

As Reported by the House Criminal Justice Committee

135th General Assembly

Regular Session

2023-2024

Sub. S. B. No. 109

Senator Hackett

**Cosponsors: Senators Dolan, Manning, Antonio, Brenner, Cirino, Craig, DeMora,
Gavarone, Hicks-Hudson, Huffman, S., Ingram, Johnson, Kunze, Reineke,
Romanchuk, Rulli, Schaffer, Schuring, Smith, Sykes, Wilson**

Representatives Abrams, Williams, Hillyer, Humphrey, Plummer

A BILL

To amend sections 149.43, 2105.062, 2305.111, 1
2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2
2907.18, 2921.22, 2929.42, 2950.01, 2950.151, 3
2971.01, 3107.07, 3109.50, 3111.04, 4723.28, 4
4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 5
4731.224, 4731.99, 4759.05, 4759.07, 4759.99, 6
4760.13, 4760.14, 4760.16, 4760.99, 4761.03, 7
4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 8
4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 9
4774.99, 4778.14, 4778.18, and 4778.99 and to 10
enact sections 4723.93, 4730.57, 4731.2210, 11
4731.77, 4759.14, and 4778.171 of the Revised 12
Code regarding sex offenses and individuals 13
regulated by the State Medical Board, regarding 14
unauthorized intimate examinations, and to amend 15
the version of section 2305.111 of the Revised 16
Code that is scheduled to take effect October 17
12, 2028, to continue the change on and after 18
that date. 19

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

Section 1. That sections 149.43, 2105.062, 2305.111, 20
2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 2921.22, 21
2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 3111.04, 22
4723.28, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 4731.224, 23
4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 4760.16, 24
4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 4762.14, 25
4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 4778.14, 26
4778.18, and 4778.99 be amended and sections 4723.93, 4730.57, 27
4731.2210, 4731.77, 4759.14, and 4778.171 of the Revised Code be 28
enacted to read as follows: 29

Sec. 149.43. (A) As used in this section: 30

(1) "Public record" means records kept by any public 31
office, including, but not limited to, state, county, city, 32
village, township, and school district units, and records 33
pertaining to the delivery of educational services by an 34
alternative school in this state kept by the nonprofit or for- 35
profit entity operating the alternative school pursuant to 36
section 3313.533 of the Revised Code. "Public record" does not 37
mean any of the following: 38

(a) Medical records; 39

(b) Records pertaining to probation and parole 40
proceedings, to proceedings related to the imposition of 41
community control sanctions and post-release control sanctions, 42
or to proceedings related to determinations under section 43
2967.271 of the Revised Code regarding the release or maintained 44
incarceration of an offender to whom that section applies; 45

(c) Records pertaining to actions under section 2151.85 46
and division (C) of section 2919.121 of the Revised Code and to 47
appeals of actions arising under those sections; 48

(d) Records pertaining to adoption proceedings, including 49
the contents of an adoption file maintained by the department of 50
health under sections 3705.12 to 3705.124 of the Revised Code; 51

(e) Information in a record contained in the putative 52
father registry established by section 3107.062 of the Revised 53
Code, regardless of whether the information is held by the 54
department of job and family services or, pursuant to section 55
3111.69 of the Revised Code, the office of child support in the 56
department or a child support enforcement agency; 57

(f) Records specified in division (A) of section 3107.52 58
of the Revised Code; 59

(g) Trial preparation records; 60

(h) Confidential law enforcement investigatory records; 61

(i) Records containing information that is confidential 62
under section 2710.03 or 4112.05 of the Revised Code; 63

(j) DNA records stored in the DNA database pursuant to 64
section 109.573 of the Revised Code; 65

(k) Inmate records released by the department of 66
rehabilitation and correction to the department of youth 67
services or a court of record pursuant to division (E) of 68
section 5120.21 of the Revised Code; 69

(l) Records maintained by the department of youth services 70
pertaining to children in its custody released by the department 71
of youth services to the department of rehabilitation and 72
correction pursuant to section 5139.05 of the Revised Code; 73

(m) Intellectual property records;	74
(n) Donor profile records;	75
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	76 77
(p) Designated public service worker residential and familial information;	78 79
(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;	80 81 82 83 84
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	85 86
(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;	87 88 89 90 91 92 93 94 95 96 97 98
(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	99 100 101 102

section;	103
(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 contracts under that section with a private or government entity to administer;	104 105 106 107 108 109
(v) Records the release of which is prohibited by state or federal law;	110 111
(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;	112 113 114
(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;	115 116 117 118 119 120
(y) Records listed in section 5101.29 of the Revised Code;	121
(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B) (2) of that section;	122 123 124
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	125 126 127
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	128 129 130

(cc) Information and records that are made confidential, 131
privileged, and not subject to disclosure under divisions (B) 132
and (C) of section 2949.221 of the Revised Code; 133

(dd) Personal information, as defined in section 149.45 of 134
the Revised Code; 135

(ee) The confidential name, address, and other personally 136
identifiable information of a program participant in the address 137
confidentiality program established under sections 111.41 to 138
111.47 of the Revised Code, including the contents of any 139
application for absent voter's ballots, absent voter's ballot 140
identification envelope statement of voter, or provisional 141
ballot affirmation completed by a program participant who has a 142
confidential voter registration record; records or portions of 143
records pertaining to that program that identify the number of 144
program participants that reside within a precinct, ward, 145
township, municipal corporation, county, or any other geographic 146
area smaller than the state; and any real property 147
confidentiality notice filed under section 111.431 of the 148
Revised Code and the information described in division (C) of 149
that section. As used in this division, "confidential address" 150
and "program participant" have the meaning defined in section 151
111.41 of the Revised Code. 152

(ff) Orders for active military service of an individual 153
serving or with previous service in the armed forces of the 154
United States, including a reserve component, or the Ohio 155
organized militia, except that, such order becomes a public 156
record on the day that is fifteen years after the published date 157
or effective date of the call to order; 158

(gg) The name, address, contact information, or other 159
personal information of an individual who is less than eighteen 160

years of age that is included in any record related to a traffic 161
accident involving a school vehicle in which the individual was 162
an occupant at the time of the accident; 163

(hh) Protected health information, as defined in 45 C.F.R. 164
160.103, that is in a claim for payment for a health care 165
product, service, or procedure, as well as any other health 166
claims data in another document that reveals the identity of an 167
individual who is the subject of the data or could be used to 168
reveal that individual's identity; 169

(ii) Any depiction by photograph, film, videotape, or 170
printed or digital image under either of the following 171
circumstances: 172

(i) The depiction is that of a victim of an offense the 173
release of which would be, to a reasonable person of ordinary 174
sensibilities, an offensive and objectionable intrusion into the 175
victim's expectation of bodily privacy and integrity. 176

(ii) The depiction captures or depicts the victim of a 177
sexually oriented offense, as defined in section 2950.01 of the 178
Revised Code, at the actual occurrence of that offense. 179

(jj) Restricted portions of a body-worn camera or 180
dashboard camera recording; 181

(kk) In the case of a fetal-infant mortality review board 182
acting under sections 3707.70 to 3707.77 of the Revised Code, 183
records, documents, reports, or other information presented to 184
the board or a person abstracting such materials on the board's 185
behalf, statements made by review board members during board 186
meetings, all work products of the board, and data submitted by 187
the board to the department of health or a national infant death 188
review database, other than the report prepared pursuant to 189

section 3707.77 of the Revised Code.	190
(ll) Records, documents, reports, or other information	191
presented to the pregnancy-associated mortality review board	192
established under section 3738.01 of the Revised Code,	193
statements made by board members during board meetings, all work	194
products of the board, and data submitted by the board to the	195
department of health, other than the biennial reports prepared	196
under section 3738.08 of the Revised Code;	197
(mm) Except as otherwise provided in division (A) (1) (oo)	198
of this section, telephone numbers for a victim, as defined in	199
section 2930.01 of the Revised Code or a witness to a crime that	200
are listed on any law enforcement record or report.	201
(nn) A preneed funeral contract, as defined in section	202
4717.01 of the Revised Code, and contract terms and personally	203
identifying information of a preneed funeral contract, that is	204
contained in a report submitted by or for a funeral home to the	205
board of embalmers and funeral directors under division (C) of	206
section 4717.13, division (J) of section 4717.31, or section	207
4717.41 of the Revised Code.	208
(oo) Telephone numbers for a party to a motor vehicle	209
accident subject to the requirements of section 5502.11 of the	210
Revised Code that are listed on any law enforcement record or	211
report, except that the telephone numbers described in this	212
division are not excluded from the definition of "public record"	213
under this division on and after the thirtieth day after the	214
occurrence of the motor vehicle accident.	215
(pp) Records pertaining to individuals who complete	216
training under section 5502.703 of the Revised Code to be	217
permitted by a school district board of education or governing	218

body of a community school established under Chapter 3314. of 219
the Revised Code, a STEM school established under Chapter 3326. 220
of the Revised Code, or a chartered nonpublic school to convey 221
deadly weapons or dangerous ordnance into a school safety zone; 222

(qq) Records, documents, reports, or other information 223
presented to a domestic violence fatality review board 224
established under section 307.651 of the Revised Code, 225
statements made by board members during board meetings, all work 226
products of the board, and data submitted by the board to the 227
department of health, other than a report prepared pursuant to 228
section 307.656 of the Revised Code; 229

(rr) Records, documents, and information the release of 230
which is prohibited under sections 2930.04 and 2930.07 of the 231
Revised Code; 232

(ss) Records of an existing qualified nonprofit 233
corporation that creates a special improvement district under 234
Chapter 1710. of the Revised Code that do not pertain to a 235
purpose for which the district is created; 236

(tt) License or certificate application or renewal 237
responses and supporting documentation submitted to the state 238
medical board regarding an applicant's, or a license or 239
certificate holder's, inability to practice according to 240
acceptable and prevailing standards of care by reason of a 241
medical condition. 242

A record that is not a public record under division (A) (1) 243
of this section and that, under law, is permanently retained 244
becomes a public record on the day that is seventy-five years 245
after the day on which the record was created, except for any 246
record protected by the attorney-client privilege, a trial 247

preparation record as defined in this section, a statement 248
prohibiting the release of identifying information signed under 249
section 3107.083 of the Revised Code, a denial of release form 250
filed pursuant to section 3107.46 of the Revised Code, or any 251
record that is exempt from release or disclosure under section 252
149.433 of the Revised Code. If the record is a birth 253
certificate and a biological parent's name redaction request 254
form has been accepted under section 3107.391 of the Revised 255
Code, the name of that parent shall be redacted from the birth 256
certificate before it is released under this paragraph. If any 257
other section of the Revised Code establishes a time period for 258
disclosure of a record that conflicts with the time period 259
specified in this section, the time period in the other section 260
prevails. 261

(2) "Confidential law enforcement investigatory record" 262
means any record that pertains to a law enforcement matter of a 263
criminal, quasi-criminal, civil, or administrative nature, but 264
only to the extent that the release of the record would create a 265
high probability of disclosure of any of the following: 266

(a) The identity of a suspect who has not been charged 267
with the offense to which the record pertains, or of an 268
information source or witness to whom confidentiality has been 269
reasonably promised; 270

(b) Information provided by an information source or 271
witness to whom confidentiality has been reasonably promised, 272
which information would reasonably tend to disclose the source's 273
or witness's identity; 274

(c) Specific confidential investigatory techniques or 275
procedures or specific investigatory work product; 276

(d) Information that would endanger the life or physical 277
safety of law enforcement personnel, a crime victim, a witness, 278
or a confidential information source. 279

(3) "Medical record" means any document or combination of 280
documents, except births, deaths, and the fact of admission to 281
or discharge from a hospital, that pertains to the medical 282
history, diagnosis, prognosis, or medical condition of a patient 283
and that is generated and maintained in the process of medical 284
treatment. 285

(4) "Trial preparation record" means any record that 286
contains information that is specifically compiled in reasonable 287
anticipation of, or in defense of, a civil or criminal action or 288
proceeding, including the independent thought processes and 289
personal trial preparation of an attorney. 290

(5) "Intellectual property record" means a record, other 291
than a financial or administrative record, that is produced or 292
collected by or for faculty or staff of a state institution of 293
higher learning in the conduct of or as a result of study or 294
research on an educational, commercial, scientific, artistic, 295
technical, or scholarly issue, regardless of whether the study 296
or research was sponsored by the institution alone or in 297
conjunction with a governmental body or private concern, and 298
that has not been publicly released, published, or patented. 299

(6) "Donor profile record" means all records about donors 300
or potential donors to a public institution of higher education 301
except the names and reported addresses of the actual donors and 302
the date, amount, and conditions of the actual donation. 303

(7) "Designated public service worker" means a peace 304
officer, parole officer, probation officer, bailiff, prosecuting 305

attorney, assistant prosecuting attorney, correctional employee, 306
county or multicounty corrections officer, community-based 307
correctional facility employee, designated Ohio national guard 308
member, protective services worker, youth services employee, 309
firefighter, EMT, medical director or member of a cooperating 310
physician advisory board of an emergency medical service 311
organization, state board of pharmacy employee, investigator of 312
the bureau of criminal identification and investigation, 313
emergency service telecommunicator, forensic mental health 314
provider, mental health evaluation provider, regional 315
psychiatric hospital employee, judge, magistrate, or federal law 316
enforcement officer. 317

(8) "Designated public service worker residential and 318
familial information" means any information that discloses any 319
of the following about a designated public service worker: 320

(a) The address of the actual personal residence of a 321
designated public service worker, except for the following 322
information: 323

(i) The address of the actual personal residence of a 324
prosecuting attorney or judge; and 325

(ii) The state or political subdivision in which a 326
designated public service worker resides. 327

(b) Information compiled from referral to or participation 328
in an employee assistance program; 329

(c) The social security number, the residential telephone 330
number, any bank account, debit card, charge card, or credit 331
card number, or the emergency telephone number of, or any 332
medical information pertaining to, a designated public service 333
worker; 334

(d) The name of any beneficiary of employment benefits, 335
including, but not limited to, life insurance benefits, provided 336
to a designated public service worker by the designated public 337
service worker's employer; 338

(e) The identity and amount of any charitable or 339
employment benefit deduction made by the designated public 340
service worker's employer from the designated public service 341
worker's compensation, unless the amount of the deduction is 342
required by state or federal law; 343

(f) The name, the residential address, the name of the 344
employer, the address of the employer, the social security 345
number, the residential telephone number, any bank account, 346
debit card, charge card, or credit card number, or the emergency 347
telephone number of the spouse, a former spouse, or any child of 348
a designated public service worker; 349

(g) A photograph of a peace officer who holds a position 350
or has an assignment that may include undercover or plain 351
clothes positions or assignments as determined by the peace 352
officer's appointing authority. 353

(9) As used in divisions (A) (7) and (15) to (17) of this 354
section: 355

"Peace officer" has the meaning defined in section 109.71 356
of the Revised Code and also includes the superintendent and 357
troopers of the state highway patrol; it does not include the 358
sheriff of a county or a supervisory employee who, in the 359
absence of the sheriff, is authorized to stand in for, exercise 360
the authority of, and perform the duties of the sheriff. 361

"Correctional employee" means any employee of the 362
department of rehabilitation and correction who in the course of 363

performing the employee's job duties has or has had contact with 364
inmates and persons under supervision. 365

"County or multicounty corrections officer" means any 366
corrections officer employed by any county or multicounty 367
correctional facility. 368

"Designated Ohio national guard member" means a member of 369
the Ohio national guard who is participating in duties related 370
to remotely piloted aircraft, including, but not limited to, 371
pilots, sensor operators, and mission intelligence personnel, 372
duties related to special forces operations, or duties related 373
to cybersecurity, and is designated by the adjutant general as a 374
designated public service worker for those purposes. 375

"Protective services worker" means any employee of a 376
county agency who is responsible for child protective services, 377
child support services, or adult protective services. 378

"Youth services employee" means any employee of the 379
department of youth services who in the course of performing the 380
employee's job duties has or has had contact with children 381
committed to the custody of the department of youth services. 382

"Firefighter" means any regular, paid or volunteer, member 383
of a lawfully constituted fire department of a municipal 384
corporation, township, fire district, or village. 385

"EMT" means EMTs-basic, EMTs-I, and paramedics that 386
provide emergency medical services for a public emergency 387
medical service organization. "Emergency medical service 388
organization," "EMT-basic," "EMT-I," and "paramedic" have the 389
meanings defined in section 4765.01 of the Revised Code. 390

"Investigator of the bureau of criminal identification and 391
investigation" has the meaning defined in section 2903.11 of the 392

Revised Code.	393
"Emergency service telecommunicator" means an individual	394
employed by an emergency service provider as defined under	395
section 128.01 of the Revised Code, whose primary responsibility	396
is to be an operator for the receipt or processing of calls for	397
emergency services made by telephone, radio, or other electronic	398
means.	399
"Forensic mental health provider" means any employee of a	400
community mental health service provider or local alcohol, drug	401
addiction, and mental health services board who, in the course	402
of the employee's duties, has contact with persons committed to	403
a local alcohol, drug addiction, and mental health services	404
board by a court order pursuant to section 2945.38, 2945.39,	405
2945.40, or 2945.402 of the Revised Code.	406
"Mental health evaluation provider" means an individual	407
who, under Chapter 5122. of the Revised Code, examines a	408
respondent who is alleged to be a mentally ill person subject to	409
court order, as defined in section 5122.01 of the Revised Code,	410
and reports to the probate court the respondent's mental	411
condition.	412
"Regional psychiatric hospital employee" means any	413
employee of the department of mental health and addiction	414
services who, in the course of performing the employee's duties,	415
has contact with patients committed to the department of mental	416
health and addiction services by a court order pursuant to	417
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised	418
Code.	419
"Federal law enforcement officer" has the meaning defined	420
in section 9.88 of the Revised Code.	421

(10) "Information pertaining to the recreational 422
activities of a person under the age of eighteen" means 423
information that is kept in the ordinary course of business by a 424
public office, that pertains to the recreational activities of a 425
person under the age of eighteen years, and that discloses any 426
of the following: 427

(a) The address or telephone number of a person under the 428
age of eighteen or the address or telephone number of that 429
person's parent, guardian, custodian, or emergency contact 430
person; 431

(b) The social security number, birth date, or 432
photographic image of a person under the age of eighteen; 433

(c) Any medical record, history, or information pertaining 434
to a person under the age of eighteen; 435

(d) Any additional information sought or required about a 436
person under the age of eighteen for the purpose of allowing 437
that person to participate in any recreational activity 438
conducted or sponsored by a public office or to use or obtain 439
admission privileges to any recreational facility owned or 440
operated by a public office. 441

(11) "Community control sanction" has the meaning defined 442
in section 2929.01 of the Revised Code. 443

(12) "Post-release control sanction" has the meaning 444
defined in section 2967.01 of the Revised Code. 445

(13) "Redaction" means obscuring or deleting any 446
information that is exempt from the duty to permit public 447
inspection or copying from an item that otherwise meets the 448
definition of a "record" in section 149.011 of the Revised Code. 449

(14) "Designee," "elected official," and "future official" 450
have the meanings defined in section 109.43 of the Revised Code. 451

(15) "Body-worn camera" means a visual and audio recording 452
device worn on the person of a correctional employee, youth 453
services employee, or peace officer while the correctional 454
employee, youth services employee, or peace officer is engaged 455
in the performance of official duties. 456

(16) "Dashboard camera" means a visual and audio recording 457
device mounted on a peace officer's vehicle or vessel that is 458
used while the peace officer is engaged in the performance of 459
the peace officer's duties. 460

