be served by a sheriff, 7858  
the sheriff's deputy, or a board employee designated by the 7859  
board. Service of a subpoena issued by the board may be made by 7860  
delivering a copy of the subpoena to the person named therein, 7861  
reading it to the person, or leaving it at the person's usual 7862  
place of residence. When the person being served is a 7863  
radiologist assistant, service of the subpoena may be made by 7864

certified mail, restricted delivery, return receipt requested, 7865  
and the subpoena shall be deemed served on the date delivery is 7866  
made or the date the person refuses to accept delivery. 7867

A sheriff's deputy who serves a subpoena shall receive the 7868  
same fees as a sheriff. Each witness who appears before the 7869  
board in obedience to a subpoena shall receive the fees and 7870  
mileage provided for witnesses in civil cases in the courts of 7871  
common pleas. 7872

(D) ~~All~~ For purposes of section 2305.252 of the Revised 7873  
Code, all hearings and investigations of the board shall be 7874  
considered civil actions ~~for the purposes of section 2305.252 of~~ 7875  
~~the Revised Code, except those involving allegations of sexual~~ 7876  
~~misconduct or criminal conduct, as defined in that section.~~ 7877

(E) Information received by the board pursuant to an 7878  
investigation is confidential and not subject to discovery in 7879  
any civil action. 7880

The board shall conduct all investigations and proceedings 7881  
in a manner that protects the confidentiality of patients and 7882  
persons who file complaints with the board. The board shall not 7883  
make public the names or any other identifying information about 7884  
patients or complainants unless proper consent is given. 7885

The board may share any information it receives pursuant 7886  
to an investigation, including patient records and patient 7887  
record information, with law enforcement agencies, other 7888  
licensing boards, and other governmental agencies that are 7889  
prosecuting, adjudicating, or investigating alleged violations 7890  
of statutes or administrative rules. An agency or board that 7891  
receives the information shall comply with the same requirements 7892  
regarding confidentiality as those with which the state medical 7893

board must comply, notwithstanding any conflicting provision of 7894  
the Revised Code or procedure of the agency or board that 7895  
applies when it is dealing with other information in its 7896  
possession. In a judicial proceeding, the information may be 7897  
admitted into evidence only in accordance with the Rules of 7898  
Evidence, but the court shall require that appropriate measures 7899  
are taken to ensure that confidentiality is maintained with 7900  
respect to any part of the information that contains names or 7901  
other identifying information about patients or complainants 7902  
whose confidentiality was protected by the state medical board 7903  
when the information was in the board's possession. Measures to 7904  
ensure confidentiality that may be taken by the court include 7905  
sealing its records or deleting specific information from its 7906  
records. 7907

No person shall knowingly access, use, or disclose 7908  
confidential investigatory information in a manner prohibited by 7909  
law. 7910

(F) The state medical board shall develop requirements for 7911  
and provide appropriate initial training and continuing 7912  
education for investigators employed by the board to carry out 7913  
its duties under this chapter. The training and continuing 7914  
education may include enrollment in courses operated or approved 7915  
by the Ohio peace officer training commission that the board 7916  
considers appropriate under conditions set forth in section 7917  
109.79 of the Revised Code. 7918

(G) On a quarterly basis, the board shall prepare a report 7919  
that documents the disposition of all cases during the preceding 7920  
three months. The report shall contain the following information 7921  
for each case with which the board has completed its activities: 7922

(1) The case number assigned to the complaint or alleged 7923

violation; 7924

(2) The type of license, if any, held by the individual 7925  
against whom the complaint is directed; 7926

(3) A description of the allegations contained in the 7927  
complaint; 7928

(4) Whether witnesses were interviewed; 7929

(5) Whether the individual against whom the complaint is 7930  
directed is the subject of any pending complaints; 7931

(6) The disposition of the case. 7932

The report shall state how many cases are still pending, 7933  
and shall be prepared in a manner that protects the identity of 7934  
each person involved in each case. The report is a public record 7935  
for purposes of section 149.43 of the Revised Code. 7936

(H) The board may provide a status update regarding an 7937  
investigation to a complainant on request if the board verifies 7938  
the complainant's identity. 7939

**Sec. 4774.16.** (A) As used in this section, "criminal 7940  
conduct" and "sexual misconduct" have the same meanings as in 7941  
section 4731.224 of the Revised Code. 7942

(B) (1) Within ~~sixty~~-thirty days after the imposition of 7943  
any formal disciplinary action taken by any health care 7944  
facility, including a hospital, health care facility operated by 7945  
a health insuring corporation, ambulatory surgical facility, or 7946  
similar facility, against any individual holding a valid license 7947  
to practice as a radiologist assistant, the chief administrator 7948  
or executive officer of the facility shall report to the state 7949  
medical board the name of the individual, the action taken by 7950  
the facility, and a summary of the underlying facts leading to 7951

the action taken. On request, the board shall be provided 7952  
certified copies of the patient records that were the basis for 7953  
the facility's action. Prior to release to the board, the 7954  
summary shall be approved by the peer review committee that 7955  
reviewed the case or by the governing board of the facility. 7956

The filing of a report with the board or decision not to 7957  
file a report, investigation by the board, or any disciplinary 7958  
action taken by the board, does not preclude a health care 7959  
facility from taking disciplinary action against a radiologist 7960  
assistant. 7961

In the absence of fraud or bad faith, no individual or 7962  
entity that provides patient records to the board shall be 7963  
liable in damages to any person as a result of providing the 7964  
records. 7965

(2) Within thirty days after commencing an investigation 7966  
regarding criminal conduct or sexual misconduct against any 7967  
individual holding a valid license to practice issued pursuant 7968  
to this chapter, a health care facility, including a hospital, 7969  
health care facility operated by a health insuring corporation, 7970  
ambulatory surgical center, or similar facility, shall report to 7971  
the board the name of the individual and a summary of the 7972  
underlying facts related to the investigation being commenced. 7973

~~(B)(1)-(C)(1)~~ Except as provided in division ~~(B)(2)-(C)(2)~~ 7974  
of this section and subject to division (C)(3) of this section, 7975  
a radiologist assistant, professional association or society of 7976  
radiologist assistants, physician, or professional association 7977  
or society of physicians that believes a violation of any 7978  
provision of this chapter, Chapter 4731. of the Revised Code, or 7979  
rule of the board has occurred shall report to the board the 7980  
information on which the belief is based. 7981