(17) "Restricted portions of a body-worn camera or 461
dashboard camera recording" means any visual or audio portion of 462
a body-worn camera or dashboard camera recording that shows, 463
communicates, or discloses any of the following: 464

(a) The image or identity of a child or information that 465
could lead to the identification of a child who is a primary 466
subject of the recording when the department of rehabilitation 467
and correction, department of youth services, or the law 468
enforcement agency knows or has reason to know the person is a 469
child based on the department's or law enforcement agency's 470
records or the content of the recording; 471

(b) The death of a person or a deceased person's body, 472
unless the death was caused by a correctional employee, youth 473
services employee, or peace officer or, subject to division (H) 474
(1) of this section, the consent of the decedent's executor or 475
administrator has been obtained; 476

(c) The death of a correctional employee, youth services 477
employee, peace officer, firefighter, paramedic, or other first 478

responder, occurring while the decedent was engaged in the 479
performance of official duties, unless, subject to division (H) 480
(1) of this section, the consent of the decedent's executor or 481
administrator has been obtained; 482

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

(e) An act of severe violence against a person that 488
results in serious physical harm to the person, unless the act 489
and injury was effected by a correctional employee, youth 490
services employee, or peace officer or, subject to division (H) 491
(1) of this section, the consent of the injured person or the 492
injured person's guardian has been obtained; 493

(f) Grievous bodily harm to a correctional employee, youth 494
services employee, peace officer, firefighter, paramedic, or 495
other first responder, occurring while the injured person was 496
engaged in the performance of official duties, unless, subject 497
to division (H) (1) of this section, the consent of the injured 498
person or the injured person's guardian has been obtained; 499

(g) An act of severe violence resulting in serious 500
physical harm against a correctional employee, youth services 501
employee, peace officer, firefighter, paramedic, or other first 502
responder, occurring while the injured person was engaged in the 503
performance of official duties, unless, subject to division (H) 504
(1) of this section, the consent of the injured person or the 505
injured person's guardian has been obtained; 506

(h) A person's nude body, unless, subject to division (H) 507

(1) of this section, the person's consent has been obtained;	508
(i) Protected health information, the identity of a person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a correctional, youth services, or law enforcement encounter;	509 510 511 512 513 514
(j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence;	515 516
(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to the department of rehabilitation and correction, the department of youth services, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;	517 518 519 520 521 522 523 524
(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;	525 526
(m) Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;	527 528 529
(n) A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency;	530 531 532 533 534
(o) A conversation between a correctional employee, youth services employee, or peace officer and a member of the public	535 536

that does not concern correctional, youth services, or law enforcement activities; 537
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(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer; 539
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(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location. 543
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As used in division (A) (17) of this section: 547

"Grievous bodily harm" has the same meaning as in section 5924.120 of the Revised Code. 548
549

"Health care facility" has the same meaning as in section 1337.11 of the Revised Code. 550
551

"Protected health information" has the same meaning as in 45 C.F.R. 160.103. 552
553

"Law enforcement agency" means a government entity that employs peace officers to perform law enforcement duties. 554
555

"Personal information" means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases. 556
557
558
559

"Sex offense" has the same meaning as in section 2907.10 of the Revised Code. 560
561

"Firefighter," "paramedic," and "first responder" have the same meanings as in section 4765.01 of the Revised Code. 562
563

(B) (1) Upon request by any person and subject to division 564
(B) (8) of this section, all public records responsive to the 565
request shall be promptly prepared and made available for 566
inspection to the requester at all reasonable times during 567
regular business hours. Subject to division (B) (8) of this 568
section, upon request by any person, a public office or person 569
responsible for public records shall make copies of the 570
requested public record available to the requester at cost and 571
within a reasonable period of time. If a public record contains 572
information that is exempt from the duty to permit public 573
inspection or to copy the public record, the public office or 574
the person responsible for the public record shall make 575
available all of the information within the public record that 576
is not exempt. When making that public record available for 577
public inspection or copying that public record, the public 578
office or the person responsible for the public record shall 579
notify the requester of any redaction or make the redaction 580
plainly visible. A redaction shall be deemed a denial of a 581
request to inspect or copy the redacted information, except if 582
federal or state law authorizes or requires a public office to 583
make the redaction. When the auditor of state receives a request 584
to inspect or to make a copy of a record that was provided to 585
the auditor of state for purposes of an audit, but the original 586
public office has asserted to the auditor of state that the 587
record is not a public record, the auditor of state may handle 588
the requests by directing the requestor to the original public 589
office that provided the record to the auditor of state. 590

(2) To facilitate broader access to public records, a 591
public office or the person responsible for public records shall 592
organize and maintain public records in a manner that they can 593
be made available for inspection or copying in accordance with 594

division (B) of this section. A public office also shall have 595
available a copy of its current records retention schedule at a 596
location readily available to the public. If a requester makes 597
an ambiguous or overly broad request or has difficulty in making 598
a request for copies or inspection of public records under this 599
section such that the public office or the person responsible 600
for the requested public record cannot reasonably identify what 601
public records are being requested, the public office or the 602
person responsible for the requested public record may deny the 603
request but shall provide the requester with an opportunity to 604
revise the request by informing the requester of the manner in 605
which records are maintained by the public office and accessed 606
in the ordinary course of the public office's or person's 607
duties. 608

(3) If a request is ultimately denied, in part or in 609
whole, the public office or the person responsible for the 610
requested public record shall provide the requester with an 611
explanation, including legal authority, setting forth why the 612
request was denied. If the initial request was provided in 613
writing, the explanation also shall be provided to the requester 614
in writing. The explanation shall not preclude the public office 615
or the person responsible for the requested public record from 616
relying upon additional reasons or legal authority in defending 617
an action commenced under division (C) of this section. 618

(4) Unless specifically required or authorized by state or 619
federal law or in accordance with division (B) of this section, 620
no public office or person responsible for public records may 621
limit or condition the availability of public records by 622
requiring disclosure of the requester's identity or the intended 623
use of the requested public record. Any requirement that the 624
requester disclose the requester's identity or the intended use 625

of the requested public record constitutes a denial of the 626
request. 627

(5) A public office or person responsible for public 628
records may ask a requester to make the request in writing, may 629
ask for the requester's identity, and may inquire about the 630
intended use of the information requested, but may do so only 631
after disclosing to the requester that a written request is not 632
mandatory, that the requester may decline to reveal the 633
requester's identity or the intended use, and when a written 634
request or disclosure of the identity or intended use would 635
benefit the requester by enhancing the ability of the public 636
office or person responsible for public records to identify, 637
locate, or deliver the public records sought by the requester. 638

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

person responsible for the public record to allow the requester 657
of a copy of the public record to make the copies of the public 658
record. 659

(7) (a) Upon a request made in accordance with division (B) 660
of this section and subject to division (B) (6) of this section, 661
a public office or person responsible for public records shall 662
transmit a copy of a public record to any person by United 663
States mail or by any other means of delivery or transmission 664
within a reasonable period of time after receiving the request 665
for the copy. The public office or person responsible for the 666
public record may require the person making the request to pay 667
in advance the cost of postage if the copy is transmitted by 668
United States mail or the cost of delivery if the copy is 669
transmitted other than by United States mail, and to pay in 670
advance the costs incurred for other supplies used in the 671
mailing, delivery, or transmission. 672

(b) Any public office may adopt a policy and procedures 673
that it will follow in transmitting, within a reasonable period 674
of time after receiving a request, copies of public records by 675
United States mail or by any other means of delivery or 676
transmission pursuant to division (B) (7) of this section. A 677
public office that adopts a policy and procedures under division 678
(B) (7) of this section shall comply with them in performing its 679
duties under that division. 680

(c) In any policy and procedures adopted under division 681
(B) (7) of this section: 682

(i) A public office may limit the number of records 683
requested by a person that the office will physically deliver by 684
United States mail or by another delivery service to ten per 685
month, unless the person certifies to the office in writing that 686

the person does not intend to use or forward the requested 687
records, or the information contained in them, for commercial 688
purposes; 689

(ii) A public office that chooses to provide some or all 690
of its public records on a web site that is fully accessible to 691
and searchable by members of the public at all times, other than 692
during acts of God outside the public office's control or 693
maintenance, and that charges no fee to search, access, 694
download, or otherwise receive records provided on the web site, 695
may limit to ten per month the number of records requested by a 696
person that the office will deliver in a digital format, unless 697
the requested records are not provided on the web site and 698
unless the person certifies to the office in writing that the 699
person does not intend to use or forward the requested records, 700
or the information contained in them, for commercial purposes. 701

(iii) For purposes of division (B) (7) of this section, 702
"commercial" shall be narrowly construed and does not include 703
reporting or gathering news, reporting or gathering information 704
to assist citizen oversight or understanding of the operation or 705
activities of government, or nonprofit educational research. 706

(8) A public office or person responsible for public 707
records is not required to permit a person who is incarcerated 708
pursuant to a criminal conviction or a juvenile adjudication to 709
inspect or to obtain a copy of any public record concerning a 710
criminal investigation or prosecution or concerning what would 711
be a criminal investigation or prosecution if the subject of the 712
investigation or prosecution were an adult, unless the request 713
to inspect or to obtain a copy of the record is for the purpose 714
of acquiring information that is subject to release as a public 715
record under this section and the judge who imposed the sentence 716

or made the adjudication with respect to the person, or the 717
judge's successor in office, finds that the information sought 718
in the public record is necessary to support what appears to be 719
a justiciable claim of the person. 720

(9) (a) Upon written request made and signed by a 721
journalist, a public office, or person responsible for public 722
records, having custody of the records of the agency employing a 723
specified designated public service worker shall disclose to the 724
journalist the address of the actual personal residence of the 725
designated public service worker and, if the designated public 726
service worker's spouse, former spouse, or child is employed by 727
a public office, the name and address of the employer of the 728
designated public service worker's spouse, former spouse, or 729
child. The request shall include the journalist's name and title 730
and the name and address of the journalist's employer and shall 731
state that disclosure of the information sought would be in the 732
public interest. 733

(b) Division (B) (9) (a) of this section also applies to 734
journalist requests for: 735

(i) Customer information maintained by a municipally owned 736
or operated public utility, other than social security numbers 737
and any private financial information such as credit reports, 738
payment methods, credit card numbers, and bank account 739
information; 740

(ii) Information about minors involved in a school vehicle 741
accident as provided in division (A) (1) (gg) of this section, 742
other than personal information as defined in section 149.45 of 743
the Revised Code. 744

(c) As used in division (B) (9) of this section, 745

"journalist" means a person engaged in, connected with, or 746
employed by any news medium, including a newspaper, magazine, 747
press association, news agency, or wire service, a radio or 748
television station, or a similar medium, for the purpose of 749
gathering, processing, transmitting, compiling, editing, or 750
disseminating information for the general public. 751

(10) Upon a request made by a victim, victim's attorney, 752
or victim's representative, as that term is used in section 753
2930.02 of the Revised Code, a public office or person 754
responsible for public records shall transmit a copy of a 755
depiction of the victim as described in division (A) (1) (ii) of 756
this section to the victim, victim's attorney, or victim's 757
representative. 758

(C) (1) If a person allegedly is aggrieved by the failure 759
of a public office or the person responsible for public records 760
to promptly prepare a public record and to make it available to 761
the person for inspection in accordance with division (B) of 762
this section or by any other failure of a public office or the 763
person responsible for public records to comply with an 764
obligation in accordance with division (B) of this section, the 765
person allegedly aggrieved may do only one of the following, and 766
not both: 767

(a) File a complaint with the clerk of the court of claims 768
or the clerk of the court of common pleas under section 2743.75 769
of the Revised Code; 770

(b) Commence a mandamus action to obtain a judgment that 771
orders the public office or the person responsible for the 772
public record to comply with division (B) of this section, that 773
awards court costs and reasonable attorney's fees to the person 774
that instituted the mandamus action, and, if applicable, that 775

includes an order fixing statutory damages under division (C) (2) 776
of this section. The mandamus action may be commenced in the 777
court of common pleas of the county in which division (B) of 778
this section allegedly was not complied with, in the supreme 779
court pursuant to its original jurisdiction under Section 2 of 780
Article IV, Ohio Constitution, or in the court of appeals for 781
the appellate district in which division (B) of this section 782
allegedly was not complied with pursuant to its original 783
jurisdiction under Section 3 of Article IV, Ohio Constitution. 784

(2) If a requester transmits a written request by hand 785
delivery, electronic submission, or certified mail to inspect or 786
receive copies of any public record in a manner that fairly 787
describes the public record or class of public records to the 788
public office or person responsible for the requested public 789
records, except as otherwise provided in this section, the 790
requester shall be entitled to recover the amount of statutory 791
damages set forth in this division if a court determines that 792
the public office or the person responsible for public records 793
failed to comply with an obligation in accordance with division 794
(B) of this section. 795

The amount of statutory damages shall be fixed at one 796
hundred dollars for each business day during which the public 797
office or person responsible for the requested public records 798
failed to comply with an obligation in accordance with division 799
(B) of this section, beginning with the day on which the 800
requester files a mandamus action to recover statutory damages, 801
up to a maximum of one thousand dollars. The award of statutory 802
damages shall not be construed as a penalty, but as compensation 803
for injury arising from lost use of the requested information. 804
The existence of this injury shall be conclusively presumed. The 805
award of statutory damages shall be in addition to all other 806

remedies authorized by this section. 807

The court may reduce an award of statutory damages or not 808
award statutory damages if the court determines both of the 809
following: 810

(a) That, based on the ordinary application of statutory 811
law and case law as it existed at the time of the conduct or 812
threatened conduct of the public office or person responsible 813
for the requested public records that allegedly constitutes a 814
failure to comply with an obligation in accordance with division 815
(B) of this section and that was the basis of the mandamus 816
action, a well-informed public office or person responsible for 817
the requested public records reasonably would believe that the 818
conduct or threatened conduct of the public office or person 819
responsible for the requested public records did not constitute 820
a failure to comply with an obligation in accordance with 821
division (B) of this section; 822

(b) That a well-informed public office or person 823
responsible for the requested public records reasonably would 824
believe that the conduct or threatened conduct of the public 825
office or person responsible for the requested public records 826
would serve the public policy that underlies the authority that 827
is asserted as permitting that conduct or threatened conduct. 828

(3) In a mandamus action filed under division (C) (1) of 829
this section, the following apply: 830

(a) (i) If the court orders the public office or the person 831
responsible for the public record to comply with division (B) of 832
this section, the court shall determine and award to the relator 833
all court costs, which shall be construed as remedial and not 834
punitive. 835

(ii) If the court makes a determination described in 836
division (C) (3) (b) (iii) of this section, the court shall 837
determine and award to the relator all court costs, which shall 838
be construed as remedial and not punitive. 839

(b) If the court renders a judgment that orders the public 840
office or the person responsible for the public record to comply 841
with division (B) of this section or if the court determines any 842
of the following, the court may award reasonable attorney's fees 843
to the relator, subject to division (C) (4) of this section: 844

(i) The public office or the person responsible for the 845
public records failed to respond affirmatively or negatively to 846
the public records request in accordance with the time allowed 847
under division (B) of this section. 848

(ii) The public office or the person responsible for the 849
public records promised to permit the relator to inspect or 850
receive copies of the public records requested within a 851
specified period of time but failed to fulfill that promise 852
within that specified period of time. 853

(iii) The public office or the person responsible for the 854
public records acted in bad faith when the office or person 855
voluntarily made the public records available to the relator for 856
the first time after the relator commenced the mandamus action, 857
but before the court issued any order concluding whether or not 858
the public office or person was required to comply with division 859
(B) of this section. No discovery may be conducted on the issue 860
of the alleged bad faith of the public office or person 861
responsible for the public records. This division shall not be 862
construed as creating a presumption that the public office or 863
the person responsible for the public records acted in bad faith 864
when the office or person voluntarily made the public records 865

available to the relator for the first time after the relator 866
commenced the mandamus action, but before the court issued any 867
order described in this division. 868

(c) The court shall not award attorney's fees to the 869
relator if the court determines both of the following: 870

(i) That, based on the ordinary application of statutory 871
law and case law as it existed at the time of the conduct or 872
threatened conduct of the public office or person responsible 873
for the requested public records that allegedly constitutes a 874
failure to comply with an obligation in accordance with division 875
(B) of this section and that was the basis of the mandamus 876
action, a well-informed public office or person responsible for 877
the requested public records reasonably would believe that the 878
conduct or threatened conduct of the public office or person 879
responsible for the requested public records did not constitute 880
a failure to comply with an obligation in accordance with 881
division (B) of this section; 882

(ii) That a well-informed public office or person 883
responsible for the requested public records reasonably would 884
believe that the conduct or threatened conduct of the public 885
office or person responsible for the requested public records 886
would serve the public policy that underlies the authority that 887
is asserted as permitting that conduct or threatened conduct. 888

(4) All of the following apply to any award of reasonable 889
attorney's fees awarded under division (C) (3) (b) of this 890
section: 891

(a) The fees shall be construed as remedial and not 892
punitive. 893

(b) The fees awarded shall not exceed the total of the 894

reasonable attorney's fees incurred before the public record was 895
made available to the relator and the fees described in division 896
(C) (4) (c) of this section. 897

(c) Reasonable attorney's fees shall include reasonable 898
fees incurred to produce proof of the reasonableness and amount 899
of the fees and to otherwise litigate entitlement to the fees. 900

(d) The court may reduce the amount of fees awarded if the 901
court determines that, given the factual circumstances involved 902
with the specific public records request, an alternative means 903
should have been pursued to more effectively and efficiently 904
resolve the dispute that was subject to the mandamus action 905
filed under division (C) (1) of this section. 906

(5) If the court does not issue a writ of mandamus under 907
division (C) of this section and the court determines at that 908
time that the bringing of the mandamus action was frivolous 909
conduct as defined in division (A) of section 2323.51 of the 910
Revised Code, the court may award to the public office all court 911
costs, expenses, and reasonable attorney's fees, as determined 912
by the court. 913

(D) Chapter 1347. of the Revised Code does not limit the 914
provisions of this section. 915

(E) (1) To ensure that all employees of public offices are 916
appropriately educated about a public office's obligations under 917
division (B) of this section, all elected officials or their 918
appropriate designees shall attend training approved by the 919
attorney general as provided in section 109.43 of the Revised 920
Code. A future official may satisfy the requirements of this 921
division by attending the training before taking office, 922
provided that the future official may not send a designee in the 923

future official's place. 924

(2) All public offices shall adopt a public records policy 925
in compliance with this section for responding to public records 926
requests. In adopting a public records policy under this 927
division, a public office may obtain guidance from the model 928
public records policy developed and provided to the public 929
office by the attorney general under section 109.43 of the 930
Revised Code. Except as otherwise provided in this section, the 931
policy may not limit the number of public records that the 932
public office will make available to a single person, may not 933
limit the number of public records that it will make available 934
during a fixed period of time, and may not establish a fixed 935
period of time before it will respond to a request for 936
inspection or copying of public records, unless that period is 937
less than eight hours. 938

The public office shall distribute the public records 939
policy adopted by the public office under this division to the 940
employee of the public office who is the records custodian or 941
records manager or otherwise has custody of the records of that 942
office. The public office shall require that employee to 943
acknowledge receipt of the copy of the public records policy. 944
The public office shall create a poster that describes its 945
public records policy and shall post the poster in a conspicuous 946
place in the public office and in all locations where the public 947
office has branch offices. The public office may post its public 948
records policy on the internet web site of the public office if 949
the public office maintains an internet web site. A public 950
office that has established a manual or handbook of its general 951
policies and procedures for all employees of the public office 952
shall include the public records policy of the public office in 953
the manual or handbook. 954

(F) (1) The bureau of motor vehicles may adopt rules 955
pursuant to Chapter 119. of the Revised Code to reasonably limit 956
the number of bulk commercial special extraction requests made 957
by a person for the same records or for updated records during a 958
calendar year. The rules may include provisions for charges to 959
be made for bulk commercial special extraction requests for the 960
actual cost of the bureau, plus special extraction costs, plus 961
ten per cent. The bureau may charge for expenses for redacting 962
information, the release of which is prohibited by law. 963

(2) As used in division (F) (1) of this section: 964

(a) "Actual cost" means the cost of depleted supplies, 965
records storage media costs, actual mailing and alternative 966
delivery costs, or other transmitting costs, and any direct 967
equipment operating and maintenance costs, including actual 968
costs paid to private contractors for copying services. 969

(b) "Bulk commercial special extraction request" means a 970
request for copies of a record for information in a format other 971
than the format already available, or information that cannot be 972
extracted without examination of all items in a records series, 973
class of records, or database by a person who intends to use or 974
forward the copies for surveys, marketing, solicitation, or 975
resale for commercial purposes. "Bulk commercial special 976
extraction request" does not include a request by a person who 977
gives assurance to the bureau that the person making the request 978
does not intend to use or forward the requested copies for 979
surveys, marketing, solicitation, or resale for commercial 980
purposes. 981

(c) "Commercial" means profit-seeking production, buying, 982
or selling of any good, service, or other product. 983

(d) "Special extraction costs" means the cost of the time 984
spent by the lowest paid employee competent to perform the task, 985
the actual amount paid to outside private contractors employed 986
by the bureau, or the actual cost incurred to create computer 987
programs to make the special extraction. "Special extraction 988
costs" include any charges paid to a public agency for computer 989
or records services. 990

(3) For purposes of divisions (F) (1) and (2) of this 991
section, "surveys, marketing, solicitation, or resale for 992
commercial purposes" shall be narrowly construed and does not 993
include reporting or gathering news, reporting or gathering 994
information to assist citizen oversight or understanding of the 995
operation or activities of government, or nonprofit educational 996
research. 997

(G) A request by a defendant, counsel of a defendant, or 998
any agent of a defendant in a criminal action that public 999
records related to that action be made available under this 1000
section shall be considered a demand for discovery pursuant to 1001
the Criminal Rules, except to the extent that the Criminal Rules 1002
plainly indicate a contrary intent. The defendant, counsel of 1003
the defendant, or agent of the defendant making a request under 1004
this division shall serve a copy of the request on the 1005
prosecuting attorney, director of law, or other chief legal 1006
officer responsible for prosecuting the action. 1007

(H) (1) Any portion of a body-worn camera or dashboard 1008
camera recording described in divisions (A) (17) (b) to (h) of 1009
this section may be released by consent of the subject of the 1010
recording or a representative of that person, as specified in 1011
those divisions, only if either of the following applies: 1012

(a) The recording will not be used in connection with any 1013

probable or pending criminal proceedings; 1014

(b) The recording has been used in connection with a 1015
criminal proceeding that was dismissed or for which a judgment 1016
has been entered pursuant to Rule 32 of the Rules of Criminal 1017
Procedure, and will not be used again in connection with any 1018
probable or pending criminal proceedings. 1019

(2) If a public office denies a request to release a 1020
restricted portion of a body-worn camera or dashboard camera 1021
recording, as defined in division (A)(17) of this section, any 1022
person may file a mandamus action pursuant to this section or a 1023
complaint with the clerk of the court of claims pursuant to 1024
section 2743.75 of the Revised Code, requesting the court to 1025
order the release of all or portions of the recording. If the 1026
court considering the request determines that the filing 1027
articulates by clear and convincing evidence that the public 1028
interest in the recording substantially outweighs privacy 1029
interests and other interests asserted to deny release, the 1030
court shall order the public office to release the recording. 1031

Sec. 2105.062. As used in this section, "relative" 1032
includes a parent, grandparent, great-grandparent, stepparent, 1033
child, grandchild, aunt, uncle, cousin, sibling, and half 1034
sibling. 1035

The parent, or a relative of the parent, of a child who 1036
was conceived as the result of the parent's violation of section 1037
2907.02 of the Revised Code, or violation of section 2907.03 of 1038
the Revised Code if the sexual activity involved is sexual 1039
conduct, shall not inherit the real property, personal property, 1040
or inheritance of the child or the child's lineal descendants as 1041
provided under section 2105.06 of the Revised Code. 1042

Sec. 2305.111. (A) As used in this section: 1043

(1) "Childhood sexual abuse" means any conduct that 1044
constitutes any of the violations identified in division (A)(1) 1045
(a) or (b) of this section and would constitute a criminal 1046
offense under the specified section ~~or division~~ of the Revised 1047
Code, if the victim of the violation is at the time of the 1048
violation a child under eighteen years of age or a child with a 1049
developmental disability or physical impairment under twenty-one 1050
years of age. The court need not find that any person has been 1051
convicted of or pleaded guilty to the offense under the 1052
specified section ~~or division~~ of the Revised Code in order for 1053
the conduct that is the violation constituting the offense to be 1054
childhood sexual abuse for purposes of this division. This 1055
division applies to any of the following violations committed in 1056
the following specified circumstances: 1057

(a) A violation of section 2907.02 ~~or of division (A)(1),~~ 1058
~~(5), (6), (7), (8), (9), (10), (11), or (12)~~ of section 2907.03 1059
of the Revised Code; 1060

(b) A violation of section 2907.05 or 2907.06 of the 1061
Revised Code if, at the time of the violation, any of the 1062
following apply: 1063

(i) The actor is the victim's natural parent, adoptive 1064
parent, or stepparent or the guardian, custodian, or person in 1065
loco parentis of the victim. 1066

(ii) The victim is in custody of law or a patient in a 1067
hospital or other institution, and the actor has supervisory or 1068
disciplinary authority over the victim. 1069

(iii) The actor is a teacher, administrator, coach, or 1070
other person in authority employed by or serving in a school for 1071

which the director of education and workforce prescribes minimum 1072
standards pursuant to division (D) of section 3301.07 of the 1073
Revised Code, the victim is enrolled in or attends that school, 1074
and the actor is not enrolled in and does not attend that 1075
school. 1076

(iv) The actor is a teacher, administrator, coach, or 1077
other person in authority employed by or serving in an 1078
institution of higher education, and the victim is enrolled in 1079
or attends that institution. 1080

(v) The actor is the victim's athletic or other type of 1081
coach, is the victim's instructor, is the leader of a scouting 1082
troop of which the victim is a member, or is a person with 1083
temporary or occasional disciplinary control over the victim. 1084

(vi) The actor is a mental health professional, the victim 1085
is a mental health client or patient of the actor, and the actor 1086
induces the victim to submit by falsely representing to the 1087
victim that the sexual contact involved in the violation is 1088
necessary for mental health treatment purposes. 1089

(vii) The actor is a licensed medical professional, the 1090
victim is a patient of the actor, and the sexual contact occurs 1091
in the course of medical treatment. 1092

(viii) The victim is confined in a detention facility, and 1093
the actor is an employee of that detention facility. 1094

~~(viii)~~ (ix) The actor is a cleric, and the victim is a 1095
member of, or attends, the church or congregation served by the 1096
cleric. 1097

(2) "Cleric" has the same meaning as in section 2317.02 of 1098
the Revised Code. 1099

(3) <u>"Licensed medical professional" has the same meaning</u>	1100
<u>as in section 2907.01 of the Revised Code.</u>	1101
(4) <u>"Mental health client or patient" has the same meaning</u>	1102
<u>as in section 2305.51 of the Revised Code.</u>	1103
(4) -(5) <u>"Mental health professional" has the same meaning</u>	1104
<u>as in section 2305.115 of the Revised Code.</u>	1105
(5) -(6) <u>"Sexual contact" has the same meaning as in</u>	1106
<u>section 2907.01 of the Revised Code.</u>	1107
(6) -(7) <u>"Victim" means, except as provided in division (B)</u>	1108
<u>of this section, a victim of childhood sexual abuse.</u>	1109
(B) Except as provided in section 2305.115 of the Revised	1110
Code and subject to division (C) of this section, an action for	1111
assault or battery shall be brought within one year after the	1112
cause of the action accrues. For purposes of this section, a	1113
cause of action for assault or battery accrues upon the later of	1114
the following:	1115
(1) The date on which the alleged assault or battery	1116
occurred;	1117
(2) If the plaintiff did not know the identity of the	1118
person who allegedly committed the assault or battery on the	1119
date on which it allegedly occurred, the earlier of the	1120
following dates:	1121
(a) The date on which the plaintiff learns the identity of	1122
that person;	1123
(b) The date on which, by the exercise of reasonable	1124
diligence, the plaintiff should have learned the identity of	1125
that person.	1126

(C) (1) Except as provided in division (C) (2) of this 1127
section, an action for assault or battery brought by a victim of 1128
childhood sexual abuse based on childhood sexual abuse, or an 1129
action brought by a victim of childhood sexual abuse asserting 1130
any claim resulting from childhood sexual abuse, shall be 1131
brought within twelve years after the cause of action accrues. 1132
If the defendant in an action brought by a victim of childhood 1133
sexual abuse asserting a claim resulting from childhood sexual 1134
abuse that occurs on or after August 3, 2006, has fraudulently 1135
concealed from the plaintiff facts that form the basis of the 1136
claim, the running of the limitations period with regard to that 1137
claim is tolled until the time when the plaintiff discovers or 1138
in the exercise of due diligence should have discovered those 1139
facts. 1140

(2) Only for purposes of making claims against a 1141
bankruptcy estate of an organization chartered under part B of 1142
subtitle II of Title 36 of the United States Code, an action for 1143
assault or battery brought by a victim of childhood sexual abuse 1144
based on childhood sexual abuse, or an action brought by a 1145
victim of childhood sexual abuse asserting any claim resulting 1146
from childhood sexual abuse, may be brought at any time after 1147
the cause of action accrues. 1148

(3) For purposes of this section, a cause of action for 1149
assault or battery based on childhood sexual abuse, or a cause 1150
of action for a claim resulting from childhood sexual abuse, 1151
accrues upon the date on which the victim reaches the age of 1152
majority. 1153

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and 1154
2917.211 of the Revised Code: 1155

(A) "Sexual conduct" means vaginal intercourse between a 1156

male and female; anal intercourse, fellatio, and cunnilingus 1157
between persons regardless of sex; and, without privilege to do 1158
so, the insertion, however slight, of any part of the body or 1159
any instrument, apparatus, or other object into the vaginal or 1160
anal opening of another. Penetration, however slight, is 1161
sufficient to complete vaginal or anal intercourse. 1162

(B) "Sexual contact" means any touching of an erogenous 1163
zone of another, including without limitation the thigh, 1164
genitals, buttock, pubic region, or, if the person is a female, 1165
a breast, for the purpose of sexually arousing or gratifying 1166
either person. 1167

(C) "Sexual activity" means sexual conduct or sexual 1168
contact, or both. 1169

(D) "Prostitute" means a male or female who promiscuously 1170
engages in sexual activity for hire, regardless of whether the 1171
hire is paid to the prostitute or to another. 1172

(E) "Harmful to juveniles" means that quality of any 1173
material or performance describing or representing nudity, 1174
sexual conduct, sexual excitement, or sado-masochistic abuse in 1175
any form to which all of the following apply: 1176

(1) The material or performance, when considered as a 1177
whole, appeals to the prurient interest of juveniles in sex. 1178

(2) The material or performance is patently offensive to 1179
prevailing standards in the adult community as a whole with 1180
respect to what is suitable for juveniles. 1181

(3) The material or performance, when considered as a 1182
whole, lacks serious literary, artistic, political, and 1183
scientific value for juveniles. 1184

(F) When considered as a whole, and judged with reference 1185
to ordinary adults or, if it is designed for sexual deviates or 1186
other specially susceptible group, judged with reference to that 1187
group, any material or performance is "obscene" if any of the 1188
following apply: 1189

(1) Its dominant appeal is to prurient interest; 1190

(2) Its dominant tendency is to arouse lust by displaying 1191
or depicting sexual activity, masturbation, sexual excitement, 1192
or nudity in a way that tends to represent human beings as mere 1193
objects of sexual appetite; 1194

(3) Its dominant tendency is to arouse lust by displaying 1195
or depicting bestiality or extreme or bizarre violence, cruelty, 1196
or brutality; 1197

(4) Its dominant tendency is to appeal to scatological 1198
interest by displaying or depicting human bodily functions of 1199
elimination in a way that inspires disgust or revulsion in 1200
persons with ordinary sensibilities, without serving any genuine 1201
scientific, educational, sociological, moral, or artistic 1202
purpose; 1203

(5) It contains a series of displays or descriptions of 1204
sexual activity, masturbation, sexual excitement, nudity, 1205
bestiality, extreme or bizarre violence, cruelty, or brutality, 1206
or human bodily functions of elimination, the cumulative effect 1207
of which is a dominant tendency to appeal to prurient or 1208
scatological interest, when the appeal to such an interest is 1209
primarily for its own sake or for commercial exploitation, 1210
rather than primarily for a genuine scientific, educational, 1211
sociological, moral, or artistic purpose. 1212

(G) "Sexual excitement" means the condition of human male 1213

or female genitals when in a state of sexual stimulation or 1214
arousal. 1215

(H) "Nudity" means the showing, representation, or 1216
depiction of human male or female genitals, pubic area, or 1217
buttocks with less than a full, opaque covering, or of a female 1218
breast with less than a full, opaque covering of any portion 1219
thereof below the top of the nipple, or of covered male genitals 1220
in a discernibly turgid state. 1221

(I) "Juvenile" means an unmarried person under the age of 1222
eighteen. 1223

(J) "Material" means any book, magazine, newspaper, 1224
pamphlet, poster, print, picture, figure, image, description, 1225
motion picture film, phonographic record, or tape, or other 1226
tangible thing capable of arousing interest through sight, 1227
sound, or touch and includes an image or text appearing on a 1228
computer monitor, television screen, liquid crystal display, or 1229
similar display device or an image or text recorded on a 1230
computer hard disk, computer floppy disk, compact disk, magnetic 1231
tape, or similar data storage device. 1232

(K) "Performance" means any motion picture, preview, 1233
trailer, play, show, skit, dance, or other exhibition performed 1234
before an audience. 1235

(L) "Spouse" means a person married to an offender at the 1236
time of an alleged offense, except that such person shall not be 1237
considered the spouse when any of the following apply: 1238

(1) When the parties have entered into a written 1239
separation agreement authorized by section 3103.06 of the 1240
Revised Code; 1241

(2) During the pendency of an action between the parties 1242

for annulment, divorce, dissolution of marriage, or legal separation;	1243 1244
(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.	1245 1246
(M) "Minor" means a person under the age of eighteen.	1247
(N) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.	1248 1249
(O) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.	1250 1251
(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.	1252 1253 1254
(Q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.	1255 1256 1257
(R) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.	1258 1259 1260
<u>(S) "Licensed medical professional" means any of the following medical professionals:</u>	1261 1262
<u>(1) A physician assistant licensed under Chapter 4730. of the Revised Code;</u>	1263 1264
<u>(2) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;</u>	1265 1266 1267
<u>(3) A massage therapist licensed under Chapter 4731. of the Revised Code.</u>	1268 1269

Sec. 2907.02. (A) (1) No person shall engage in sexual 1270
conduct with another who is not the spouse of the offender or 1271
who is the spouse of the offender but is living separate and 1272
apart from the offender, when any of the following applies: 1273

(a) For the purpose of preventing resistance, the offender 1274
substantially impairs the other person's judgment or control by 1275
administering any drug, intoxicant, or controlled substance to 1276
the other person surreptitiously or by force, threat of force, 1277
or deception. 1278

(b) The other person is less than thirteen years of age, 1279
whether or not the offender knows the age of the other person. 1280

(c) The other person's ability to resist or consent is 1281
substantially impaired because of a mental or physical condition 1282
or because of advanced age, and the offender knows or has 1283
reasonable cause to believe that the other person's ability to 1284
resist or consent is substantially impaired because of a mental 1285
or physical condition or because of advanced age. 1286

(d) The offender knows that the judgment or control of the 1287
other person is substantially impaired as a result of the 1288
influence of any drug or intoxicant administered to the other 1289
person with the other person's consent for the purpose of any 1290
kind of medical or dental examination, treatment, or surgery. 1291

(2) No person shall engage in sexual conduct with another 1292
when the offender purposely compels the other person to submit 1293
by force or threat of force. 1294

(B) Whoever violates this section is guilty of rape, a 1295
felony of the first degree. If the offender under division (A) 1296
(1) (a) of this section substantially impairs the other person's 1297
judgment or control by administering any controlled substance, 1298

as defined in section 3719.01 of the Revised Code, to the other 1299
person surreptitiously or by force, threat of force, or 1300
deception, the prison term imposed upon the offender shall be 1301
one of the definite prison terms prescribed for a felony of the 1302
first degree in division (A)(1)(b) of section 2929.14 of the 1303
Revised Code that is not less than five years, except that if 1304
the violation is committed on or after March 22, 2019, the court 1305
shall impose as the minimum prison term for the offense a 1306
mandatory prison term that is one of the minimum terms 1307
prescribed for a felony of the first degree in division (A)(1) 1308
(a) of section 2929.14 of the Revised Code that is not less than 1309
five years. Except as otherwise provided in this division, 1310
notwithstanding sections 2929.11 to 2929.14 of the Revised Code, 1311
an offender under division (A)(1)(b) of this section shall be 1312
sentenced to a prison term or term of life imprisonment pursuant 1313
to section 2971.03 of the Revised Code. If an offender is 1314
convicted of or pleads guilty to a violation of division (A)(1) 1315
(b) of this section, if the offender was less than sixteen years 1316
of age at the time the offender committed the violation of that 1317
division, and if the offender during or immediately after the 1318
commission of the offense did not cause serious physical harm to 1319
the victim, the victim was ten years of age or older at the time 1320
of the commission of the violation, and the offender has not 1321
previously been convicted of or pleaded guilty to a violation of 1322
this section or a substantially similar existing or former law 1323
of this state, another state, or the United States, the court 1324
shall not sentence the offender to a prison term or term of life 1325
imprisonment pursuant to section 2971.03 of the Revised Code, 1326
and instead the court shall sentence the offender as otherwise 1327
provided in this division. If an offender under division (A)(1) 1328
(b) of this section previously has been convicted of or pleaded 1329
guilty to violating division (A)(1)(b) of this section or to 1330

violating an existing or former law of this state, another 1331
state, or the United States that is substantially similar to 1332
division (A) (1) (b) of this section, if the offender during or 1333
immediately after the commission of the offense caused serious 1334
physical harm to the victim, or if the victim under division (A) 1335
(1) (b) of this section is less than ten years of age, in lieu of 1336
sentencing the offender to a prison term or term of life 1337
imprisonment pursuant to section 2971.03 of the Revised Code, 1338
except as otherwise provided in this division, the court may 1339
impose upon the offender a term of life without parole. If the 1340
court imposes a term of life without parole pursuant to this 1341
division, division (F) of section 2971.03 of the Revised Code 1342
applies, and the offender automatically is classified a tier III 1343
sex offender/child-victim offender, as described in that 1344
division. A court shall not impose a term of life without parole 1345
on an offender for rape if the offender was under eighteen years 1346
of age at the time of the offense. 1347