(2) A radiologist assistant, professional association or 7982  
society of radiologist assistants, physician, or professional 7983  
association or society of physicians that believes a violation 7984  
of division (B) (6) of section 4774.13 of the Revised Code has 7985  
occurred shall report the information upon which the belief is 7986  
based to the monitoring organization conducting the program 7987  
established by the board under section 4731.251 of the Revised 7988  
Code. If any such report is made to the board, it shall be 7989  
referred to the monitoring organization unless the board is 7990  
aware that the individual who is the subject of the report does 7991  
not meet the program eligibility requirements of section 7992  
4731.252 of the Revised Code. 7993

(3) If any individual authorized to practice under this 7994  
chapter or any professional association or society of such 7995  
individuals knows or has reasonable cause to suspect based on 7996  
facts that would cause a reasonable person in a similar position 7997  
to suspect that an individual authorized to practice under this 7998  
chapter has committed or participated in criminal conduct or 7999  
sexual misconduct the information upon which the belief is based 8000  
shall be reported to the board within thirty days. 8001

(4) In addition to the self-reporting of criminal offenses 8002  
that is required for license renewal, an individual authorized 8003  
to practice under this chapter shall report to the board 8004  
criminal charges regarding criminal conduct, sexual misconduct, 8005  
or any conduct involving the use of a motor vehicle while under 8006  
the influence of alcohol or drugs, including offenses that are 8007  
equivalent offenses under division (A) of section 4511.181 of 8008  
the Revised Code, violations of division (D) of section 4511.194 8009  
of the Revised Code, and violations of division (C) of section 8010  
4511.79 of the Revised Code. Reports under this division shall 8011  
be made within thirty days of the criminal charge being filed. 8012

~~(C)~~-(D) Any professional association or society composed 8013  
primarily of radiologist assistants that suspends or revokes an 8014  
individual's membership for violations of professional ethics, 8015  
or for reasons of professional incompetence or professional 8016  
malpractice, within ~~sixty~~-thirty days after a final decision, 8017  
shall report to the board, on forms prescribed and provided by 8018  
the board, the name of the individual, the action taken by the 8019  
professional organization, and a summary of the underlying facts 8020  
leading to the action taken. 8021

The filing of a report with the board or decision not to 8022  
file a report, investigation by the board, or any disciplinary 8023  
action taken by the board, does not preclude a professional 8024  
organization from taking disciplinary action against a 8025  
radiologist assistant. 8026

~~(D)~~-(E) Any insurer providing professional liability 8027  
insurance to any person holding a valid license to practice as a 8028  
radiologist assistant or any other entity that seeks to 8029  
indemnify the professional liability of a radiologist assistant 8030  
shall notify the board within thirty days after the final 8031  
disposition of any written claim for damages where such 8032  
disposition results in a payment exceeding twenty-five thousand 8033  
dollars. The notice shall contain the following information: 8034

(1) The name and address of the person submitting the 8035  
notification; 8036

(2) The name and address of the insured who is the subject 8037  
of the claim; 8038

(3) The name of the person filing the written claim; 8039

(4) The date of final disposition; 8040

(5) If applicable, the identity of the court in which the 8041

final disposition of the claim took place. 8042

~~(E)~~ (F) The board may investigate possible violations of 8043  
this chapter or the rules adopted under it that are brought to 8044  
its attention as a result of the reporting requirements of this 8045  
section, except that the board shall conduct an investigation if 8046  
a possible violation involves repeated malpractice. As used in 8047  
this division, "repeated malpractice" means three or more claims 8048  
for malpractice within the previous five-year period, each 8049  
resulting in a judgment or settlement in excess of twenty-five 8050  
thousand dollars in favor of the claimant, and each involving 8051  
negligent conduct by the radiologist assistant. 8052

~~(F)~~ (G) All summaries, reports, and records received and 8053  
maintained by the board pursuant to this section shall be ~~held~~ 8054  
~~in confidence and shall not be subject to discovery or~~ 8055  
~~introduction in evidence in any federal or state civil action~~ 8056  
~~involving a radiologist assistant, supervising physician, or~~ 8057  
~~health care facility arising out of matters that are the subject~~ 8058  
~~of the reporting required by this section. The board may use the~~ 8059  
~~information obtained only as the basis for an investigation, as~~ 8060  
~~evidence in a disciplinary hearing against a radiologist~~ 8061  
~~assistant or supervising radiologist, or in any subsequent trial~~ 8062  
~~or appeal of a board action or order.~~ 8063

The board may disclose the summaries and reports it 8064  
receives under this section only to health care facility 8065  
committees within or outside this state that are involved in 8066  
credentialing or recredentialing a radiologist assistant or 8067  
supervising radiologist or reviewing their privilege to practice 8068  
within a particular facility. The board shall indicate whether 8069  
or not the information has been verified. Information 8070  
transmitted by the board shall be subject to the same 8071

~~confidentiality provisions as when maintained by the~~ 8072  
~~board~~confidential pursuant to division (E) of section 4774.14 of 8073  
the Revised Code. 8074

~~(G)~~(H) Except for reports filed by an individual pursuant 8075  
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 8076  
send a copy of any reports or summaries it receives pursuant to 8077  
this section to the radiologist assistant. The radiologist 8078  
assistant shall have the right to file a statement with the 8079  
board concerning the correctness or relevance of the 8080  
information. The statement shall at all times accompany that 8081  
part of the record in contention. 8082

~~(H)~~(I) An individual or entity that reports to the board, 8083  
reports to the monitoring organization described in section 8084  
4731.251 of the Revised Code, or refers an impaired radiologist 8085  
assistant to a treatment provider approved by the board under 8086  
section 4731.25 of the Revised Code shall not be subject to suit 8087  
for civil damages as a result of the report, referral, or 8088  
provision of the information. 8089

~~(I)~~(J) In the absence of fraud or bad faith, a 8090  
professional association or society of radiologist assistants 8091  
that sponsors a committee or program to provide peer assistance 8092  
to a radiologist assistant with substance abuse problems, a 8093  
representative or agent of such a committee or program, a 8094  
representative or agent of the monitoring organization described 8095  
in section 4731.251 of the Revised Code, and a member of the 8096  
state medical board shall not be held liable in damages to any 8097  
person by reason of actions taken to refer a radiologist 8098  
assistant to a treatment provider approved under section 4731.25 8099  
of the Revised Code for examination or treatment. 8100