(C) A victim need not prove physical resistance to the 1348
offender in prosecutions under this section. 1349

(D) Evidence of specific instances of the victim's sexual 1350
activity, opinion evidence of the victim's sexual activity, and 1351
reputation evidence of the victim's sexual activity shall not be 1352
admitted under this section unless it involves evidence of the 1353
origin of semen, pregnancy, or sexually transmitted disease or 1354
infection, or the victim's past sexual activity with the 1355
offender, and only to the extent that the court finds that the 1356
evidence is material to a fact at issue in the case and that its 1357
inflammatory or prejudicial nature does not outweigh its 1358
probative value. 1359

Evidence of specific instances of the defendant's sexual 1360

activity, opinion evidence of the defendant's sexual activity, 1361
and reputation evidence of the defendant's sexual activity shall 1362
not be admitted under this section unless it involves evidence 1363
of the origin of semen, pregnancy, or sexually transmitted 1364
disease or infection, the defendant's past sexual activity with 1365
the victim, or is admissible against the defendant under section 1366
2945.59 of the Revised Code, and only to the extent that the 1367
court finds that the evidence is material to a fact at issue in 1368
the case and that its inflammatory or prejudicial nature does 1369
not outweigh its probative value. 1370

(E) Prior to taking testimony or receiving evidence of any 1371
sexual activity of the victim or the defendant in a proceeding 1372
under this section, the court shall resolve the admissibility of 1373
the proposed evidence in a hearing in chambers, which shall be 1374
held at or before preliminary hearing and not less than three 1375
days before trial, or for good cause shown during the trial. 1376

(F) Upon approval by the court, the victim may be 1377
represented by counsel in any hearing in chambers or other 1378
proceeding to resolve the admissibility of evidence. If the 1379
victim is indigent or otherwise is unable to obtain the services 1380
of counsel, the court, upon request, may appoint counsel to 1381
represent the victim without cost to the victim. 1382

(G) It is not a defense to a charge under division (A) (2) 1383
of this section that the offender and the victim were married or 1384
were cohabiting at the time of the commission of the offense. 1385

Sec. 2907.03. (A) No person shall engage in sexual ~~conduct~~ 1386
activity with another, not the spouse of the offender; ~~cause~~ 1387
another, not the spouse of the offender, to engage in sexual 1388
activity with the offender; or cause two or more other persons 1389
to engage in sexual activity when any of the following apply: 1390

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

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

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

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

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

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

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

(8) The other person, or one of the other persons, is a minor, the offender is a teacher, administrator, coach, or other

person in authority employed by or serving in an institution of 1420
higher education, and the other person is enrolled in or attends 1421
that institution. 1422

(9) The other person, or one of the other persons, is a 1423
minor, and the offender is the other person's athletic or other 1424
type of coach, is the other person's instructor, is the leader 1425
of a scouting troop of which the other person is a member, or is 1426
a person with temporary or occasional disciplinary control over 1427
the other person. 1428

(10) The offender is a mental health professional, the 1429
other person, or one of the other persons, is a mental health 1430
client or patient of the offender, and the offender induces the 1431
other person to submit by falsely representing to the other 1432
person that the sexual ~~conduct~~ activity is necessary for mental 1433
health treatment purposes. 1434

(11) The offender is a licensed medical professional, the 1435
other person, or one of the other persons, is a patient of the 1436
offender, and the sexual activity occurs in the course of 1437
medical treatment. 1438

(12) The other person, or one of the other persons, is 1439
confined in a detention facility, and the offender is an 1440
employee of that detention facility. 1441

~~(12)~~ (13) The other person, or one of the other persons, 1442
is a minor, the offender is a cleric, and the other person is a 1443
member of, or attends, the church or congregation served by the 1444
cleric. 1445

~~(13)~~ (14) The other person, or one of the other persons, 1446
is a minor, the offender is a peace officer, and the offender is 1447
more than two years older than the other person. 1448

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

(1) If the sexual activity involved is sexual conduct,
except as otherwise provided in this division, sexual battery is
a felony of the third degree. If the other person, or one of the
other persons, is less than thirteen years of age or over and
less than eighteen years of age, sexual battery is a felony of
the second degree, and the court shall impose upon the offender
a mandatory prison term equal to one of the definite prison
terms prescribed in division (A) (2) (b) of section 2929.14 of the
Revised Code for a felony of the second degree, except that if
the violation is committed on or after March 22, 2019, the court
shall impose as the minimum prison term for the offense a
mandatory prison term that is one of the minimum terms
prescribed in division (A) (2) (a) of that section for a felony of
the second degree.

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

(C) As used in this section:

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

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

(3) "Institution of higher education" means a state
institution of higher education defined in section 3345.011 of
the Revised Code, a private nonprofit college or university

located in this state that possesses a certificate of 1478
authorization issued by the chancellor of higher education 1479
pursuant to Chapter 1713. of the Revised Code, or a school 1480
certified under Chapter 3332. of the Revised Code. 1481

(4) "Peace officer" has the same meaning as in section 1482
2935.01 of the Revised Code. 1483

(5) "Medical treatment" means in-person medical services 1484
provided by a licensed medical professional under the legal 1485
authority conferred by a license or certificate, including in- 1486
person examination, consultation, health care, treatment, 1487
procedure, surgery, or other in-person procedures. 1488

Sec. 2907.06. (A) No person shall have sexual contact with 1489
another, not the spouse of the offender; cause another, not the 1490
spouse of the offender, to have sexual contact with the 1491
offender; or cause two or more other persons to have sexual 1492
contact when ~~any of the following applies:~~ 1493

~~(1) The the offender knows that the sexual contact is~~ 1494
~~offensive to the other person, or one of the other persons, or~~ 1495
~~is reckless in that regard.~~ 1496

~~(2) The offender knows that the other person's, or one of-~~ 1497
~~the other person's, ability to appraise the nature of or control-~~ 1498
~~the offender's or touching person's conduct is substantially-~~ 1499
~~impaired.~~ 1500

~~(3) The offender knows that the other person, or one of-~~ 1501
~~the other persons, submits because of being unaware of the-~~ 1502
~~sexual contact.~~ 1503

~~(4) The other person, or one of the other persons, is~~ 1504
~~thirteen years of age or older but less than sixteen years of-~~ 1505
~~age, whether or not the offender knows the age of such person,~~ 1506

~~and the offender is at least eighteen years of age and four or
more years older than such other person.~~ 1507
1508

~~(5) The offender is a mental health professional, the
other person or one of the other persons is a mental health
client or patient of the offender, and the offender induces the
other person who is the client or patient to submit by falsely
representing to the other person who is the client or patient
that the sexual contact is necessary for mental health treatment
purposes.~~ 1509
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(B) No person shall be convicted of a violation of this 1516
section solely upon the victim's testimony unsupported by other 1517
evidence. 1518

(C) Whoever violates this section is guilty of sexual 1519
imposition, a misdemeanor of the third degree. If the offender 1520
previously has been convicted of or pleaded guilty to a 1521
violation of this section or of section 2907.02, 2907.03, 1522
2907.04, or 2907.05, or former section 2907.12 of the Revised 1523
Code, a violation of this section is a misdemeanor of the first 1524
degree. If the offender previously has been convicted of or 1525
pleaded guilty to three or more violations of this section or 1526
section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 1527
2907.12 of the Revised Code, or of any combination of those 1528
sections, a violation of this section is a misdemeanor of the 1529
first degree and, notwithstanding the range of jail terms 1530
prescribed in section 2929.24 of the Revised Code, the court may 1531
impose on the offender a definite jail term of not more than one 1532
year. 1533

Sec. 2907.17. If a mental health professional or a 1534
licensed medical professional is indicted or charged and bound 1535
over to the court of common pleas for trial for an alleged 1536

violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1537
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1538
whichever is applicable, the prosecuting attorney handling the 1539
case shall send written notice of the indictment or the charge 1540
and bind over to the regulatory or licensing board or agency, if 1541
any, that has the administrative authority to suspend or revoke 1542
the mental health professional's or licensed medical 1543
professional's professional license, certification, 1544
registration, or authorization. 1545

Sec. 2907.18. If a mental health professional or a 1546
licensed medical professional is convicted of or pleads guilty 1547
to a violation of division (A) (10) or (11) of section 2907.03 ~~or~~ 1548
~~division (A) (5) of section 2907.06~~ of the Revised Code, 1549
whichever is applicable, the court shall transmit a certified 1550
copy of the judgment entry of conviction to the regulatory or 1551
licensing board or agency, if any, that has the administrative 1552
authority to suspend or revoke the mental health professional's 1553
or licensed medical professional's professional license, 1554
certification, registration, or authorization. 1555

Sec. 2921.22. (A) (1) Except as provided in division (A) (2) 1556
of this section, no person, knowing that a felony has been or is 1557
being committed, shall knowingly fail to report such information 1558
to law enforcement authorities. 1559

(2) No person, knowing that a violation of division (B) of 1560
section 2913.04 of the Revised Code has been, or is being 1561
committed or that the person has received information derived 1562
from such a violation, shall knowingly fail to report the 1563
violation to law enforcement authorities. 1564

(B) Except for conditions that are within the scope of 1565
division (E) of this section, no person giving aid to a sick or 1566

injured person shall negligently fail to report to law 1567
enforcement authorities any gunshot or stab wound treated or 1568
observed by the person, or any serious physical harm to persons 1569
that the person knows or has reasonable cause to believe 1570
resulted from an offense of violence. 1571

(C) No person who discovers the body or acquires the first 1572
knowledge of the death of a person shall fail to report the 1573
death immediately to a physician or advanced practice registered 1574
nurse whom the person knows to be treating the deceased for a 1575
condition from which death at such time would not be unexpected, 1576
or to a law enforcement officer, an ambulance service, an 1577
emergency squad, or the coroner in a political subdivision in 1578
which the body is discovered, the death is believed to have 1579
occurred, or knowledge concerning the death is obtained. For 1580
purposes of this division, "advanced practice registered nurse" 1581
does not include a certified registered nurse anesthetist. 1582

(D) No person shall fail to provide upon request of the 1583
person to whom a report required by division (C) of this section 1584
was made, or to any law enforcement officer who has reasonable 1585
cause to assert the authority to investigate the circumstances 1586
surrounding the death, any facts within the person's knowledge 1587
that may have a bearing on the investigation of the death. 1588

(E) (1) As used in this division, "burn injury" means any 1589
of the following: 1590

- (a) Second or third degree burns; 1591
- (b) Any burns to the upper respiratory tract or laryngeal 1592
edema due to the inhalation of superheated air; 1593
- (c) Any burn injury or wound that may result in death; 1594
- (d) Any physical harm to persons caused by or as the 1595

result of the use of fireworks, novelties and trick noisemakers, 1596
and wire sparklers, as each is defined by section 3743.01 of the 1597
Revised Code. 1598

(2) No physician, nurse, physician assistant, or limited 1599
practitioner who, outside a hospital, sanitarium, or other 1600
medical facility, attends or treats a person who has sustained a 1601
burn injury that is inflicted by an explosion or other 1602
incendiary device or that shows evidence of having been 1603
inflicted in a violent, malicious, or criminal manner shall fail 1604
to report the burn injury immediately to the local arson, or 1605
fire and explosion investigation, bureau, if there is a bureau 1606
of this type in the jurisdiction in which the person is attended 1607
or treated, or otherwise to local law enforcement authorities. 1608

(3) No manager, superintendent, or other person in charge 1609
of a hospital, sanitarium, or other medical facility in which a 1610
person is attended or treated for any burn injury that is 1611
inflicted by an explosion or other incendiary device or that 1612
shows evidence of having been inflicted in a violent, malicious, 1613
or criminal manner shall fail to report the burn injury 1614
immediately to the local arson, or fire and explosion 1615
investigation, bureau, if there is a bureau of this type in the 1616
jurisdiction in which the person is attended or treated, or 1617
otherwise to local law enforcement authorities. 1618

(4) No person who is required to report any burn injury 1619
under division (E) (2) or (3) of this section shall fail to file, 1620
within three working days after attending or treating the 1621
victim, a written report of the burn injury with the office of 1622
the state fire marshal. The report shall comply with the uniform 1623
standard developed by the state fire marshal pursuant to 1624
division (A) (15) of section 3737.22 of the Revised Code. 1625

(5) Anyone participating in the making of reports under 1626
division (E) of this section or anyone participating in a 1627
judicial proceeding resulting from the reports is immune from 1628
any civil or criminal liability that otherwise might be incurred 1629
or imposed as a result of such actions. Notwithstanding section 1630
4731.22 of the Revised Code, the physician-patient relationship 1631
or advanced practice registered nurse-patient relationship is 1632
not a ground for excluding evidence regarding a person's burn 1633
injury or the cause of the burn injury in any judicial 1634
proceeding resulting from a report submitted under division (E) 1635
of this section. 1636

(F) (1) No person who knows that a licensed medical 1637
professional has committed an offense under Chapter 2907. of the 1638
Revised Code, a violation of a municipal ordinance that is 1639
substantially equivalent to such offense, or a substantially 1640
equivalent criminal offense in another jurisdiction, against a 1641
patient of the licensed medical professional shall fail to 1642
report such knowledge to law enforcement authorities within 1643
thirty days of obtaining the knowledge. 1644

(2) Except for a self-report or participation in the 1645
offense or violation being reported, any person who makes a 1646
report within the thirty-day period provided in division (F) (1) 1647
of this section or any person who participates in a judicial 1648
proceeding that results from such report is immune from civil or 1649
criminal liability that otherwise might be incurred or imposed 1650
as a result of making that report or participating in that 1651
proceeding so long as the person is acting in good faith without 1652
fraud or malice. 1653

(3) The physician-patient relationship or physician 1654
assistant-patient relationship is not a ground for excluding 1655

evidence regarding the person's knowledge of a licensed medical professional's commission of an offense or violation reported under division (F) (1) of this section, against that licensed medical professional in any judicial proceeding resulting from a report made under that division. 1656
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(4) As used in division (F) of this section, "licensed medical professional" has the same meaning as in section 2907.01 of the Revised Code. 1661
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(G) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in section 3113.31 of the Revised Code, shall note that knowledge or belief and the basis for it in the patient's or client's records. 1664
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(2) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under division ~~(F) (1)~~ (G) (1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence. 1674
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~~(G)~~ (H) Divisions (A) and (D) of this section do not require disclosure of information, when any of the following applies: 1681
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(1) The information is privileged by reason of the 1684

relationship between attorney and client; physician and patient; 1685
advanced practice registered nurse and patient; licensed 1686
psychologist or licensed school psychologist and client; 1687
licensed professional clinical counselor, licensed professional 1688
counselor, independent social worker, social worker, independent 1689
marriage and family therapist, or marriage and family therapist 1690
and client; member of the clergy, rabbi, minister, or priest and 1691
any person communicating information confidentially to the 1692
member of the clergy, rabbi, minister, or priest for a religious 1693
counseling purpose of a professional character; husband and 1694
wife; or a communications assistant and those who are a party to 1695
a telecommunications relay service call. 1696

(2) The information would tend to incriminate a member of 1697
the actor's immediate family. 1698

(3) Disclosure of the information would amount to 1699
revealing a news source, privileged under section 2739.04 or 1700
2739.12 of the Revised Code. 1701

(4) Disclosure of the information would amount to 1702
disclosure by a member of the ordained clergy of an organized 1703
religious body of a confidential communication made to that 1704
member of the clergy in that member's capacity as a member of 1705
the clergy by a person seeking the aid or counsel of that member 1706
of the clergy. 1707

(5) Disclosure would amount to revealing information 1708
acquired by the actor in the course of the actor's duties in 1709
connection with a bona fide program of treatment or services for 1710
persons with drug dependencies or persons in danger of drug 1711
dependence, which program is maintained or conducted by a 1712
hospital, clinic, person, agency, or community addiction 1713
services provider whose alcohol and drug addiction services are 1714

certified pursuant to section 5119.36 of the Revised Code. 1715

(6) Disclosure would amount to revealing information 1716
acquired by the actor in the course of the actor's duties in 1717
connection with a bona fide program for providing counseling 1718
services to victims of crimes that are violations of section 1719
2907.02 or 2907.05 of the Revised Code or to victims of 1720
felonious sexual penetration in violation of former section 1721
2907.12 of the Revised Code. As used in this division, 1722
"counseling services" include services provided in an informal 1723
setting by a person who, by education or experience, is 1724
competent to provide those services. 1725

~~(H)~~ (I) No disclosure of information pursuant to this 1726
section gives rise to any liability or recrimination for a 1727
breach of privilege or confidence. 1728

~~(I)~~ (J) Whoever violates division (A) ~~or~~ (B) ~~or~~ (F) (1) 1729
of this section is guilty of failure to report a crime. 1730
Violation of division (A) (1) or (F) (1) of this section is a 1731
misdemeanor of the fourth degree. Violation of division (A) (2) 1732
or (B) of this section is a misdemeanor of the second degree. 1733

~~(J)~~ (K) Whoever violates division (C) or (D) of this 1734
section is guilty of failure to report knowledge of a death, a 1735
misdemeanor of the fourth degree. 1736

~~(K) (1)~~ (L) (1) Whoever negligently violates division (E) of 1737
this section is guilty of a minor misdemeanor. 1738

(2) Whoever knowingly violates division (E) of this 1739
section is guilty of a misdemeanor of the second degree. 1740

~~(L)~~ (M) As used in this section, "nurse" includes an 1741
advanced practice registered nurse, registered nurse, and 1742
licensed practical nurse. 1743

Sec. 2929.42. (A) The prosecutor in any case against any 1744
person licensed, certified, registered, or otherwise authorized 1745
to practice under Chapter 3719., 4715., 4723., 4729., 4730., 1746
4731., 4734., ~~or~~ 4741., 4759., 4760., 4761., 4762., 4774., or 1747
4778. of the Revised Code shall notify the appropriate licensing 1748
board, on forms provided by the board, of any of the following 1749
regarding the person: 1750

(1) A plea of guilty to, or a conviction of, a felony, or 1751
a court order dismissing a felony charge on technical or 1752
procedural grounds; 1753

(2) A plea of guilty to, or a conviction of, a misdemeanor 1754
committed in the course of practice or in the course of 1755
business, or a court order dismissing such a misdemeanor charge 1756
on technical or procedural grounds; 1757

(3) A plea of guilty to, or a conviction of, a misdemeanor 1758
involving moral turpitude, or a court order dismissing such a 1759
charge on technical or procedural grounds. 1760

(B) The report required by division (A) of this section 1761
shall include the name and address of the person, the nature of 1762
the offense, and certified copies of court entries in the 1763
action. 1764

Sec. 2950.01. As used in this chapter, unless the context 1765
clearly requires otherwise: 1766

(A) "Sexually oriented offense" means any of the following 1767
violations or offenses committed by a person, regardless of the 1768
person's age: 1769

(1) A violation of section 2907.02, 2907.03, 2907.05, 1770
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 1771
2907.322, or 2907.323 of the Revised Code; 1772

(2) A violation of section 2907.04 of the Revised Code 1773
when the offender is less than four years older than the other 1774
person with whom the offender engaged in sexual conduct, the 1775
other person did not consent to the sexual conduct, and the 1776
offender previously has not been convicted of or pleaded guilty 1777
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1778
Revised Code or a violation of former section 2907.12 of the 1779
Revised Code; 1780