**Sec. 4774.99.** (A) Whoever violates division (A) (1) or (2) 8101

of section 4774.02 of the Revised Code is guilty of a 8102  
misdemeanor of the first degree on a first offense; on each 8103  
subsequent offense, the person is guilty of a felony of the 8104  
fourth degree. 8105

~~(B)(1)~~ Whoever violates division ~~(A)~~, ~~(B)(1)~~, ~~(C)(C)~~ 8106  
~~(1)~~, ~~or (C)(2)~~, (D), or (E) of section 4774.16 of the Revised 8107  
Code is guilty of a minor misdemeanor on a first offense; on 8108  
each subsequent offense the person is guilty of a misdemeanor of 8109  
the fourth degree, except that an individual guilty of a 8110  
subsequent offense shall not be subject to imprisonment, but to 8111  
a fine alone of up to one thousand dollars for each offense. 8112

(2) Whoever violates division (B)(2) or (C)(3) of section 8113  
4774.16 of the Revised Code is guilty of failure to report 8114  
criminal conduct or sexual misconduct, a misdemeanor of the 8115  
fourth degree. If the offender has previously been convicted of 8116  
a violation of this division, the failure to report is a 8117  
misdemeanor of the first degree. 8118

(C) Whoever violates division (E) of section 4774.14 of 8119  
the Revised Code is guilty of disclosing confidential 8120  
investigatory information, a misdemeanor of the first degree. 8121

**Sec. 4778.14.** (A) The state medical board, by an 8122  
affirmative vote of not fewer than six members, may revoke or 8123  
may refuse to grant a license to practice as a genetic counselor 8124  
to an individual found by the board to have committed fraud, 8125  
misrepresentation, or deception in applying for or securing the 8126  
license. 8127

(B) The board, by an affirmative vote of not fewer than 8128  
six members, shall, except as provided in division (C) of this 8129  
section, and to the extent permitted by law, limit, revoke, or 8130

suspend an individual's license to practice as a genetic counselor, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

(1) Permitting the holder's name or license to be used by another person;

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

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

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

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

(6) 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;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading

statement in securing or attempting to secure a license to 8159  
practice as a genetic counselor. 8160

As used in this division, "false, fraudulent, deceptive, 8161  
or misleading statement" means a statement that includes a 8162  
misrepresentation of fact, is likely to mislead or deceive 8163  
because of a failure to disclose material facts, is intended or 8164  
is likely to create false or unjustified expectations of 8165  
favorable results, or includes representations or implications 8166  
that in reasonable probability will cause an ordinarily prudent 8167  
person to misunderstand or be deceived. 8168

(9) The obtaining of, or attempting to obtain, money or a 8169  
thing of value by fraudulent misrepresentations in the course of 8170  
practice; 8171

(10) A plea of guilty to, a judicial finding of guilt of, 8172  
or a judicial finding of eligibility for intervention in lieu of 8173  
conviction for, a felony; 8174

(11) Commission of an act that constitutes a felony in 8175  
this state, regardless of the jurisdiction in which the act was 8176  
committed; 8177

(12) A plea of guilty to, a judicial finding of guilt of, 8178  
or a judicial finding of eligibility for intervention in lieu of 8179  
conviction for, a misdemeanor committed in the course of 8180  
practice; 8181

(13) A plea of guilty to, a judicial finding of guilt of, 8182  
or a judicial finding of eligibility for intervention in lieu of 8183  
conviction for, a misdemeanor involving moral turpitude; 8184

(14) Commission of an act in the course of practice that 8185  
constitutes a misdemeanor in this state, regardless of the 8186  
jurisdiction in which the act was committed; 8187

(15) Commission of an act involving moral turpitude that 8188  
constitutes a misdemeanor in this state, regardless of the 8189  
jurisdiction in which the act was committed; 8190

(16) A plea of guilty to, a judicial finding of guilt of, 8191  
or a judicial finding of eligibility for intervention in lieu of 8192  
conviction for violating any state or federal law regulating the 8193  
possession, distribution, or use of any drug, including 8194  
trafficking in drugs; 8195

(17) Any of the following actions taken by an agency 8196  
responsible for authorizing, certifying, or regulating an 8197  
individual to practice a health care occupation or provide 8198  
health care services in this state or in another jurisdiction, 8199  
for any reason other than the nonpayment of fees: the 8200  
limitation, revocation, or suspension of an individual's license 8201  
to practice; acceptance of an individual's license surrender; 8202  
denial of a license; refusal to renew or reinstate a license; 8203  
imposition of probation; or issuance of an order of censure or 8204  
other reprimand; 8205

(18) Violation of the conditions placed by the board on a 8206  
license to practice as a genetic counselor; 8207

(19) Failure to cooperate in an investigation conducted by 8208  
the board under section 4778.18 of the Revised Code, including 8209  
failure to comply with a subpoena or order issued by the board 8210  
or failure to answer truthfully a question presented by the 8211  
board at a deposition or in written interrogatories, except that 8212  
failure to cooperate with an investigation shall not constitute 8213  
grounds for discipline under this section if a court of 8214  
competent jurisdiction has issued an order that either quashes a 8215  
subpoena or permits the individual to withhold the testimony or 8216  
evidence in issue; 8217



(20) Failure to maintain the individual's status as a 8218  
certified genetic counselor; 8219

(21) Failure to comply with the code of ethics established 8220  
by the national society of genetic counselors. 8221

(C) The board shall not refuse to issue a license to an 8222  
applicant because of a plea of guilty to, a judicial finding of 8223  
guilt of, or a judicial finding of eligibility for intervention 8224  
in lieu of conviction for an offense unless the refusal is in 8225  
accordance with section 9.79 of the Revised Code. 8226

(D) Disciplinary actions taken by the board under 8227  
divisions (A) and (B) of this section shall be taken pursuant to 8228  
an adjudication under Chapter 119. of the Revised Code, except 8229  
that in lieu of an adjudication, the board may enter into a 8230  
consent agreement with a genetic counselor or applicant to 8231  
resolve an allegation of a violation of this chapter or any rule 8232  
adopted under it. A consent agreement, when ratified by an 8233  
affirmative vote of not fewer than six members of the board, 8234  
shall constitute the findings and order of the board with 8235  
respect to the matter addressed in the agreement. If the board 8236  
refuses to ratify a consent agreement, the admissions and 8237  
findings contained in the consent agreement shall be of no force 8238  
or effect. 8239

A telephone conference call may be utilized for 8240  
ratification of a consent agreement that revokes or suspends an 8241  
individual's license. The telephone conference call shall be 8242  
considered a special meeting under division (F) of section 8243  
121.22 of the Revised Code. 8244

(E) For purposes of divisions (B) (11), (14), and (15) of 8245  
this section, the commission of the act may be established by a 8246

finding by the board, pursuant to an adjudication under Chapter 8247  
119. of the Revised Code, that the applicant or license holder 8248  
committed the act in question. The board shall have no 8249  
jurisdiction under these divisions in cases where the trial 8250  
court renders a final judgment in the license holder's favor and 8251  
that judgment is based upon an adjudication on the merits. The 8252  
board shall have jurisdiction under these divisions in cases 8253  
where the trial court issues an order of dismissal on technical 8254  
or procedural grounds. 8255

(F) The sealing or expungement of conviction records by 8256  
any court shall have no effect on a prior board order entered 8257  
under the provisions of this section or on the board's 8258  
jurisdiction to take action under the provisions of this section 8259  
if, based upon a plea of guilty, a judicial finding of guilt, or 8260  
a judicial finding of eligibility for intervention in lieu of 8261  
conviction, the board issued a notice of opportunity for a 8262  
hearing or took other formal action under Chapter 119. of the 8263  
Revised Code prior to the court's order to seal or expunge the 8264  
records. The board shall not be required to seal, destroy, 8265  
redact, or otherwise modify its records to reflect the court's 8266  
sealing or expungement of conviction records. 8267

(G) For purposes of this division, any individual who 8268  
holds a license to practice as a genetic counselor, or applies 8269  
for a license, shall be deemed to have given consent to submit 8270  
to a mental or physical examination when directed to do so in 8271  
writing by the board and to have waived all objections to the 8272  
admissibility of testimony or examination reports that 8273  
constitute a privileged communication. 8274

(1) In enforcing division (B)(5) of this section, the 8275  
board, on a showing of a possible violation, may compel any 8276

individual who holds a license to practice as a genetic 8277  
counselor or who has applied for a license to practice as a 8278  
genetic counselor to submit to a mental or physical examination, 8279  
or both. A physical examination may include an HIV test. The 8280  
expense of the examination is the responsibility of the 8281  
individual compelled to be examined. Failure to submit to a 8282  
mental or physical examination or consent to an HIV test ordered 8283  
by the board constitutes an admission of the allegations against 8284  
the individual unless the failure is due to circumstances beyond 8285  
the individual's control, and a default and final order may be 8286  
entered without the taking of testimony or presentation of 8287  
evidence. If the board finds a genetic counselor unable to 8288  
practice because of the reasons set forth in division (B) (5) of 8289  
this section, the board shall require the genetic counselor to 8290  
submit to care, counseling, or treatment by physicians approved 8291  
or designated by the board, as a condition for an initial, 8292  
continued, reinstated, or renewed license to practice. An 8293  
individual affected by this division shall be afforded an 8294  
opportunity to demonstrate to the board the ability to resume 8295  
practicing in compliance with acceptable and prevailing 8296  
standards of care. 8297

(2) For purposes of division (B) (6) of this section, if 8298  
the board has reason to believe that any individual who holds a 8299  
license to practice as a genetic counselor or any applicant for 8300  
a license suffers such impairment, the board may compel the 8301  
individual to submit to a mental or physical examination, or 8302  
both. The expense of the examination is the responsibility of 8303  
the individual compelled to be examined. Any mental or physical 8304  
examination required under this division shall be undertaken by 8305  
a treatment provider or physician qualified to conduct such 8306  
examination and chosen by the board. 8307

Failure to submit to a mental or physical examination 8308  
ordered by the board constitutes an admission of the allegations 8309  
against the individual unless the failure is due to 8310  
circumstances beyond the individual's control, and a default and 8311  
final order may be entered without the taking of testimony or 8312  
presentation of evidence. If the board determines that the 8313  
individual's ability to practice is impaired, the board shall 8314  
suspend the individual's license or deny the individual's 8315  
application and shall require the individual, as a condition for 8316  
an initial, continued, reinstated, or renewed license, to submit 8317  
to treatment. 8318

Before being eligible to apply for reinstatement of a 8319  
license suspended under this division, the genetic counselor 8320  
shall demonstrate to the board the ability to resume practice in 8321  
compliance with acceptable and prevailing standards of care. The 8322  
demonstration shall include the following: 8323

(a) Certification from a treatment provider approved under 8324  
section 4731.25 of the Revised Code that the individual has 8325  
successfully completed any required inpatient treatment; 8326

(b) Evidence of continuing full compliance with an 8327  
aftercare contract or consent agreement; 8328

(c) Two written reports indicating that the individual's 8329  
ability to practice has been assessed and that the individual 8330  
has been found capable of practicing according to acceptable and 8331  
prevailing standards of care. The reports shall be made by 8332  
individuals or providers approved by the board for making such 8333  
assessments and shall describe the basis for their 8334  
determination. 8335

The board may reinstate a license suspended under this 8336

division after such demonstration and after the individual has 8337  
entered into a written consent agreement. 8338

When the impaired genetic counselor resumes practice, the 8339  
board shall require continued monitoring of the genetic 8340  
counselor. The monitoring shall include monitoring of compliance 8341  
with the written consent agreement entered into before 8342  
reinstatement or with conditions imposed by board order after a 8343  
hearing, and, on termination of the consent agreement, 8344  
submission to the board for at least two years of annual written 8345  
progress reports made under penalty of falsification stating 8346  
whether the genetic counselor has maintained sobriety. 8347

~~(H)~~(H) (1) If either of the following circumstances occur, 8348  
the secretary and supervising member ~~determine both of the~~ 8349  
~~following, they~~ may recommend that the board suspend an 8350  
individual's license to practice without a prior hearing: 8351

~~(1)~~(a) The secretary and supervising member determine 8352  
both of the following: 8353

(i) That there is clear and convincing evidence that a 8354  
genetic counselor has violated division (B) of this section; 8355