(3) A violation of section 2907.04 of the Revised Code 1781
when the offender is at least four years older than the other 1782
person with whom the offender engaged in sexual conduct or when 1783
the offender is less than four years older than the other person 1784
with whom the offender engaged in sexual conduct and the 1785
offender previously has been convicted of or pleaded guilty to a 1786
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1787
Code or a violation of former section 2907.12 of the Revised 1788
Code; 1789

(4) A violation of section 2903.01, 2903.02, or 2903.11 of 1790
the Revised Code when the violation was committed with a sexual 1791
motivation; 1792

(5) A violation of division (A) of section 2903.04 of the 1793
Revised Code when the offender committed or attempted to commit 1794
the felony that is the basis of the violation with a sexual 1795
motivation; 1796

(6) A violation of division (A)(3) of section 2903.211 of 1797
the Revised Code; 1798

(7) A violation of division (A)(1), (2), (3), or (5) of 1799
section 2905.01 of the Revised Code when the offense is 1800
committed with a sexual motivation; 1801

(8) A violation of division (A)(4) of section 2905.01 of the Revised Code; 1802
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(9) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense; 1804
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(10) A violation of division (B) of section 2903.03, of division (B) of section 2905.02, of division (B) of section 2905.03, of division (B) of section 2905.05, or of division (B)(5) of section 2919.22 of the Revised Code; 1808
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(11) A violation of section 2905.32 of the Revised Code when either of the following applies: 1812
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(a) The violation is a violation of division (A)(1) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person knowing that the person would be compelled to engage in sexual activity for hire, engage in a performance that was obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that was obscene, sexually oriented, or nudity oriented. 1814
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(b) The violation is a violation of division (A)(2) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is less than eighteen years of age or is a person with a developmental disability whom the offender knows or has 1824
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reasonable cause to believe is a person with a developmental 1831
disability for any purpose listed in divisions (A) (2) (a) to (c) 1832
of that section. 1833

(12) A violation of division (B) (4) of section 2907.09 of 1834
the Revised Code if the sentencing court classifies the offender 1835
as a tier I sex offender/child-victim offender relative to that 1836
offense pursuant to division (D) of that section; 1837

(13) A violation of any former law of this state, any 1838
existing or former municipal ordinance or law of another state 1839
or the United States, any existing or former law applicable in a 1840
military court or in an Indian tribal court, or any existing or 1841
former law of any nation other than the United States that is or 1842
was substantially equivalent to any offense listed in division 1843
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or 1844
(12) of this section; 1845

(14) Any attempt to commit, conspiracy to commit, or 1846
complicity in committing any offense listed in division (A) (1), 1847
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or 1848
(13) of this section. 1849

(B) (1) "Sex offender" means, subject to division (B) (2) of 1850
this section, a person who is convicted of, pleads guilty to, 1851
has been convicted of, has pleaded guilty to, is adjudicated a 1852
delinquent child for committing, or has been adjudicated a 1853
delinquent child for committing any sexually oriented offense. 1854

(2) "Sex offender" does not include a person who is 1855
convicted of, pleads guilty to, has been convicted of, has 1856
pleaded guilty to, is adjudicated a delinquent child for 1857
committing, or has been adjudicated a delinquent child for 1858
committing a sexually oriented offense if the offense involves 1859

consensual sexual conduct or consensual sexual contact and 1860
either of the following applies: 1861

(a) The victim of the sexually oriented offense was 1862
eighteen years of age or older and at the time of the sexually 1863
oriented offense was not under the custodial authority of the 1864
person who is convicted of, pleads guilty to, has been convicted 1865
of, has pleaded guilty to, is adjudicated a delinquent child for 1866
committing, or has been adjudicated a delinquent child for 1867
committing the sexually oriented offense. 1868

(b) The victim of the offense was thirteen years of age or 1869
older, and the person who is convicted of, pleads guilty to, has 1870
been convicted of, has pleaded guilty to, is adjudicated a 1871
delinquent child for committing, or has been adjudicated a 1872
delinquent child for committing the sexually oriented offense is 1873
not more than four years older than the victim. 1874

(c) "Child-victim oriented offense" means any of the 1875
following violations or offenses committed by a person, 1876
regardless of the person's age, when the victim is under 1877
eighteen years of age and is not a child of the person who 1878
commits the violation: 1879

(1) A violation of division (A)(1), (2), (3), or (5) of 1880
section 2905.01 of the Revised Code when the violation is not 1881
included in division (A)(7) of this section; 1882

(2) A violation of division (A) of section 2905.02, 1883
division (A) of section 2905.03, or division (A) of section 1884
2905.05 of the Revised Code; 1885

(3) A violation of any former law of this state, any 1886
existing or former municipal ordinance or law of another state 1887
or the United States, any existing or former law applicable in a 1888

military court or in an Indian tribal court, or any existing or 1889
former law of any nation other than the United States that is or 1890
was substantially equivalent to any offense listed in division 1891
(C) (1) or (2) of this section; 1892

(4) Any attempt to commit, conspiracy to commit, or 1893
complicity in committing any offense listed in division (C) (1), 1894
(2), or (3) of this section. 1895

(D) "Child-victim offender" means a person who is 1896
convicted of, pleads guilty to, has been convicted of, has 1897
pleaded guilty to, is adjudicated a delinquent child for 1898
committing, or has been adjudicated a delinquent child for 1899
committing any child-victim oriented offense. 1900

(E) "Tier I sex offender/child-victim offender" means any 1901
of the following: 1902

(1) A sex offender who is convicted of, pleads guilty to, 1903
has been convicted of, or has pleaded guilty to any of the 1904
following sexually oriented offenses: 1905

(a) A violation of section 2907.06, 2907.07, 2907.08, 1906
2907.22, or 2907.32 of the Revised Code; 1907

(b) A violation of section 2907.04 of the Revised Code 1908
when the offender is less than four years older than the other 1909
person with whom the offender engaged in sexual conduct, the 1910
other person did not consent to the sexual conduct, and the 1911
offender previously has not been convicted of or pleaded guilty 1912
to a violation of section 2907.02, 2907.03, or 2907.04 of the 1913
Revised Code or a violation of former section 2907.12 of the 1914
Revised Code; 1915

(c) A violation of division (A) (1), (2), (3), or (5) of 1916
section 2907.05 of the Revised Code; 1917

(d) A violation of division (A) (3) of section 2907.323 of the Revised Code;	1918 1919
(e) A violation of division (A) (3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code;	1920 1921 1922
(f) A violation of division (B) (4) of section 2907.09 of the Revised Code if the sentencing court classifies the offender as a tier I sex offender/child-victim offender relative to that offense pursuant to division (D) of that section;	1923 1924 1925 1926
(g) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E) (1) (a), (b), (c), (d), (e), or (f) of this section;	1927 1928 1929 1930 1931 1932 1933
(h) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E) (1) (a), (b), (c), (d), (e), (f), or (g) of this section.	1934 1935 1936
(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F) (2) or (G) (2) of this section.	1937 1938 1939 1940 1941
(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-	1942 1943 1944 1945 1946

victim offender relative to the offense. 1947

(4) A child-victim offender who is adjudicated a 1948
delinquent child for committing or has been adjudicated a 1949
delinquent child for committing any child-victim oriented 1950
offense and who a juvenile court, pursuant to section 2152.82, 1951
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 1952
tier I sex offender/child-victim offender relative to the 1953
offense. 1954

(F) "Tier II sex offender/child-victim offender" means any 1955
of the following: 1956

(1) A sex offender who is convicted of, pleads guilty to, 1957
has been convicted of, or has pleaded guilty to any of the 1958
following sexually oriented offenses: 1959

(a) A violation of section 2907.21, 2907.321, or 2907.322 1960
of the Revised Code; 1961

(b) A violation of section 2907.04 of the Revised Code 1962
when the offender is at least four years older than the other 1963
person with whom the offender engaged in sexual conduct, or when 1964
the offender is less than four years older than the other person 1965
with whom the offender engaged in sexual conduct and the 1966
offender previously has been convicted of or pleaded guilty to a 1967
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 1968
Code or former section 2907.12 of the Revised Code; 1969

(c) A violation of section 2907.03 of the Revised Code if 1970
the sexual activity involved is sexual contact; 1971

(d) A violation of division (A) (4) of section 2907.05 or 1972
of division (A) (1) or (2) of section 2907.323 of the Revised 1973
Code; 1974

(d) <u>(e)</u> A violation of division (A) (1), (2), (3), or (5)	1975
of section 2905.01 of the Revised Code when the offense is	1976
committed with a sexual motivation;	1977
(e) <u>(f)</u> A violation of division (A) (4) of section 2905.01	1978
of the Revised Code when the victim of the offense is eighteen	1979
years of age or older;	1980
(f) <u>(g)</u> A violation of division (B) of section 2905.02 or	1981
of division (B) (5) of section 2919.22 of the Revised Code;	1982
(g) <u>(h)</u> A violation of section 2905.32 of the Revised Code	1983
that is described in division (A) (11) (a) or (b) of this section;	1984
(h) <u>(i)</u> A violation of any former law of this state, any	1985
existing or former municipal ordinance or law of another state	1986
or the United States, any existing or former law applicable in a	1987
military court or in an Indian tribal court, or any existing or	1988
former law of any nation other than the United States that is or	1989
was substantially equivalent to any offense listed in division	1990
(F) (1) (a), (b), (c), (d), (e), (f), or (g) , <u>or (h)</u> of this	1991
section;	1992
(i) <u>(j)</u> Any attempt to commit, conspiracy to commit, or	1993
complicity in committing any offense listed in division (F) (1)	1994
(a), (b), (c), (d), (e), (f), (g), or (h) , <u>or (i)</u> of this	1995
section;	1996
(j) <u>(k)</u> Any sexually oriented offense that is committed	1997
after the sex offender previously has been convicted of, pleaded	1998
guilty to, or has been adjudicated a delinquent child for	1999
committing any sexually oriented offense or child-victim	2000
oriented offense for which the offender was classified a tier I	2001
sex offender/child-victim offender.	2002
(2) A child-victim offender who is convicted of, pleads	2003

guilty to, has been convicted of, or has pleaded guilty to any 2004
child-victim oriented offense when the child-victim oriented 2005
offense is committed after the child-victim offender previously 2006
has been convicted of, pleaded guilty to, or been adjudicated a 2007
delinquent child for committing any sexually oriented offense or 2008
child-victim oriented offense for which the offender was 2009
classified a tier I sex offender/child-victim offender. 2010

(3) A sex offender who is adjudicated a delinquent child 2011
for committing or has been adjudicated a delinquent child for 2012
committing any sexually oriented offense and who a juvenile 2013
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2014
of the Revised Code, classifies a tier II sex offender/child- 2015
victim offender relative to the offense. 2016

(4) A child-victim offender who is adjudicated a 2017
delinquent child for committing or has been adjudicated a 2018
delinquent child for committing any child-victim oriented 2019
offense and whom a juvenile court, pursuant to section 2152.82, 2020
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2021
tier II sex offender/child-victim offender relative to the 2022
current offense. 2023

(5) A sex offender or child-victim offender who is not in 2024
any category of tier II sex offender/child-victim offender set 2025
forth in division (F)(1), (2), (3), or (4) of this section, who 2026
prior to January 1, 2008, was adjudicated a delinquent child for 2027
committing a sexually oriented offense or child-victim oriented 2028
offense, and who prior to that date was determined to be a 2029
habitual sex offender or determined to be a habitual child- 2030
victim offender, unless either of the following applies: 2031

(a) The sex offender or child-victim offender is 2032
reclassified pursuant to section 2950.031 or 2950.032 of the 2033

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

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

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

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

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

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

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

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

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

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

Revised Code when the victim of the offense is under eighteen 2062
years of age and the offender is not a parent of the victim of 2063
the offense; 2064

(g) A violation of division (B) of section 2903.03 of the 2065
Revised Code; 2066

(h) A violation of any former law of this state, any 2067
existing or former municipal ordinance or law of another state 2068
or the United States, any existing or former law applicable in a 2069
military court or in an Indian tribal court, or any existing or 2070
former law of any nation other than the United States that is or 2071
was substantially equivalent to any offense listed in division 2072
(G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 2073

(i) Any attempt to commit, conspiracy to commit, or 2074
complicity in committing any offense listed in division (G) (1) 2075
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 2076

(j) Any sexually oriented offense that is committed after 2077
the sex offender previously has been convicted of, pleaded 2078
guilty to, or been adjudicated a delinquent child for committing 2079
any sexually oriented offense or child-victim oriented offense 2080
for which the offender was classified a tier II sex 2081
offender/child-victim offender or a tier III sex offender/child- 2082
victim offender. 2083

(2) A child-victim offender who is convicted of, pleads 2084
guilty to, has been convicted of, or has pleaded guilty to any 2085
child-victim oriented offense when the child-victim oriented 2086
offense is committed after the child-victim offender previously 2087
has been convicted of, pleaded guilty to, or been adjudicated a 2088
delinquent child for committing any sexually oriented offense or 2089
child-victim oriented offense for which the offender was 2090

classified a tier II sex offender/child-victim offender or a 2091
tier III sex offender/child-victim offender. 2092

(3) A sex offender who is adjudicated a delinquent child 2093
for committing or has been adjudicated a delinquent child for 2094
committing any sexually oriented offense and who a juvenile 2095
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 2096
of the Revised Code, classifies a tier III sex offender/child- 2097
victim offender relative to the offense. 2098

(4) A child-victim offender who is adjudicated a 2099
delinquent child for committing or has been adjudicated a 2100
delinquent child for committing any child-victim oriented 2101
offense and whom a juvenile court, pursuant to section 2152.82, 2102
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 2103
tier III sex offender/child-victim offender relative to the 2104
current offense. 2105

(5) A sex offender or child-victim offender who is not in 2106
any category of tier III sex offender/child-victim offender set 2107
forth in division (G) (1), (2), (3), or (4) of this section, who 2108
prior to January 1, 2008, was convicted of or pleaded guilty to 2109
a sexually oriented offense or child-victim oriented offense or 2110
was adjudicated a delinquent child for committing a sexually 2111
oriented offense or child-victim oriented offense and classified 2112
a juvenile offender registrant, and who prior to that date was 2113
adjudicated a sexual predator or adjudicated a child-victim 2114
predator, unless either of the following applies: 2115

(a) The sex offender or child-victim offender is 2116
reclassified pursuant to section 2950.031 or 2950.032 of the 2117
Revised Code as a tier I sex offender/child-victim offender or a 2118
tier II sex offender/child-victim offender relative to the 2119
offense. 2120

(b) The sex offender or child-victim offender is a 2121
delinquent child, and a juvenile court, pursuant to section 2122
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 2123
classifies the child a tier I sex offender/child-victim offender 2124
or a tier II sex offender/child-victim offender relative to the 2125
offense. 2126

(6) A sex offender who is convicted of, pleads guilty to, 2127
was convicted of, or pleaded guilty to a sexually oriented 2128
offense, if the sexually oriented offense and the circumstances 2129
in which it was committed are such that division (F) of section 2130
2971.03 of the Revised Code automatically classifies the 2131
offender as a tier III sex offender/child-victim offender; 2132

(7) A sex offender or child-victim offender who is 2133
convicted of, pleads guilty to, was convicted of, pleaded guilty 2134
to, is adjudicated a delinquent child for committing, or was 2135
adjudicated a delinquent child for committing a sexually 2136
oriented offense or child-victim offense in another state, in a 2137
federal court, military court, or Indian tribal court, or in a 2138
court in any nation other than the United States if both of the 2139
following apply: 2140

(a) Under the law of the jurisdiction in which the 2141
offender was convicted or pleaded guilty or the delinquent child 2142
was adjudicated, the offender or delinquent child is in a 2143
category substantially equivalent to a category of tier III sex 2144
offender/child-victim offender described in division (G) (1), 2145
(2), (3), (4), (5), or (6) of this section. 2146

(b) Subsequent to the conviction, plea of guilty, or 2147
adjudication in the other jurisdiction, the offender or 2148
delinquent child resides, has temporary domicile, attends school 2149
or an institution of higher education, is employed, or intends 2150

to reside in this state in any manner and for any period of time 2151
that subjects the offender or delinquent child to a duty to 2152
register or provide notice of intent to reside under section 2153
2950.04 or 2950.041 of the Revised Code. 2154

(H) "Confinement" includes, but is not limited to, a 2155
community residential sanction imposed pursuant to section 2156
2929.16 or 2929.26 of the Revised Code. 2157

(I) "Prosecutor" has the same meaning as in section 2158
2935.01 of the Revised Code. 2159

(J) "Supervised release" means a release of an offender 2160
from a prison term, a term of imprisonment, or another type of 2161
confinement that satisfies either of the following conditions: 2162

(1) The release is on parole, a conditional pardon, under 2163
a community control sanction, under transitional control, or 2164
under a post-release control sanction, and it requires the 2165
person to report to or be supervised by a parole officer, 2166
probation officer, field officer, or another type of supervising 2167
officer. 2168

(2) The release is any type of release that is not 2169
described in division (J)(1) of this section and that requires 2170
the person to report to or be supervised by a probation officer, 2171
a parole officer, a field officer, or another type of 2172
supervising officer. 2173

(K) "Sexually violent predator specification," "sexually 2174
violent predator," "sexually violent offense," "sexual 2175
motivation specification," "designated homicide, assault, or 2176
kidnapping offense," and "violent sex offense" have the same 2177
meanings as in section 2971.01 of the Revised Code. 2178

(L) "Post-release control sanction" and "transitional 2179

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

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

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

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

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

(b) A violation of section 2903.01, 2903.02, or 2905.01 of 2210
the Revised Code that was committed with a purpose to gratify 2211
the sexual needs or desires of the child; 2212

(c) A violation of division (B) of section 2903.03 of the 2213
Revised Code. 2214

(2) The person was fourteen, fifteen, sixteen, or 2215
seventeen years of age at the time of committing the act. 2216

(3) A juvenile court judge, pursuant to an order issued 2217
under section 2152.86 of the Revised Code, classifies the person 2218
a juvenile offender registrant, specifies the person has a duty 2219
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2220
Revised Code, and classifies the person a public registry- 2221
qualified juvenile offender registrant, and the classification 2222
of the person as a public registry-qualified juvenile offender 2223
registrant has not been terminated pursuant to division (D) of 2224
section 2152.86 of the Revised Code. 2225

(O) "Secure facility" means any facility that is designed 2226
and operated to ensure that all of its entrances and exits are 2227
locked and under the exclusive control of its staff and to 2228
ensure that, because of that exclusive control, no person who is 2229
institutionalized or confined in the facility may leave the 2230
facility without permission or supervision. 2231

(P) "Out-of-state juvenile offender registrant" means a 2232
person who is adjudicated a delinquent child in a court in 2233
another state, in a federal court, military court, or Indian 2234
tribal court, or in a court in any nation other than the United 2235
States for committing a sexually oriented offense or a child- 2236
victim oriented offense, who on or after January 1, 2002, moves 2237
to and resides in this state or temporarily is domiciled in this 2238

state for more than five days, and who has a duty under section 2239
2950.04 or 2950.041 of the Revised Code to register in this 2240
state and the duty to otherwise comply with that applicable 2241
section and sections 2950.05 and 2950.06 of the Revised Code. 2242
"Out-of-state juvenile offender registrant" includes a person 2243
who prior to January 1, 2008, was an "out-of-state juvenile 2244
offender registrant" under the definition of the term in 2245
existence prior to January 1, 2008, and a person who prior to 2246
July 31, 2003, was an "out-of-state juvenile sex offender 2247
registrant" under the former definition of that former term. 2248