~~(2)~~(ii) That the individual's continued practice presents 8356  
a danger of immediate and serious harm to the public. 8357

~~Written~~(b) The board receives verifiable information that 8358  
a licensee has been charged in any state or federal court for a 8359  
crime classified as a felony under the charging court's law and 8360  
the conduct charged constitutes a violation of division (B) of 8361  
this section. 8362

(2) If a recommendation is made to suspend without a prior 8363  
hearing pursuant to division (H) (1) of this section, written 8364  
allegations shall be prepared for consideration by the board. 8365

The board, on review of the allegations and by an affirmative 8366  
vote of not fewer than six of its members, excluding the 8367  
secretary and supervising member, may suspend a license without 8368  
a prior hearing. A telephone conference call may be utilized for 8369  
reviewing the allegations and taking the vote on the summary 8370  
suspension. 8371

The board shall issue a written order of suspension by 8372  
certified mail or in person in accordance with section 119.07 of 8373  
the Revised Code. The order shall not be subject to suspension 8374  
by the court during pendency of any appeal filed under section 8375  
119.12 of the Revised Code. If the genetic counselor requests an 8376  
adjudicatory hearing by the board, the date set for the hearing 8377  
shall be within fifteen days, but not earlier than seven days, 8378  
after the genetic counselor requests the hearing, unless 8379  
otherwise agreed to by both the board and the genetic counselor. 8380

(3) A summary suspension imposed under this division shall 8381  
remain in effect, unless reversed on appeal, until a final 8382  
adjudicative order issued by the board pursuant to this section 8383  
and Chapter 119. of the Revised Code becomes effective. The 8384  
board shall issue its final adjudicative order within sixty days 8385  
after completion of its hearing. Failure to issue the order 8386  
within sixty days shall result in dissolution of the summary 8387  
suspension order, but shall not invalidate any subsequent, final 8388  
adjudicative order. 8389

(I) If the board takes action under division (B) (10), 8390  
(12), or (13) of this section, and the judicial finding of 8391  
guilt, guilty plea, or judicial finding of eligibility for 8392  
intervention in lieu of conviction is overturned on appeal, on 8393  
exhaustion of the criminal appeal, a petition for 8394  
reconsideration of the order may be filed with the board along 8395

with appropriate court documents. On receipt of a petition and 8396  
supporting court documents, the board shall reinstate the 8397  
license to practice as a genetic counselor. The board may then 8398  
hold an adjudication under Chapter 119. of the Revised Code to 8399  
determine whether the individual committed the act in question. 8400  
Notice of opportunity for hearing shall be given in accordance 8401  
with Chapter 119. of the Revised Code. If the board finds, 8402  
pursuant to an adjudication held under this division, that the 8403  
individual committed the act, or if no hearing is requested, it 8404  
may order any of the sanctions specified in division (B) of this 8405  
section. 8406

(J) The license to practice as a genetic counselor and the 8407  
counselor's practice in this state are automatically suspended 8408  
as of the date the genetic counselor pleads guilty to, is found 8409  
by a judge or jury to be guilty of, or is subject to a judicial 8410  
finding of eligibility for intervention in lieu of conviction in 8411  
this state or treatment of intervention in lieu of conviction in 8412  
another jurisdiction for any of the following criminal offenses 8413  
in this state or a substantially equivalent criminal offense in 8414  
another jurisdiction: aggravated murder, murder, voluntary 8415  
manslaughter, felonious assault, trafficking in persons, 8416  
kidnapping, rape, sexual battery, gross sexual imposition, 8417  
aggravated arson, aggravated robbery, or aggravated burglary. 8418  
Continued practice after the suspension shall be considered 8419  
practicing without a license. 8420

The board shall notify the individual subject to the 8421  
suspension by certified mail or in person in accordance with 8422  
section 119.07 of the Revised Code. If an individual whose 8423  
license is suspended under this division fails to make a timely 8424  
request for an adjudication under Chapter 119. of the Revised 8425  
Code, the board shall enter a final order permanently revoking 8426

the individual's license to practice. 8427

(K) In any instance in which the board is required by 8428  
Chapter 119. of the Revised Code to give notice of opportunity 8429  
for hearing and the individual subject to the notice does not 8430  
timely request a hearing in accordance with section 119.07 of 8431  
the Revised Code, the board is not required to hold a hearing, 8432  
but may adopt, by an affirmative vote of not fewer than six of 8433  
its members, a final order that contains the board's findings. 8434  
In the final order, the board may order any of the sanctions 8435  
identified under division (A) or (B) of this section. 8436

(L) Any action taken by the board under division (B) of 8437  
this section resulting in a suspension shall be accompanied by a 8438  
written statement of the conditions under which the license of 8439  
the genetic counselor may be reinstated. The board shall adopt 8440  
rules in accordance with Chapter 119. of the Revised Code 8441  
governing conditions to be imposed for reinstatement. 8442  
Reinstatement of a license suspended pursuant to division (B) of 8443  
this section requires an affirmative vote of not fewer than six 8444  
members of the board. 8445

(M) When the board refuses to grant or issue a license to 8446  
practice as a genetic counselor to an applicant, revokes an 8447  
individual's license, refuses to renew an individual's license, 8448  
or refuses to reinstate an individual's license, the board may 8449  
specify that its action is permanent. An individual subject to a 8450  
permanent action taken by the board is forever thereafter 8451  
ineligible to hold a license to practice as a genetic counselor 8452  
and the board shall not accept an application for reinstatement 8453  
of the license or for issuance of a new license. 8454

(N) Notwithstanding any other provision of the Revised 8455  
Code, all of the following apply: 8456



(1) The surrender of a license to practice as a genetic counselor is not effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license surrendered to the board requires an affirmative vote of not fewer than six members of the board.

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

(3) Failure by an individual to renew a license in accordance with section 4778.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

Sec. 4778.171. (A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in section 4731.224 of the Revised Code.

(B) (1) Within thirty days after commencing an investigation regarding criminal conduct or sexual misconduct against any individual holding a valid license to practice issued pursuant to this chapter, a health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board the name of the individual and a summary of the underlying facts related to the investigation being commenced.