(Q) "Juvenile court judge" includes a magistrate to whom 2249
the juvenile court judge confers duties pursuant to division (A) 2250
(15) of section 2151.23 of the Revised Code. 2251

(R) "Adjudicated a delinquent child for committing a 2252
sexually oriented offense" includes a child who receives a 2253
serious youthful offender dispositional sentence under section 2254
2152.13 of the Revised Code for committing a sexually oriented 2255
offense. 2256

(S) "School" and "school premises" have the same meanings 2257
as in section 2925.01 of the Revised Code. 2258

(T) "Residential premises" means the building in which a 2259
residential unit is located and the grounds upon which that 2260
building stands, extending to the perimeter of the property. 2261
"Residential premises" includes any type of structure in which a 2262
residential unit is located, including, but not limited to, 2263
multi-unit buildings and mobile and manufactured homes. 2264

(U) "Residential unit" means a dwelling unit for 2265
residential use and occupancy, and includes the structure or 2266
part of a structure that is used as a home, residence, or 2267

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

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

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

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

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

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

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

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

imposed by sections 2950.04, 2950.041, 2950.05, and 2950.06 of 2297
the Revised Code. 2298

(b) With respect to that offense if it was committed prior 2299
to January 1, 2008, under the version of Chapter 2950. of the 2300
Revised Code in effect prior to January 1, 2008, the person was 2301
adjudicated a sexual predator, was adjudicated a child-victim 2302
predator, was classified a habitual sex offender, or was 2303
classified a habitual child-victim sex offender. 2304

(Z) "Adjudicated a sexual predator," "adjudicated a child- 2305
victim predator," "habitual sex offender," and "habitual child- 2306
victim offender" have the meanings of those terms that applied 2307
to them under Chapter 2950. of the Revised Code prior to January 2308
1, 2008. 2309

Sec. 2950.151. (A) As used in this section, "eligible 2310
offender" means either of the following: 2311

(1) An offender who was convicted of or pleaded guilty to 2312
a violation of section 2907.04 of the Revised Code to whom all 2313
of the following apply: 2314

(a) The sentencing court found the offender to be at low 2315
risk of reoffending based on a presentence investigation report 2316
that included a risk assessment, assessed by the single 2317
validated risk assessment tool selected by the department of 2318
rehabilitation and correction under section 5120.114 of the 2319
Revised Code; 2320

(b) The sentencing court imposed a community control 2321
sanction or combination of community control sanctions instead 2322
of a prison term and the offender has fulfilled every condition 2323
of every community control sanction imposed by the sentencing 2324
court; 2325

(c) The offender was under twenty-one years of age at the 2326
time of committing the offense; 2327

(d) The offender has not otherwise been convicted of or 2328
pleaded guilty to another violation of section 2907.04 of the 2329
Revised Code or any sexually oriented offense or child-victim 2330
oriented offense other than the violation of section 2907.04 of 2331
the Revised Code; 2332

(e) The minor with whom the offender engaged in sexual 2333
conduct was at least fourteen years of age at the time of the 2334
offense and consented to the sexual conduct, with no evidence of 2335
coercion, force, or threat of force; 2336

(f) The offender was not in a position of authority, 2337
including a position of a type described in divisions (A) (5) to 2338
~~(13)~~ (14) of section 2907.03 of the Revised Code, over the minor 2339
with whom the offender engaged in sexual conduct. 2340

(2) An offender who was convicted of or pleaded guilty to 2341
a violation of any former law of this state, any existing or 2342
former municipal ordinance or law of another state or the United 2343
States, any existing or former law applicable in a military 2344
court or in an Indian trial court, or any existing or former law 2345
of any nation other than the United States that is or was 2346
substantially equivalent to a violation of section 2907.04 of 2347
the Revised Code and to whom all of the factors described in 2348
divisions (A) (1) (a) to (f) of this section apply. For purposes 2349
of this division: 2350

(a) The reference in division (A) (1) (b) of this section to 2351
a community control sanction shall be construed as including 2352
nonprison sanctions under the law of the jurisdiction in which 2353
the offender was convicted of or pleaded guilty to the violation 2354

that is or was substantially equivalent to a violation of 2355
section 2907.04 of the Revised Code; 2356

(b) The reference in division (A) (1) (d) of this section to 2357
the violations specified in that division shall be construed as 2358
including substantially equivalent violations under the law of 2359
the jurisdiction in which the offender was convicted of or 2360
pleaded guilty to the violation that is or was substantially 2361
equivalent to a violation of section 2907.04 of the Revised 2362
Code. 2363

(B) Upon completion of all community control sanctions 2364
imposed by the sentencing court for the violation of section 2365
2907.04 of the Revised Code or the violation of the 2366
substantially equivalent law or ordinance, whichever is 2367
applicable, an eligible offender may petition the appropriate 2368
court specified in division (C) of this section to review the 2369
effectiveness of the offender's participation in community 2370
control sanctions and to determine whether to terminate the 2371
offender's duty to comply with sections 2950.04, 2950.05, and 2372
2950.06 of the Revised Code, reclassify the offender as a tier I 2373
sex offender/child-victim offender, or continue the offender's 2374
current classification. 2375

(C) Except as otherwise provided in this division, the 2376
eligible offender shall file the petition described in division 2377
(B) of this section in the court in which the eligible offender 2378
was convicted of or pleaded guilty to the offense. If the 2379
eligible offender was convicted of or pleaded guilty to the 2380
offense in a jurisdiction other than this state, the eligible 2381
offender shall file the petition in whichever of the following 2382
courts is applicable: 2383

(1) If the eligible offender is a resident of this state, 2384

in the court of common pleas of the county in which the offender resides; 2385
2386

(2) If the eligible offender is not a resident of this state, in the court of common pleas of the county in which the offender has registered pursuant to section 2950.04 of the Revised Code. If the offender has registered addresses of that nature in more than one county, the offender may file a petition in the court of only one of those counties. 2387
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(D) An eligible offender who files a petition under division (B) of this section shall include all of the following with the petition: 2393
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(1) A certified copy of the judgment entry and any other documentation of the sentence given for the offense for which the eligible offender was convicted or pleaded guilty; 2396
2397
2398

(2) Documentation of the date of discharge from probation supervision or other supervision, if applicable; 2399
2400

(3) Evidence that the eligible offender has completed a sex offender treatment program certified by the department of 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; 2401
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(4) Any other evidence necessary to show that the offender meets the qualifications listed in division (A) of this section; 2409
2410

(5) Evidence that the eligible offender has been rehabilitated to a satisfactory degree by successful completion of community control sanctions. 2411
2412
2413

(E) An eligible offender may obtain, at the offender's 2414
expense, a risk assessment or professional opinion, recommending 2415
relief under this section, from a licensed clinical 2416
psychologist, social worker, or other professional certified in 2417
sex offender treatment. The professional opinion or risk 2418
assessment may be submitted with the petition as additional 2419
evidence of rehabilitation. 2420

(F) Upon the filing of a petition under division (B) of 2421
this section, the court shall schedule a hearing to review the 2422
eligible offender's petition and all evidence of rehabilitation 2423
accompanying the petition. The court shall notify the offender 2424
and the prosecutor of the county in which the petition is filed 2425
of the date, time, and place of the hearing. Upon receipt of the 2426
notice, the prosecutor shall notify the victim of the date, 2427
time, and place of the hearing. The victim may submit a written 2428
statement to the prosecutor regarding any knowledge the victim 2429
has of the eligible offender's conduct while subject to the 2430
duties imposed by sections 2950.04, 2950.05, and 2950.06 of the 2431
Revised Code. At least seven days before the hearing date, the 2432
prosecutor may file an objection to the petition with the court 2433
and serve a copy of the objection to the petition on the 2434
eligible offender or the eligible offender's attorney. In 2435
addition to considering the evidence and information included 2436
with the petition as described in division (D) of this section 2437
and any risk assessment or professional opinion submitted as 2438
described in division (E) of this section, in determining the 2439
type of order to enter in response to the petition, the court 2440
shall consider any objections submitted by the prosecutor and 2441
any written statement submitted by the victim. After the 2442
hearing, the court shall enter one of the following orders: 2443

(1) An order to terminate the offender's duty to comply 2444

with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 2445

(2) If the offender is classified a tier II sex 2446
offender/child-victim offender, an order to reclassify the 2447
offender from a tier II sex offender/child-victim offender 2448
classification to a tier I sex offender/child-victim offender 2449
classification; 2450

(3) If the offender is classified a tier I sex 2451
offender/child-victim offender or a tier II sex offender/child- 2452
victim offender, an order to continue the offender's 2453
classification as a tier I sex offender/child-victim offender or 2454
tier II sex offender/child-victim offender, whichever is 2455
applicable, required to comply with sections 2950.04, 2950.05, 2456
and 2950.06 of the Revised Code. 2457

(G) After issuing an order pursuant to division (F) of 2458
this section, the court shall provide a copy of the order to the 2459
eligible offender and the bureau of criminal identification and 2460
investigation. The bureau, upon receipt of the copy, shall 2461
promptly notify the sheriff with whom the offender most recently 2462
registered under section 2950.04 or 2950.05 of the Revised Code 2463
of the court's order. 2464

(H) (1) An order issued under division (F) (2) or (3) of 2465
this section shall remain in effect for the duration of the 2466
eligible offender's duty to comply with sections 2950.04, 2467
2950.05, and 2950.06 of the Revised Code under the 2468
reclassification or continuation, whichever is applicable, as 2469
specified in section 2950.07 of the Revised Code, except that an 2470
eligible offender may refile a petition under this section at 2471
the time prescribed under division (H) (2) of this section. An 2472
order issued under division (F) (2) or (3) of this section shall 2473
not increase the duration of the offender's duty to comply with 2474

sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2475

(2) After the eligible offender's initial petition filed 2476
under this section, if the court entered an order continuing the 2477
offender's classification or reclassifying the offender, the 2478
offender may file a second petition not earlier than three years 2479
after the court entered the first order. After the second 2480
petition, the offender may file one subsequent petition not 2481
earlier than five years after the most recent order continuing 2482
the offender's classification or reclassifying the offender. A 2483
petition filed under this division shall comply with the 2484
requirements described in divisions (C), (D), and (E) of this 2485
section. 2486

(3) Upon the filing of a second or subsequent petition by 2487
an eligible offender pursuant to division (H) (2) of this 2488
section, the court shall schedule a hearing to review any 2489
previous order entered under this section, consider all of the 2490
documents previously submitted, and evaluate any new evidence of 2491
rehabilitation presented with the petition. The court shall 2492
notify the offender and the prosecutor of the county in which 2493
the petition is filed of the date, time, and place of the 2494
hearing. Upon receipt of the notice, the prosecutor shall notify 2495
the victim of the date, time, and place of the hearing. The 2496
victim may submit a written statement to the prosecutor 2497
regarding any knowledge the victim has of the eligible 2498
offender's conduct while subject to the duties imposed by 2499
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At 2500
least seven days before the hearing date, the prosecutor may 2501
file an objection to the petition with the court and serve a 2502
copy of the objection to the petition on the eligible offender 2503
or the eligible offender's attorney. In addition to reviewing 2504
any previous order, considering the documents previously 2505

submitted, and evaluating any new evidence of rehabilitation 2506
presented with the petition as described in this division, in 2507
determining whether to deny the petition or the type of order to 2508
enter in response to the petition, the court shall consider any 2509
objections submitted by the prosecutor and any written statement 2510
submitted by the victim. After the hearing on the petition, the 2511
court may deny the petition or enter either of the following 2512
orders: 2513

(a) If the previous order continued the offender's 2514
classification as a tier II sex offender/child-victim offender, 2515
an order to reclassify the offender as a tier I sex 2516
offender/child-victim offender or terminate the offender's duty 2517
to comply with sections 2950.04, 2950.05, and 2950.06 of the 2518
Revised Code; 2519

(b) If the previous order reclassified the offender as a 2520
tier I sex offender/child-victim offender or continued the 2521
offender's classification as a tier I sex offender/child-victim 2522
offender, an order to terminate the offender's duty to comply 2523
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 2524

Sec. 2971.01. As used in this chapter: 2525

(A) "Mandatory prison term" has the same meaning as in 2526
section 2929.01 of the Revised Code. 2527

(B) "Designated homicide, assault, or kidnapping offense" 2528
means any of the following: 2529

(1) A violation of section 2903.01, 2903.02, 2903.11, or 2530
2905.01 of the Revised Code or a violation of division (A) of 2531
section 2903.04 of the Revised Code; 2532

(2) An attempt to commit or complicity in committing a 2533
violation listed in division (B) (1) of this section, if the 2534

attempt or complicity is a felony.	2535
(C) "Examiner" has the same meaning as in section 2945.371 of the Revised Code.	2536 2537
(D) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	2538 2539
(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.	2540 2541 2542
(F) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	2543 2544 2545
(G) "Sexually violent offense" means any of the following:	2546
(1) A violent sex offense;	2547
(2) A designated homicide, assault, or kidnapping offense that the offender commits with a sexual motivation.	2548 2549
(H) (1) "Sexually violent predator" means a person who, on or after January 1, 1997, commits a sexually violent offense and is likely to engage in the future in one or more sexually violent offenses.	2550 2551 2552 2553
(2) For purposes of division (H) (1) of this section, any of the following factors may be considered as evidence tending to indicate that there is a likelihood that the person will engage in the future in one or more sexually violent offenses:	2554 2555 2556 2557
(a) The person has been convicted two or more times, in separate criminal actions, of a sexually oriented offense or a child-victim oriented offense. For purposes of this division, convictions that result from or are connected with the same act	2558 2559 2560 2561

or result from offenses committed at the same time are one 2562
conviction, and a conviction set aside pursuant to law is not a 2563
conviction. 2564

(b) The person has a documented history from childhood, 2565
into the juvenile developmental years, that exhibits sexually 2566
deviant behavior. 2567

(c) Available information or evidence suggests that the 2568
person chronically commits offenses with a sexual motivation. 2569

(d) The person has committed one or more offenses in which 2570
the person has tortured or engaged in ritualistic acts with one 2571
or more victims. 2572

(e) The person has committed one or more offenses in which 2573
one or more victims were physically harmed to the degree that 2574
the particular victim's life was in jeopardy. 2575

(f) Any other relevant evidence. 2576

(I) "Sexually violent predator specification" means a 2577
specification, as described in section 2941.148 of the Revised 2578
Code, that charges that a person charged with a violent sex 2579
offense, or a person charged with a designated homicide, 2580
assault, or kidnapping offense and a sexual motivation 2581
specification, is a sexually violent predator. 2582

(J) "Sexual motivation" means a purpose to gratify the 2583
sexual needs or desires of the offender. 2584

(K) "Sexual motivation specification" means a 2585
specification, as described in section 2941.147 of the Revised 2586
Code, that charges that a person charged with a designated 2587
homicide, assault, or kidnapping offense committed the offense 2588
with a sexual motivation. 2589

(L) "Violent sex offense" means any of the following:	2590
(1) A violation of section 2907.02, 2907.03 <u>if the sexual</u>	2591
<u>activity involved is sexual conduct</u> , or 2907.12 or of division	2592
(A) (4) or (B) of section 2907.05 of the Revised Code;	2593
(2) A felony violation of a former law of this state that	2594
is substantially equivalent to a violation listed in division	2595
(L) (1) of this section or of an existing or former law of the	2596
United States or of another state that is substantially	2597
equivalent to a violation listed in division (L) (1) of this	2598
section;	2599
(3) An attempt to commit or complicity in committing a	2600
violation listed in division (L) (1) or (2) of this section if	2601
the attempt or complicity is a felony.	2602
Sec. 3107.07. Consent to adoption is not required of any	2603
of the following:	2604
(A) A parent of a minor, when it is alleged in the	2605
adoption petition and the court, after proper service of notice	2606
and hearing, finds by clear and convincing evidence that the	2607
parent has failed without justifiable cause to provide more than	2608
de minimis contact with the minor or to provide for the	2609
maintenance and support of the minor as required by law or	2610
judicial decree for a period of at least one year immediately	2611
preceding either the filing of the adoption petition or the	2612
placement of the minor in the home of the petitioner.	2613
(B) The putative father of a minor if either of the	2614
following applies:	2615
(1) The putative father fails to register as the minor's	2616
putative father with the putative father registry established	2617
under section 3107.062 of the Revised Code not later than	2618

fifteen days after the minor's birth; 2619

(2) The court finds, after proper service of notice and 2620
hearing, that any of the following are the case: 2621

(a) The putative father is not the father of the minor; 2622

(b) The putative father has willfully abandoned or failed 2623
to care for and support the minor; 2624

(c) The putative father has willfully abandoned the mother 2625
of the minor during her pregnancy and up to the time of her 2626
surrender of the minor, or the minor's placement in the home of 2627
the petitioner, whichever occurs first. 2628

(C) Except as provided in section 3107.071 of the Revised 2629
Code, a parent who has entered into a voluntary permanent 2630
custody surrender agreement under division (B) of section 2631
5103.15 of the Revised Code; 2632

(D) A parent whose parental rights have been terminated by 2633
order of a juvenile court under Chapter 2151. of the Revised 2634
Code; 2635

(E) A parent who is married to the petitioner and supports 2636
the adoption; 2637

(F) The father, putative father, or mother, of a minor if 2638
the minor is conceived as the result of the commission of rape 2639
or sexual battery by the father, putative father, or mother and 2640
the father, putative father, or mother is convicted of or pleads 2641
guilty to the commission of that offense. As used in this 2642
division, "rape" means a violation of section 2907.02 of the 2643
Revised Code or a similar law of another state and "sexual 2644
battery" means a violation of section 2907.03 of the Revised 2645
Code if the sexual activity involved is sexual conduct, or a 2646

similar law of another state. 2647

(G) A legal guardian or guardian ad litem of a parent 2648
judicially declared incompetent in a separate court proceeding 2649
who has failed to respond in writing to a request for consent, 2650
for a period of thirty days, or who, after examination of the 2651
written reasons for withholding consent, is found by the court 2652
to be withholding consent unreasonably; 2653

(H) Any legal guardian or lawful custodian of the person 2654
to be adopted, other than a parent, who has failed to respond in 2655
writing to a request for consent, for a period of thirty days, 2656
or who, after examination of the written reasons for withholding 2657
consent, is found by the court to be withholding consent 2658
unreasonably; 2659

(I) The spouse of the person to be adopted, if the failure 2660
of the spouse to consent to the adoption is found by the court 2661
to be by reason of prolonged unexplained absence, 2662
unavailability, incapacity, or circumstances that make it 2663
impossible or unreasonably difficult to obtain the consent or 2664
refusal of the spouse; 2665

(J) Any parent, legal guardian, or other lawful custodian 2666
in a foreign country, if the person to be adopted has been 2667
released for adoption pursuant to the laws of the country in 2668
which the person resides and the release of such person is in a 2669
form that satisfies the requirements of the immigration and 2670
naturalization service of the United States department of 2671
justice for purposes of immigration to the United States 2672
pursuant to section 101(b)(1)(F) of the "Immigration and 2673
Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101(b)(1)(F), 2674
as amended or reenacted. 2675

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

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

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

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

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

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

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

IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 2705
U.S.C.A. 651, as amended, or the alleged father's personal 2706
representative. 2707

(2) A man alleged or alleging himself to be the child's 2708
father is not eligible to file an action under division (A) (1) 2709
of this section if the man was convicted of or pleaded guilty to 2710
rape or sexual battery, the victim of the rape or sexual battery 2711
was the child's mother, and the child was conceived as a result 2712
of the rape or sexual battery. 2713