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals knows or has reasonable cause to suspect based on

facts that would cause a reasonable person in a similar position 8486  
to suspect that an individual authorized to practice under this 8487  
chapter has committed or participated in criminal conduct or 8488  
sexual misconduct the information upon which the belief is based 8489  
shall be reported to the board within thirty days. 8490

(3) In addition to the self-reporting of criminal offenses 8491  
that is required for license renewal, an individual authorized 8492  
to practice under this chapter shall report to the board 8493  
criminal charges regarding criminal conduct, sexual misconduct, 8494  
or any conduct involving the use of a motor vehicle while under 8495  
the influence of alcohol or drugs, including offenses that are 8496  
equivalent offenses under division (A) of section 4511.181 of 8497  
the Revised Code, violations of division (D) of section 4511.194 8498  
of the Revised Code, and violations of division (C) of section 8499  
4511.79 of the Revised Code. Reports under this division shall 8500  
be made within thirty days of the criminal charge being filed. 8501

**Sec. 4778.18.** (A) The state medical board shall 8502  
investigate evidence that appears to show that any individual 8503  
has violated this chapter or the rules adopted under it. Any 8504  
person may report to the board in a signed writing any 8505  
information the person has that appears to show a violation of 8506  
this chapter or rules adopted under it. In the absence of bad 8507  
faith, a person who reports such information or testifies before 8508  
the board in an adjudication conducted under Chapter 119. of the 8509  
Revised Code shall not be liable for civil damages as a result 8510  
of reporting the information or providing testimony. Each 8511  
complaint or allegation of a violation received by the board 8512  
shall be assigned a case number and be recorded by the board. 8513

(B) Investigations of alleged violations of this chapter 8514  
or rules adopted under it shall be supervised by the supervising 8515

member elected by the board in accordance with section 4731.02 8516  
of the Revised Code and by the board's secretary, pursuant to 8517  
section 4778.20 of the Revised Code. The board's president may 8518  
designate another member of the board to supervise the 8519  
investigation in place of the supervising member. Upon a vote of 8520  
the majority of the board to authorize the addition of a 8521  
consumer member in the supervision of any part of any 8522  
investigation, the president shall designate a consumer member 8523  
for supervision of investigations as determined by the 8524  
president. The authorization of consumer member participation in 8525  
investigation supervision may be rescinded by a majority vote of 8526  
the board. A member of the board who supervises the 8527  
investigation of a case shall not participate in further 8528  
adjudication of the case. 8529

(C) In investigating a possible violation of this chapter 8530  
or the rules adopted under it, the board may administer oaths, 8531  
order the taking of depositions, inspect and copy any books, 8532  
accounts, papers, records, or documents, issue subpoenas, and 8533  
compel the attendance of witnesses and production of books, 8534  
accounts, papers, records, documents, and testimony, except that 8535  
a subpoena for patient record information or information, 8536  
documents, and records from a peer review committee of a health 8537  
care entity related to sexual misconduct or criminal conduct 8538  
shall not be issued without consultation with the attorney 8539  
general's office and approval of the secretary and supervising 8540  
member of the board. Before issuance of a subpoena for patient 8541  
record information or information, documents, and records from a 8542  
peer review committee of a health care entity related to sexual 8543  
misconduct or criminal conduct, the secretary and supervising 8544  
member shall determine whether there is probable cause to 8545  
believe that the complaint filed alleges a violation of this 8546

chapter or the rules adopted under it and that the records 8547  
sought are relevant to the alleged violation and material to the 8548  
investigation. The subpoena may apply only to records that cover 8549  
a reasonable period of time surrounding the alleged violation. 8550

On failure to comply with any subpoena issued by the board 8551  
and after reasonable notice to the person being subpoenaed, the 8552  
board may move for an order compelling the production of persons 8553  
or records pursuant to the Rules of Civil Procedure. 8554

A subpoena issued by the board may be served by a sheriff, 8555  
the sheriff's deputy, or a board employee designated by the 8556  
board. Service of a subpoena issued by the board may be made by 8557  
delivering a copy of the subpoena to the person named therein, 8558  
reading it to the person, or leaving it at the person's usual 8559  
place of residence. When the person being served is a genetic 8560  
counselor, service of the subpoena may be made by certified 8561  
mail, restricted delivery, return receipt requested, and the 8562  
subpoena shall be deemed served on the date delivery is made or 8563  
the date the person refuses to accept delivery. 8564

A sheriff's deputy who serves a subpoena shall receive the 8565  
same fees as a sheriff. Each witness who appears before the 8566  
board in obedience to a subpoena shall receive the fees and 8567  
mileage provided for witnesses in civil cases in the courts of 8568  
common pleas. 8569

(D) All For purposes of section 2305.252 of the Revised 8570  
Code, all hearings and investigations of the board shall be 8571  
considered civil actions for the purposes of section 2305.252 of 8572  
the Revised Code, except those involving allegations of sexual 8573  
misconduct or criminal conduct, as defined in that section. 8574

(E) Information received by the board pursuant to an 8575

investigation is confidential and not subject to discovery in 8576  
any civil action. 8577

The board shall conduct all investigations and proceedings 8578  
in a manner that protects the confidentiality of patients and 8579  
persons who file complaints with the board. The board shall not 8580  
make public the names or any other identifying information about 8581  
patients or complainants unless proper consent is given. 8582

The board may share any information it receives pursuant 8583  
to an investigation, including patient records and patient 8584  
record information, with law enforcement agencies, other 8585  
licensing boards, and other governmental agencies that are 8586  
prosecuting, adjudicating, or investigating alleged violations 8587  
of statutes or administrative rules. An agency or board that 8588  
receives the information shall comply with the same requirements 8589  
regarding confidentiality as those with which the state medical 8590  
board must comply, notwithstanding any conflicting provision of 8591  
the Revised Code or procedure of the agency or board that 8592  
applies when it is dealing with other information in its 8593  
possession. In a judicial proceeding, the information may be 8594  
admitted into evidence only in accordance with the Rules of 8595  
Evidence, but the court shall require that appropriate measures 8596  
are taken to ensure that confidentiality is maintained with 8597  
respect to any part of the information that contains names or 8598  
other identifying information about patients or complainants 8599  
whose confidentiality was protected by the state medical board 8600  
when the information was in the board's possession. Measures to 8601  
ensure confidentiality that may be taken by the court include 8602  
sealing its records or deleting specific information from its 8603  
records. 8604

No person shall knowingly access, use, or disclose 8605

confidential investigatory information in a manner prohibited by 8606  
law. 8607

(F) The state medical board shall develop requirements for 8608  
and provide appropriate initial training and continuing 8609  
education for investigators employed by the board to carry out 8610  
its duties under this chapter. The training and continuing 8611  
education may include enrollment in courses operated or approved 8612  
by the Ohio peace officer training commission that the board 8613  
considers appropriate under conditions set forth in section 8614  
109.79 of the Revised Code. 8615

(G) On a quarterly basis, the board shall prepare a report 8616  
that documents the disposition of all cases during the preceding 8617  
three months. The report shall contain the following information 8618  
for each case with which the board has completed its activities: 8619

(1) The case number assigned to the complaint or alleged 8620  
violation; 8621

(2) The type of license, if any, held by the individual 8622  
against whom the complaint is directed; 8623

(3) A description of the allegations contained in the 8624  
complaint; 8625

(4) Whether witnesses were interviewed; 8626

(5) Whether the individual against whom the complaint is 8627  
directed is the subject of any pending complaints; 8628

(6) The disposition of the case. 8629

The report shall state how many cases are still pending, 8630  
and shall be prepared in a manner that protects the identity of 8631  
each individual involved in each case. The report is a public 8632  
record for purposes of section 149.43 of the Revised Code. 8633

(H) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity. 8634  
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**Sec. 4778.99.** Whoever violates section 4778.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and felony of the fifth degree on each subsequent offense. 8637  
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Whoever violates division (B)(1) or (2) of section 4778.171 of the Revised Code is guilty of failure to report criminal conduct or sexual misconduct, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this division, the failure to report is a misdemeanor of the first degree. 8641  
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Whoever violates division (E) of section 4778.18 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree. 8647  
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**Section 2.** That existing sections 149.43, 2105.062, 2305.111, 2305.252, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 3111.04, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 4731.251, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 4778.14, 4778.18, and 4778.99 of the Revised Code are hereby repealed. 8650  
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**Section 3.** That the version of section 4759.05 of the Revised Code that is scheduled to take effect December 29, 2023, be amended to read as follows: 8659  
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**Sec. 4759.05.** (A) Except as provided in division (E) of 8662

this section, the state medical board shall adopt, amend, or 8663  
rescind rules pursuant to Chapter 119. of the Revised Code to 8664  
carry out the provisions of this chapter, including rules 8665  
governing the following: 8666

(1) Selection and approval of a dietitian licensure 8667  
examination offered by the commission on dietetic registration 8668  
or any other examination; 8669

(2) The examination of applicants for licensure as a 8670  
dietitian, as required under division (A) of section 4759.06 of 8671  
the Revised Code; 8672

(3) Requirements for pre-professional dietetic experience 8673  
of applicants for licensure as a dietitian that are at least 8674  
equivalent to the requirements adopted by the commission on 8675  
dietetic registration; 8676

(4) Requirements for a person holding a limited permit 8677  
under division (G) of section 4759.06 of the Revised Code, 8678  
including the duration of validity of a limited permit and 8679  
procedures for renewal; 8680

(5) Continuing education requirements for renewal of a 8681  
license, including rules providing for pro rata reductions by 8682  
month of the number of hours of continuing education that must 8683  
be completed for license holders who have been disabled by 8684  
illness or accident or have been absent from the country. Rules 8685  
adopted under this division shall be consistent with the 8686  
continuing education requirements adopted by the commission on 8687  
dietetic registration. 8688

(6) Any additional education requirements the board 8689  
considers necessary, for applicants who have not practiced 8690  
dietetics within five years of the initial date of application 8691



for licensure;	8692
(7) Standards of professional responsibility and practice	8693
for persons licensed under this chapter that are consistent with	8694
those standards of professional responsibility and practice	8695
adopted by the academy of nutrition and dietetics;	8696
(8) Formulation of an application form for licensure or	8697
license renewal;	8698
(9) Procedures for license renewal;	8699
(10) Requirements for criminal records checks of	8700
applicants under section 4776.03 of the Revised Code.	8701
(B) (1) The board shall investigate evidence that appears	8702
to show that a person has violated any provision of this chapter	8703
or any rule adopted under it. Any person may report to the board	8704
in a signed writing any information that the person may have	8705
that appears to show a violation of any provision of this	8706
chapter or any rule adopted under it. In the absence of bad	8707
faith, any person who reports information of that nature or who	8708
testifies before the board in any adjudication conducted under	8709
Chapter 119. of the Revised Code shall not be liable in damages	8710
in a civil action as a result of the report or testimony. Each	8711
complaint or allegation of a violation received by the board	8712
shall be assigned a case number and shall be recorded by the	8713
board.	8714
(2) Investigations of alleged violations of this chapter	8715
or any rule adopted under it shall be supervised by the	8716
supervising member elected by the board in accordance with	8717
section 4731.02 of the Revised Code and by the secretary as	8718
provided in section 4759.012 of the Revised Code. The president	8719
may designate another member of the board to supervise the	8720

investigation in place of the supervising member. Upon a vote of 8721  
the majority of the board to authorize the addition of a 8722  
consumer member in the supervision of any part of any 8723  
investigation, the president shall designate a consumer member 8724  
for supervision of investigations as determined by the 8725  
president. The authorization of consumer member participation in 8726  
investigation supervision may be rescinded by a majority vote of 8727  
the board. No member of the board who supervises the 8728  
investigation of a case shall participate in further 8729  
adjudication of the case. 8730

(3) In investigating a possible violation of this chapter 8731  
or any rule adopted under this chapter, the board may issue 8732  
subpoenas, question witnesses, conduct interviews, administer 8733  
oaths, order the taking of depositions, inspect and copy any 8734  
books, accounts, papers, records, or documents, and compel the 8735  
attendance of witnesses and the production of books, accounts, 8736  
papers, records, documents, and testimony, except that a 8737  
subpoena for patient record information or information, 8738  
documents, and records from a peer review committee of a health 8739  
care entity related to sexual misconduct or criminal conduct 8740  
shall not be issued without consultation with the attorney 8741  
general's office and approval of the secretary and supervising 8742  
member of the board. 8743

Before issuance of a subpoena for patient record 8744  
information or information, documents, and records from a peer 8745  
review committee of a health care entity related to sexual 8746  
misconduct or criminal conduct, the secretary and supervising 8747  
member shall determine whether there is probable cause to 8748  
believe that the complaint filed alleges a violation of this 8749  
chapter or any rule adopted under it and that the records sought 8750  
are relevant to the alleged violation and material to the 8751

investigation. The subpoena may apply only to records that cover 8752  
a reasonable period of time surrounding the alleged violation. 8753