(B) An agreement does not bar an action under this 2714
section. 2715

(C) If an action under this section is brought before the 2716
birth of the child and if the action is contested, all 2717
proceedings, except service of process and the taking of 2718
depositions to perpetuate testimony, may be stayed until after 2719
the birth. 2720

(D) A recipient of public assistance or of services under 2721
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 2722
42 U.S.C.A. 651, as amended, shall cooperate with the child 2723
support enforcement agency of the county in which a child 2724
resides to obtain an administrative determination pursuant to 2725
sections 3111.38 to 3111.54 of the Revised Code, or, if 2726
necessary, a court determination pursuant to sections 3111.01 to 2727
3111.18 of the Revised Code, of the existence or nonexistence of 2728
a parent and child relationship between the father and the 2729
child. If the recipient fails to cooperate, the agency may 2730
commence an action to determine the existence or nonexistence of 2731
a parent and child relationship between the father and the child 2732
pursuant to sections 3111.01 to 3111.18 of the Revised Code. 2733

(E) As used in this section:	2734
(1) "Public assistance" means both of the following:	2735
(a) Medicaid;	2736
(b) Ohio works first under Chapter 5107. of the Revised Code.	2737 2738
(2) "Rape" means a violation of section 2907.02 of the Revised Code or similar law of another state.	2739 2740
(3) "Sexual battery" means a violation of section 2907.03 of the Revised Code <u>if the sexual activity involved is sexual conduct</u> , or similar law of another state.	2741 2742 2743
Sec. 4723.28. (A) The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions if it finds that a person committed fraud in passing an examination required to obtain a license or dialysis technician certificate issued by the board or to have committed fraud, misrepresentation, or deception in applying for or securing any nursing license or dialysis technician certificate issued by the board: deny, revoke, suspend, or place restrictions on any nursing license or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation.	2744 2745 2746 2747 2748 2749 2750 2751 2752 2753 2754 2755
(B) Except as provided in section 4723.092 of the Revised Code, the board of nursing, by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke, suspend, or place restrictions on any nursing license or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license or dialysis technician certificate; or impose a fine of not more than five	2756 2757 2758 2759 2760 2761 2762

hundred dollars per violation. The sanctions may be imposed for 2763
any of the following: 2764

(1) Denial, revocation, suspension, or restriction of 2765
authority to engage in a licensed profession or practice a 2766
health care occupation, including nursing or practice as a 2767
dialysis technician, for any reason other than a failure to 2768
renew, in Ohio or another state or jurisdiction; 2769

(2) Engaging in the practice of nursing or engaging in 2770
practice as a dialysis technician, having failed to renew a 2771
nursing license or dialysis technician certificate issued under 2772
this chapter, or while a nursing license or dialysis technician 2773
certificate is under suspension; 2774

(3) Conviction of, a plea of guilty to, a judicial finding 2775
of guilt of, a judicial finding of guilt resulting from a plea 2776
of no contest to, or a judicial finding of eligibility for a 2777
pretrial diversion or similar program or for intervention in 2778
lieu of conviction for, a misdemeanor committed in the course of 2779
practice; 2780

(4) Conviction of, a plea of guilty to, a judicial finding 2781
of guilt of, a judicial finding of guilt resulting from a plea 2782
of no contest to, or a judicial finding of eligibility for a 2783
pretrial diversion or similar program or for intervention in 2784
lieu of conviction for, any felony or of any crime involving 2785
gross immorality or moral turpitude; 2786

(5) Selling, giving away, or administering drugs or 2787
therapeutic devices for other than legal and legitimate 2788
therapeutic purposes; or conviction of, a plea of guilty to, a 2789
judicial finding of guilt of, a judicial finding of guilt 2790
resulting from a plea of no contest to, or a judicial finding of 2791

eligibility for a pretrial diversion or similar program or for 2792
intervention in lieu of conviction for, violating any municipal, 2793
state, county, or federal drug law; 2794

(6) Conviction of, a plea of guilty to, a judicial finding 2795
of guilt of, a judicial finding of guilt resulting from a plea 2796
of no contest to, or a judicial finding of eligibility for a 2797
pretrial diversion or similar program or for intervention in 2798
lieu of conviction for, an act in another jurisdiction that 2799
would constitute a felony or a crime of moral turpitude in Ohio; 2800

(7) Conviction of, a plea of guilty to, a judicial finding 2801
of guilt of, a judicial finding of guilt resulting from a plea 2802
of no contest to, or a judicial finding of eligibility for a 2803
pretrial diversion or similar program or for intervention in 2804
lieu of conviction for, an act in the course of practice in 2805
another jurisdiction that would constitute a misdemeanor in 2806
Ohio; 2807

(8) Self-administering or otherwise taking into the body 2808
any dangerous drug, as defined in section 4729.01 of the Revised 2809
Code, in any way that is not in accordance with a legal, valid 2810
prescription issued for that individual, or self-administering 2811
or otherwise taking into the body any drug that is a schedule I 2812
controlled substance; 2813

(9) Habitual or excessive use of controlled substances, 2814
other habit-forming drugs, or alcohol or other chemical 2815
substances to an extent that impairs the individual's ability to 2816
provide safe nursing care or safe dialysis care; 2817

(10) Impairment of the ability to practice according to 2818
acceptable and prevailing standards of safe nursing care or safe 2819
dialysis care because of the use of drugs, alcohol, or other 2820

chemical substances;	2821
(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of a physical or mental disability;	2822 2823 2824
(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	2825 2826
(13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice;	2827 2828
(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	2829 2830 2831 2832 2833 2834
(15) The suspension or termination of employment by the United States department of defense or department of veterans affairs for any act that violates or would violate this chapter;	2835 2836 2837
(16) Violation of this chapter or any rules adopted under it;	2838 2839
(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;	2840 2841
(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;	2842 2843 2844
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	2845 2846
(20) In the case of a registered nurse, engaging in	2847

activities that exceed the practice of nursing as a registered nurse;	2848 2849
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	2850 2851 2852
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	2853 2854 2855
(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;	2856 2857 2858
(24) In the case of an advanced practice registered nurse, except as provided in division (M) of this section, either of the following:	2859 2860 2861
(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;	2862 2863 2864 2865 2866 2867
(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay.	2868 2869 2870 2871 2872
(25) Failure to comply with the terms and conditions of participation in the safe haven program conducted under sections 4723.35 and 4723.351 of the Revised Code;	2873 2874 2875

(26) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;	2876 2877 2878
(27) In the case of an advanced practice registered nurse:	2879
(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;	2880 2881 2882
(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.	2883 2884
(28) In the case of an advanced practice registered nurse other than a certified registered nurse anesthetist, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;	2885 2886 2887 2888 2889
(29) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;	2890 2891 2892 2893 2894
(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	2895 2896
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	2897 2898 2899
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	2900 2901 2902 2903

(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	2904 2905
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	2906 2907 2908
(33) Assisting suicide, as defined in section 3795.01 of the Revised Code;	2909 2910
(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;	2911 2912 2913 2914
(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	2915 2916 2917 2918
(36) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;	2919 2920 2921 2922 2923 2924
(37) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;	2925 2926 2927 2928 2929
<u>(38) Violation of section 4723.93 of the Revised Code.</u>	2930
(C) Disciplinary actions taken by the board under	2931

divisions (A) and (B) of this section shall be taken pursuant to 2932
an adjudication conducted under Chapter 119. of the Revised 2933
Code, except that in lieu of a hearing, the board may enter into 2934
a consent agreement with an individual to resolve an allegation 2935
of a violation of this chapter or any rule adopted under it. A 2936
consent agreement, when ratified by a vote of a quorum, shall 2937
constitute the findings and order of the board with respect to 2938
the matter addressed in the agreement. If the board refuses to 2939
ratify a consent agreement, the admissions and findings 2940
contained in the agreement shall be of no effect. 2941

(D) The hearings of the board shall be conducted in 2942
accordance with Chapter 119. of the Revised Code, the board may 2943
appoint a hearing examiner, as provided in section 119.09 of the 2944
Revised Code, to conduct any hearing the board is authorized to 2945
hold under Chapter 119. of the Revised Code. 2946

In any instance in which the board is required under 2947
Chapter 119. of the Revised Code to give notice of an 2948
opportunity for a hearing and the applicant, licensee, or 2949
certificate holder does not make a timely request for a hearing 2950
in accordance with section 119.07 of the Revised Code, the board 2951
is not required to hold a hearing, but may adopt, by a vote of a 2952
quorum, a final order that contains the board's findings. In the 2953
final order, the board may order any of the sanctions listed in 2954
division (A) or (B) of this section. 2955

(E) If a criminal action is brought against a registered 2956
nurse, licensed practical nurse, or dialysis technician for an 2957
act or crime described in divisions (B) (3) to (7) of this 2958
section and the action is dismissed by the trial court other 2959
than on the merits, the board shall conduct an adjudication to 2960
determine whether the registered nurse, licensed practical 2961

nurse, or dialysis technician committed the act on which the 2962
action was based. If the board determines on the basis of the 2963
adjudication that the registered nurse, licensed practical 2964
nurse, or dialysis technician committed the act, or if the 2965
registered nurse, licensed practical nurse, or dialysis 2966
technician fails to participate in the adjudication, the board 2967
may take action as though the registered nurse, licensed 2968
practical nurse, or dialysis technician had been convicted of 2969
the act. 2970

If the board takes action on the basis of a conviction, 2971
plea, or a judicial finding as described in divisions (B) (3) to 2972
(7) of this section that is overturned on appeal, the registered 2973
nurse, licensed practical nurse, or dialysis technician may, on 2974
exhaustion of the appeal process, petition the board for 2975
reconsideration of its action. On receipt of the petition and 2976
supporting court documents, the board shall temporarily rescind 2977
its action. If the board determines that the decision on appeal 2978
was a decision on the merits, it shall permanently rescind its 2979
action. If the board determines that the decision on appeal was 2980
not a decision on the merits, it shall conduct an adjudication 2981
to determine whether the registered nurse, licensed practical 2982
nurse, or dialysis technician committed the act on which the 2983
original conviction, plea, or judicial finding was based. If the 2984
board determines on the basis of the adjudication that the 2985
registered nurse, licensed practical nurse, or dialysis 2986
technician committed such act, or if the registered nurse, 2987
licensed practical nurse, or dialysis technician does not 2988
request an adjudication, the board shall reinstate its action; 2989
otherwise, the board shall permanently rescind its action. 2990

Notwithstanding the provision of division (D) (2) of 2991
section 2953.32 or division (F) (1) of section 2953.39 of the 2992

Revised Code specifying that if records pertaining to a criminal 2993
case are sealed or expunged under that section the proceedings 2994
in the case shall be deemed not to have occurred, sealing or 2995
expungement of the following records on which the board has 2996
based an action under this section shall have no effect on the 2997
board's action or any sanction imposed by the board under this 2998
section: records of any conviction, guilty plea, judicial 2999
finding of guilt resulting from a plea of no contest, or a 3000
judicial finding of eligibility for a pretrial diversion program 3001
or intervention in lieu of conviction. 3002

The board shall not be required to seal, destroy, redact, 3003
or otherwise modify its records to reflect the court's sealing 3004
or expungement of conviction records. 3005

(F) The board may investigate an individual's criminal 3006
background in performing its duties under this section. As part 3007
of such investigation, the board may order the individual to 3008
submit, at the individual's expense, a request to the bureau of 3009
criminal identification and investigation for a criminal records 3010
check and check of federal bureau of investigation records in 3011
accordance with the procedure described in section 4723.091 of 3012
the Revised Code. 3013

(G) During the course of an investigation conducted under 3014
this section, the board may compel any registered nurse, 3015
licensed practical nurse, or dialysis technician or applicant 3016
under this chapter to submit to a mental or physical 3017
examination, or both, as required by the board and at the 3018
expense of the individual, if the board finds reason to believe 3019
that the individual under investigation may have a physical or 3020
mental impairment that may affect the individual's ability to 3021
provide safe nursing care. 3022

The board shall not compel an individual who has been 3023
referred to the safe haven program as described in sections 3024
4723.35 and 4723.351 of the Revised Code to submit to a mental 3025
or physical examination. 3026

Failure of any individual to submit to a mental or 3027
physical examination when directed constitutes an admission of 3028
the allegations, unless the failure is due to circumstances 3029
beyond the individual's control, and a default and final order 3030
may be entered without the taking of testimony or presentation 3031
of evidence. 3032

If the board finds that an individual is impaired, the 3033
board shall require the individual to submit to care, 3034
counseling, or treatment approved or designated by the board, as 3035
a condition for initial, continued, reinstated, or renewed 3036
authority to practice. The individual shall be afforded an 3037
opportunity to demonstrate to the board that the individual can 3038
begin or resume the individual's occupation in compliance with 3039
acceptable and prevailing standards of care under the provisions 3040
of the individual's authority to practice. 3041

For purposes of this division, any registered nurse, 3042
licensed practical nurse, or dialysis technician or applicant 3043
under this chapter shall be deemed to have given consent to 3044
submit to a mental or physical examination when directed to do 3045
so in writing by the board, and to have waived all objections to 3046
the admissibility of testimony or examination reports that 3047
constitute a privileged communication. 3048

(H) The board shall investigate evidence that appears to 3049
show that any person has violated any provision of this chapter 3050
or any rule of the board. Any person may report to the board any 3051
information the person may have that appears to show a violation 3052

of any provision of this chapter or rule of the board. In the 3053
absence of bad faith, any person who reports such information or 3054
who testifies before the board in any adjudication conducted 3055
under Chapter 119. of the Revised Code shall not be liable for 3056
civil damages as a result of the report or testimony. 3057

(I) All of the following apply under this chapter with 3058
respect to the confidentiality of information: 3059

(1) Information received by the board pursuant to a 3060
complaint or an investigation is confidential and not subject to 3061
discovery in any civil action, except that the board may 3062
disclose information to law enforcement officers and government 3063
entities for purposes of an investigation of either a licensed 3064
health care professional, including a registered nurse, licensed 3065
practical nurse, or dialysis technician, or a person who may 3066
have engaged in the unauthorized practice of nursing or dialysis 3067
care. No law enforcement officer or government entity with 3068
knowledge of any information disclosed by the board pursuant to 3069
this division shall divulge the information to any other person 3070
or government entity except for the purpose of a government 3071
investigation, a prosecution, or an adjudication by a court or 3072
government entity. 3073

(2) If an investigation requires a review of patient 3074
records, the investigation and proceeding shall be conducted in 3075
such a manner as to protect patient confidentiality. 3076

(3) All adjudications and investigations of the board 3077
shall be considered civil actions for the purposes of section 3078
2305.252 of the Revised Code. 3079

(4) Any board activity that involves continued monitoring 3080
of an individual as part of or following any disciplinary action 3081

taken under this section shall be conducted in a manner that 3082
maintains the individual's confidentiality. Information received 3083
or maintained by the board with respect to the board's 3084
monitoring activities is not subject to discovery in any civil 3085
action and is confidential, except that the board may disclose 3086
information to law enforcement officers and government entities 3087
for purposes of an investigation of a licensee or certificate 3088
holder. 3089

(J) Any action taken by the board under this section 3090
resulting in a suspension from practice shall be accompanied by 3091
a written statement of the conditions under which the person may 3092
be reinstated to practice. 3093

(K) When the board refuses to grant a license or 3094
certificate to an applicant, revokes a license or certificate, 3095
or refuses to reinstate a license or certificate, the board may 3096
specify that its action is permanent. An individual subject to 3097
permanent action taken by the board is forever ineligible to 3098
hold a license or certificate of the type that was refused or 3099
revoked and the board shall not accept from the individual an 3100
application for reinstatement of the license or certificate or 3101
for a new license or certificate. 3102

(L) No unilateral surrender of a nursing license or 3103
dialysis technician certificate issued under this chapter shall 3104
be effective unless accepted by majority vote of the board. No 3105
application for a nursing license or dialysis technician 3106
certificate issued under this chapter may be withdrawn without a 3107
majority vote of the board. The board's jurisdiction to take 3108
disciplinary action under this section is not removed or limited 3109
when an individual has a license or certificate classified as 3110
inactive or fails to renew a license or certificate. 3111

(M) Sanctions shall not be imposed under division (B) (24) 3112
of this section against any licensee who waives deductibles and 3113
copayments as follows: 3114

(1) In compliance with the health benefit plan that 3115
expressly allows such a practice. Waiver of the deductibles or 3116
copayments shall be made only with the full knowledge and 3117
consent of the plan purchaser, payer, and third-party 3118
administrator. Documentation of the consent shall be made 3119
available to the board upon request. 3120

(2) For professional services rendered to any other person 3121
licensed pursuant to this chapter to the extent allowed by this 3122
chapter and the rules of the board. 3123

Sec. 4723.93. (A) As used in this section, "intimate 3124
examination" means a pelvic, prostate, or rectal examination. 3125

(B) Except as provided in division (C) of this section, a 3126
registered nurse, including an advanced practice registered 3127
nurse, or a student currently enrolled in and actively pursuing 3128
completion of a registered nursing program, including an 3129
advanced practice registered nursing education program, shall 3130
not perform, or authorize another individual to perform, an 3131
intimate examination on an anesthetized or unconscious patient. 3132

(C) Division (B) of this section does not apply in any of 3133
the following circumstances: 3134

(1) The performance of an intimate examination is within 3135
the scope of care for the surgical procedure or diagnostic 3136
examination to be performed on the patient. 3137

(2) The patient or the patient's legal representative 3138
gives specific, informed consent for the intimate examination, 3139
consistent with division (D) of this section. 3140

(3) An intimate examination is required for diagnostic 3141
purposes or treatment of the patient's medical condition. 3142

(4)The intimate examination is conducted by a sexual 3143
assault nurse examiner, as certified by the international 3144
association of forensic nurses or as otherwise qualified to 3145
conduct the examination, for the purpose of collecting evidence 3146
and documenting injuries. 3147

(D) To obtain informed consent for purposes of division 3148
(C) (2) of this section, the advanced practice registered nurse 3149
shall do all of the following: 3150

(1) Provide the patient or the patient's legal 3151
representative with a written or electronic informed consent 3152
form that meets all of the following requirements: 3153

(a) Is a separate consent form or is included as a 3154
distinct or separate section of a general consent form; 3155

(b) Contains the following heading at the top of the form 3156
or section: "CONSENT FOR INTIMATE EXAMINATION"; 3157

(c) Specifies the nature and purpose of the intimate 3158
examination; 3159

(d) Informs the patient or the patient's legal 3160
representative that a student may be present if the patient or 3161
the patient's legal representative authorizes a student to 3162
perform or observe the intimate examination in person or through 3163
electronic means; 3164

(e) Allows the patient or the patient's legal 3165
representative the opportunity to consent to or refuse the 3166
intimate examination; 3167

(f) Permits a patient or the patient's legal 3168

representative who consents to an intimate examination to 3169
consent to or refuse a student performing the intimate 3170
examination or observing the intimate examination in person or 3171
through electronic means. 3172

(2) Provide the patient or the patient's legal 3173
representative with a meaningful opportunity to ask questions 3174
about the intimate examination; 3175

(3) Obtain the signature of the patient or the patient's 3176
legal representative on the informed consent form; 3177