On failure to comply with any subpoena issued by the board 8754  
and after reasonable notice to the person being subpoenaed, the 8755  
board may move for an order compelling the production of persons 8756  
or records pursuant to the Rules of Civil Procedure. 8757

A subpoena issued by the board may be served by a sheriff, 8758  
the sheriff's deputy, or a board employee or agent designated by 8759  
the board. Service of a subpoena issued by the board may be made 8760  
by delivering a copy of the subpoena to the person named 8761  
therein, reading it to the person, or leaving it at the person's 8762  
usual place of residence, usual place of business, or address on 8763  
file with the board. When serving a subpoena to an applicant for 8764  
or the holder of a license or limited permit issued under this 8765  
chapter, service of the subpoena may be made by certified mail, 8766  
return receipt requested, and the subpoena shall be deemed 8767  
served on the date delivery is made or the date the person 8768  
refuses to accept delivery. If the person being served refuses 8769  
to accept the subpoena or is not located, service may be made to 8770  
an attorney who notifies the board that the attorney is 8771  
representing the person. 8772

A sheriff's deputy who serves a subpoena shall receive the 8773  
same fees as a sheriff. Each witness who appears before the 8774  
board in obedience to a subpoena shall receive the fees and 8775  
mileage provided for under section 119.094 of the Revised Code. 8776

(4) All For purposes of section 2305.252 of the Revised 8777  
Code, all hearings, investigations, and inspections of the board 8778  
shall be considered civil actions for the purposes of section 8779  
2305.252 of the Revised Code, except those involving allegations 8780  
of sexual misconduct or criminal conduct, as defined in that 8781

section. 8782

(5) A report required to be submitted to the board under 8783  
this chapter, a complaint, or information received by the board 8784  
pursuant to an investigation is confidential and not subject to 8785  
discovery in any civil action. 8786

The board shall conduct all investigations or inspections 8787  
and proceedings in a manner that protects the confidentiality of 8788  
patients and persons who file complaints with the board. The 8789  
board shall not make public the names or any other identifying 8790  
information about patients or complainants unless proper consent 8791  
is given. 8792

The board may share any information it receives pursuant 8793  
to an investigation or inspection, including patient records and 8794  
patient record information, with law enforcement agencies, other 8795  
licensing boards, and other governmental agencies that are 8796  
prosecuting, adjudicating, or investigating alleged violations 8797  
of statutes or administrative rules. An agency or board that 8798  
receives the information shall comply with the same requirements 8799  
regarding confidentiality as those with which the state medical 8800  
board must comply, notwithstanding any conflicting provision of 8801  
the Revised Code or procedure of the agency or board that 8802  
applies when it is dealing with other information in its 8803  
possession. In a judicial proceeding, the information may be 8804  
admitted into evidence only in accordance with the Rules of 8805  
Evidence, but the court shall require that appropriate measures 8806  
are taken to ensure that confidentiality is maintained with 8807  
respect to any part of the information that contains names or 8808  
other identifying information about patients or complainants 8809  
whose confidentiality was protected by the state medical board 8810  
when the information was in the board's possession. Measures to 8811

ensure confidentiality that may be taken by the court include 8812  
sealing its records or deleting specific information from its 8813  
records. 8814

No person shall knowingly access, use, or disclose 8815  
confidential investigatory information in a manner prohibited by 8816  
law. 8817

(6) On a quarterly basis, the board shall prepare a report 8818  
that documents the disposition of all cases during the preceding 8819  
three months. The report shall contain the following information 8820  
for each case with which the board has completed its activities: 8821

(a) The case number assigned to the complaint or alleged 8822  
violation; 8823

(b) The type of license, if any, held by the individual 8824  
against whom the complaint is directed; 8825

(c) A description of the allegations contained in the 8826  
complaint; 8827

(d) Whether witnesses were interviewed; 8828

(e) Whether the individual against whom the complaint is 8829  
directed is the subject of any pending complaints; 8830

(f) The disposition of the case. 8831

The report shall state how many cases are still pending 8832  
and shall be prepared in a manner that protects the identity of 8833  
each person involved in each case. The report shall be a public 8834  
record under section 149.43 of the Revised Code. 8835

(7) The board may provide a status update regarding an 8836  
investigation to a complainant on request if the board verifies 8837  
the complainant's identity. 8838

(C) The board shall keep records as are necessary to carry 8839  
out the provisions of this chapter. 8840

(D) The board shall maintain and publish on its internet 8841  
web site the board's rules and requirements for licensure 8842  
adopted under division (A) of this section. 8843

(E) The board shall issue a license or limited permit to 8844  
practice dietetics in accordance with Chapter 4796. of the 8845  
Revised Code to an applicant if either of the following apply: 8846

(1) The applicant holds a license or permit in another 8847  
state. 8848

(2) The applicant has satisfactory work experience, a 8849  
government certification, or a private certification as 8850  
described in that chapter as a dietitian in a state that does 8851  
not issue that license. 8852

**Section 4.** That the existing version of section 4759.05 of 8853  
the Revised Code that is scheduled to take effect December 29, 8854  
2023, is hereby repealed. 8855

**Section 5.** Sections 3 and 4 of this act take effect 8856  
December 29, 2023. 8857

**Section 6.** The General Assembly, applying the principle 8858  
stated in division (B) of section 1.52 of the Revised Code that 8859  
amendments are to be harmonized if reasonably capable of 8860  
simultaneous operation, finds that the following sections, 8861  
presented in this act as composites of the sections as amended 8862  
by the acts indicated, are the resulting versions of the 8863  
sections in effect prior to the effective date of the sections 8864  
as presented in this act: 8865

Section 149.43 of the Revised Code as amended by H.B. 45, 8866

H.B. 99, H.B. 254, H.B. 343, H.B. 558, and S.B. 288, all of the	8867
134th General Assembly.	8868
Section 3107.07 of the Revised Code as amended by both	8869
S.B. 207 and S.B. 250 of the 130th General Assembly.	8870
Section 4731.22 of the Revised Code as amended by both	8871
H.B. 254 and S.B. 288 of the 134th General Assembly.	8872