(4) Sign the informed consent form. 3178

Sec. 4730.25. (A) The state medical board, by an 3179
affirmative vote of not fewer than six members, may refuse to 3180
grant a license to practice as a physician assistant to, or may 3181
revoke the license held by, an individual found by the board to 3182
have committed fraud, misrepresentation, or deception in 3183
applying for or securing the license. 3184

(B) Except as provided in division (N) of this section, 3185
the board, by an affirmative vote of not fewer than six members, 3186
shall, to the extent permitted by law, limit, revoke, or suspend 3187
an individual's license to practice as a physician assistant or 3188
prescriber number, refuse to issue a license to an applicant, 3189
refuse to renew a license, refuse to reinstate a license, or 3190
reprimand or place on probation the holder of a license for any 3191
of the following reasons: 3192

(1) Failure to practice in accordance with the supervising 3193
physician's supervision agreement with the physician assistant, 3194
including, if applicable, the policies of the health care 3195
facility in which the supervising physician and physician 3196
assistant are practicing; 3197

(2) Failure to comply with the requirements of this	3198
chapter, Chapter 4731. of the Revised Code, or any rules adopted	3199
by the board;	3200
(3) Violating or attempting to violate, directly or	3201
indirectly, or assisting in or abetting the violation of, or	3202
conspiring to violate, any provision of this chapter, Chapter	3203
4731. of the Revised Code, or the rules adopted by the board;	3204
(4) Inability to practice according to acceptable and	3205
prevailing standards of care by reason of mental illness or	3206
physical illness, including physical deterioration that	3207
adversely affects cognitive, motor, or perceptive skills;	3208
(5) Impairment of ability to practice according to	3209
acceptable and prevailing standards of care because of substance	3210
use disorder or excessive use or abuse of drugs, alcohol, or	3211
other substances that may impair ability to practice;	3212
(6) Administering drugs for purposes other than those	3213
authorized under this chapter;	3214
(7) Willfully betraying a professional confidence;	3215
(8) Making a false, fraudulent, deceptive, or misleading	3216
statement in soliciting or advertising for employment as a	3217
physician assistant; in connection with any solicitation or	3218
advertisement for patients; in relation to the practice of	3219
medicine as it pertains to physician assistants; or in securing	3220
or attempting to secure a license to practice as a physician	3221
assistant.	3222
As used in this division, "false, fraudulent, deceptive,	3223
or misleading statement" means a statement that includes a	3224
misrepresentation of fact, is likely to mislead or deceive	3225
because of a failure to disclose material facts, is intended or	3226

is likely to create false or unjustified expectations of 3227
favorable results, or includes representations or implications 3228
that in reasonable probability will cause an ordinarily prudent 3229
person to misunderstand or be deceived. 3230

(9) Representing, with the purpose of obtaining 3231
compensation or other advantage personally or for any other 3232
person, that an incurable disease or injury, or other incurable 3233
condition, can be permanently cured; 3234

(10) The obtaining of, or attempting to obtain, money or 3235
anything of value by fraudulent misrepresentations in the course 3236
of practice; 3237

(11) A plea of guilty to, a judicial finding of guilt of, 3238
or a judicial finding of eligibility for intervention in lieu of 3239
conviction for, a felony; 3240

(12) Commission of an act that constitutes a felony in 3241
this state, regardless of the jurisdiction in which the act was 3242
committed; 3243

(13) A plea of guilty to, a judicial finding of guilt of, 3244
or a judicial finding of eligibility for intervention in lieu of 3245
conviction for, a misdemeanor committed in the course of 3246
practice; 3247

(14) A plea of guilty to, a judicial finding of guilt of, 3248
or a judicial finding of eligibility for intervention in lieu of 3249
conviction for, a misdemeanor involving moral turpitude; 3250

(15) Commission of an act in the course of practice that 3251
constitutes a misdemeanor in this state, regardless of the 3252
jurisdiction in which the act was committed; 3253

(16) Commission of an act involving moral turpitude that 3254

constitutes a misdemeanor in this state, regardless of the 3255
jurisdiction in which the act was committed; 3256

(17) A plea of guilty to, a judicial finding of guilt of, 3257
or a judicial finding of eligibility for intervention in lieu of 3258
conviction for violating any state or federal law regulating the 3259
possession, distribution, or use of any drug, including 3260
trafficking in drugs; 3261

(18) Any of the following actions taken by the state 3262
agency responsible for regulating the practice of physician 3263
assistants in another state, for any reason other than the 3264
nonpayment of fees: the limitation, revocation, or suspension of 3265
an individual's license to practice; acceptance of an 3266
individual's license surrender; denial of a license; refusal to 3267
renew or reinstate a license; imposition of probation; or 3268
issuance of an order of censure or other reprimand; 3269

(19) A departure from, or failure to conform to, minimal 3270
standards of care of similar physician assistants under the same 3271
or similar circumstances, regardless of whether actual injury to 3272
a patient is established; 3273

(20) Violation of the conditions placed by the board on a 3274
license to practice as a physician assistant; 3275

(21) Failure to use universal blood and body fluid 3276
precautions established by rules adopted under section 4731.051 3277
of the Revised Code; 3278

(22) Failure to cooperate in an investigation conducted by 3279
the board under section 4730.26 of the Revised Code, including 3280
failure to comply with a subpoena or order issued by the board 3281
or failure to answer truthfully a question presented by the 3282
board at a deposition or in written interrogatories, except that 3283

failure to cooperate with an investigation shall not constitute 3284
grounds for discipline under this section if a court of 3285
competent jurisdiction has issued an order that either quashes a 3286
subpoena or permits the individual to withhold the testimony or 3287
evidence in issue; 3288

(23) Assisting suicide, as defined in section 3795.01 of 3289
the Revised Code; 3290

(24) Prescribing any drug or device to perform or induce 3291
an abortion, or otherwise performing or inducing an abortion; 3292

(25) Failure to comply with section 4730.53 of the Revised 3293
Code, unless the board no longer maintains a drug database 3294
pursuant to section 4729.75 of the Revised Code; 3295

(26) Failure to comply with the requirements in section 3296
3719.061 of the Revised Code before issuing for a minor a 3297
prescription for an opioid analgesic, as defined in section 3298
3719.01 of the Revised Code; 3299

(27) Having certification by the national commission on 3300
certification of physician assistants or a successor 3301
organization expire, lapse, or be suspended or revoked; 3302

(28) The revocation, suspension, restriction, reduction, 3303
or termination of clinical privileges by the United States 3304
department of defense or department of veterans affairs or the 3305
termination or suspension of a certificate of registration to 3306
prescribe drugs by the drug enforcement administration of the 3307
United States department of justice; 3308

(29) Failure to comply with terms of a consult agreement 3309
entered into with a pharmacist pursuant to section 4729.39 of 3310
the Revised Code; 3311

(30) Violation of section 4730.57 of the Revised Code. 3312

(C) Disciplinary actions taken by the board under 3313
divisions (A) and (B) of this section shall be taken pursuant to 3314
an adjudication under Chapter 119. of the Revised Code, except 3315
that in lieu of an adjudication, the board may enter into a 3316
consent agreement with a physician assistant or applicant to 3317
resolve an allegation of a violation of this chapter or any rule 3318
adopted under it. A consent agreement, when ratified by an 3319
affirmative vote of not fewer than six members of the board, 3320
shall constitute the findings and order of the board with 3321
respect to the matter addressed in the agreement. If the board 3322
refuses to ratify a consent agreement, the admissions and 3323
findings contained in the consent agreement shall be of no force 3324
or effect. 3325

(D) For purposes of divisions (B) (12), (15), and (16) of 3326
this section, the commission of the act may be established by a 3327
finding by the board, pursuant to an adjudication under Chapter 3328
119. of the Revised Code, that the applicant or license holder 3329
committed the act in question. The board shall have no 3330
jurisdiction under these divisions in cases where the trial 3331
court renders a final judgment in the license holder's favor and 3332
that judgment is based upon an adjudication on the merits. The 3333
board shall have jurisdiction under these divisions in cases 3334
where the trial court issues an order of dismissal upon 3335
technical or procedural grounds. 3336

(E) The sealing or expungement of conviction records by 3337
any court shall have no effect upon a prior board order entered 3338
under the provisions of this section or upon the board's 3339
jurisdiction to take action under the provisions of this section 3340
if, based upon a plea of guilty, a judicial finding of guilt, or 3341

a judicial finding of eligibility for intervention in lieu of 3342
conviction, the board issued a notice of opportunity for a 3343
hearing prior to the court's order to seal or expunge the 3344
records. The board shall not be required to seal, destroy, 3345
redact, or otherwise modify its records to reflect the court's 3346
sealing or expungement of conviction records. 3347

(F) For purposes of this division, any individual who 3348
holds a license issued under this chapter, or applies for a 3349
license issued under this chapter, shall be deemed to have given 3350
consent to submit to a mental or physical examination when 3351
directed to do so in writing by the board and to have waived all 3352
objections to the admissibility of testimony or examination 3353
reports that constitute a privileged communication. 3354

(1) In enforcing division (B)(4) of this section, the 3355
board, upon a showing of a possible violation, shall refer any 3356
individual who holds, or has applied for, a license issued under 3357
this chapter to the monitoring organization that conducts the 3358
confidential monitoring program established under section 3359
4731.25 of the Revised Code. The board also may compel the 3360
individual to submit to a mental examination, physical 3361
examination, including an HIV test, or both a mental and 3362
physical examination. The expense of the examination is the 3363
responsibility of the individual compelled to be examined. 3364
Failure to submit to a mental or physical examination or consent 3365
to an HIV test ordered by the board constitutes an admission of 3366
the allegations against the individual unless the failure is due 3367
to circumstances beyond the individual's control, and a default 3368
and final order may be entered without the taking of testimony 3369
or presentation of evidence. If the board finds a physician 3370
assistant unable to practice because of the reasons set forth in 3371
division (B)(4) of this section, the board shall require the 3372

physician assistant to submit to care, counseling, or treatment 3373
by physicians approved or designated by the board, as a 3374
condition for an initial, continued, reinstated, or renewed 3375
license. An individual affected under this division shall be 3376
afforded an opportunity to demonstrate to the board the ability 3377
to resume practicing in compliance with acceptable and 3378
prevailing standards of care. 3379

(2) For purposes of division (B)(5) of this section, if 3380
the board has reason to believe that any individual who holds a 3381
license issued under this chapter or any applicant for a license 3382
suffers such impairment, the board shall refer the individual to 3383
the monitoring organization that conducts the confidential 3384
monitoring program established under section 4731.25 of the 3385
Revised Code. The board also may compel the individual to submit 3386
to a mental or physical examination, or both. The expense of the 3387
examination is the responsibility of the individual compelled to 3388
be examined. Any mental or physical examination required under 3389
this division shall be undertaken by a treatment provider or 3390
physician qualified to conduct such examination and approved 3391
under section 4731.251 of the Revised Code. 3392

Failure to submit to a mental or physical examination 3393
ordered by the board constitutes an admission of the allegations 3394
against the individual unless the failure is due to 3395
circumstances beyond the individual's control, and a default and 3396
final order may be entered without the taking of testimony or 3397
presentation of evidence. If the board determines that the 3398
individual's ability to practice is impaired, the board shall 3399
suspend the individual's license or deny the individual's 3400
application and shall require the individual, as a condition for 3401
initial, continued, reinstated, or renewed licensure, to submit 3402
to treatment. 3403

Before being eligible to apply for reinstatement of a 3404
license suspended under this division, the physician assistant 3405
shall demonstrate to the board the ability to resume practice or 3406
prescribing in compliance with acceptable and prevailing 3407
standards of care. The demonstration shall include the 3408
following: 3409

(a) Certification from a treatment provider approved under 3410
section 4731.251 of the Revised Code that the individual has 3411
successfully completed any required inpatient treatment; 3412

(b) Evidence of continuing full compliance with an 3413
aftercare contract or consent agreement; 3414

(c) Two written reports indicating that the individual's 3415
ability to practice has been assessed and that the individual 3416
has been found capable of practicing according to acceptable and 3417
prevailing standards of care. The reports shall be made by 3418
individuals or providers approved by the board for making such 3419
assessments and shall describe the basis for their 3420
determination. 3421

The board may reinstate a license suspended under this 3422
division after such demonstration and after the individual has 3423
entered into a written consent agreement. 3424

When the impaired physician assistant resumes practice or 3425
prescribing, the board shall require continued monitoring of the 3426
physician assistant. The monitoring shall include compliance 3427
with the written consent agreement entered into before 3428
reinstatement or with conditions imposed by board order after a 3429
hearing, and, upon termination of the consent agreement, 3430
submission to the board for at least two years of annual written 3431
progress reports made under penalty of falsification stating 3432

whether the physician assistant has maintained sobriety. 3433

~~(G)~~ (G) (1) If either of the following circumstances occur, 3434
the secretary and supervising member ~~determine~~ may recommend 3435
that the board suspend the individual's license without a prior 3436
hearing: 3437

(a) The secretary and supervising member determine that 3438
there is clear and convincing evidence that a physician 3439
assistant has violated division (B) of this section and that the 3440
individual's continued practice or prescribing presents a danger 3441
of immediate and serious harm to the public, ~~they may recommend~~ 3442
~~that the board suspend the individual's license without a prior~~ 3443
~~hearing.~~ 3444

(b) The board receives verifiable information that a 3445
licensee has been charged in any state or federal court with a 3446
crime classified as a felony under the charging court's law and 3447
the conduct charged constitutes a violation of division (B) of 3448
this section. ~~Written~~ 3449

(2) If a recommendation is made to suspend without a prior 3450
hearing pursuant to division (G) (1) of this section, written 3451
allegations shall be prepared for consideration by the board. 3452

The board, upon review of those allegations and by an 3453
affirmative vote of not fewer than six of its members, excluding 3454
the secretary and supervising member, may suspend a license 3455
without a prior hearing. A telephone conference call may be 3456
utilized for reviewing the allegations and taking the vote on 3457
the summary suspension. 3458

The board shall serve a written order of suspension in 3459
accordance with sections 119.05 and 119.07 of the Revised Code. 3460
The order shall not be subject to suspension by the court during 3461

pendency of any appeal filed under section 119.12 of the Revised Code. If the physician assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the physician assistant requests the hearing, unless otherwise agreed to by both the board and the license holder.

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

(H) If the board takes action under division (B) (11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the individual's license. 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 opportunity for 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, it may order any of the sanctions identified under division (B) of this

section. 3493

(I) The license to practice issued to a physician 3494
assistant and the physician assistant's practice in this state 3495
are automatically suspended as of the date the physician 3496
assistant pleads guilty to, is found by a judge or jury to be 3497
guilty of, or is subject to a judicial finding of eligibility 3498
for intervention in lieu of conviction in this state or 3499
treatment or intervention in lieu of conviction in another state 3500
for any of the following criminal offenses in this state or a 3501
substantially equivalent criminal offense in another 3502
jurisdiction: aggravated murder, murder, voluntary manslaughter, 3503
felonious assault, trafficking in persons, kidnapping, rape, 3504
sexual battery, gross sexual imposition, aggravated arson, 3505
aggravated robbery, or aggravated burglary. Continued practice 3506
after the suspension shall be considered practicing without a 3507
license. 3508

The board shall notify the individual subject to the 3509
suspension in accordance with sections 119.05 and 119.07 of the 3510
Revised Code. If an individual whose license is suspended under 3511
this division fails to make a timely request for an adjudication 3512
under Chapter 119. of the Revised Code, the board shall enter a 3513
final order permanently revoking the individual's license to 3514
practice. 3515

(J) In any instance in which the board is required by 3516
Chapter 119. of the Revised Code to give notice of opportunity 3517
for hearing and the individual subject to the notice does not 3518
timely request a hearing in accordance with section 119.07 of 3519
the Revised Code, the board is not required to hold a hearing, 3520
but may adopt, by an affirmative vote of not fewer than six of 3521
its members, a final order that contains the board's findings. 3522

In that final order, the board may order any of the sanctions 3523
identified under division (A) or (B) of this section. 3524

(K) Any action taken by the board under division (B) of 3525
this section resulting in a suspension shall be accompanied by a 3526
written statement of the conditions under which the physician 3527
assistant's license may be reinstated. The board shall adopt 3528
rules in accordance with Chapter 119. of the Revised Code 3529
governing conditions to be imposed for reinstatement. 3530
Reinstatement of a license suspended pursuant to division (B) of 3531
this section requires an affirmative vote of not fewer than six 3532
members of the board. 3533

(L) When the board refuses to grant or issue to an 3534
applicant a license to practice as a physician assistant, 3535
revokes an individual's license, refuses to renew an 3536
individual's license, or refuses to reinstate an individual's 3537
license, the board may specify that its action is permanent. An 3538
individual subject to a permanent action taken by the board is 3539
forever thereafter ineligible to hold the license and the board 3540
shall not accept an application for reinstatement of the license 3541
or for issuance of a new license. 3542

(M) Notwithstanding any other provision of the Revised 3543
Code, all of the following apply: 3544

(1) The surrender of a license issued under this chapter 3545
is not effective unless or until accepted by the board. 3546
Reinstatement of a license surrendered to the board requires an 3547
affirmative vote of not fewer than six members of the board. 3548

(2) An application made under this chapter for a license 3549
may not be withdrawn without approval of the board. 3550

(3) Failure by an individual to renew a license in 3551

accordance with section 4730.14 of the Revised Code does not 3552
remove or limit the board's jurisdiction to take disciplinary 3553
action under this section against the individual. 3554

(4) The placement of an individual's license on retired 3555
status, as described in section 4730.141 of the Revised Code, 3556
does not remove or limit the board's jurisdiction to take any 3557
disciplinary action against the individual with regard to the 3558
license as it existed before being placed on retired status. 3559

(N) The board shall not refuse to issue a license to an 3560
applicant because of a conviction, plea of guilty, judicial 3561
finding of guilt, judicial finding of eligibility for 3562
intervention in lieu of conviction, or the commission of an act 3563
that constitutes a criminal offense, unless the refusal is in 3564
accordance with section 9.79 of the Revised Code. 3565

Sec. 4730.26. (A) The state medical board shall 3566
investigate evidence that appears to show that any person has 3567
violated this chapter or a rule adopted under it. In an 3568
investigation involving the practice or supervision of a 3569
physician assistant pursuant to the policies of a health care 3570
facility, the board may require that the health care facility 3571
provide any information the board considers necessary to 3572
identify either or both of the following: 3573

(1) The facility's policies for the practice of physician 3574
assistants within the facility; 3575

(2) The services that the facility has authorized a 3576
particular physician assistant to provide for the facility. 3577

(B) Any person may report to the board in a signed writing 3578
any information the person has that appears to show a violation 3579
of any provision of this chapter or rule adopted under it. In 3580

the absence of bad faith, a person who reports such information 3581
or testifies before the board in an adjudication conducted under 3582
Chapter 119. of the Revised Code shall not be liable for civil 3583
damages as a result of reporting the information or providing 3584
testimony. Each complaint or allegation of a violation received 3585
by the board shall be assigned a case number and be recorded by 3586
the board. 3587

(C) Investigations of alleged violations of this chapter 3588
or rules adopted under it shall be supervised by the supervising 3589
member elected by the board in accordance with section 4731.02 3590
of the Revised Code and by the secretary as provided in section 3591
4730.33 of the Revised Code. The president may designate another 3592
member of the board to supervise the investigation in place of 3593
the supervising member. Upon a vote of the majority of the board 3594
to authorize the addition of a consumer member in the 3595
supervision of any part of any investigation, the president 3596
shall designate a consumer member for supervision of 3597
investigations as determined by the president. The authorization 3598
of consumer member participation in investigation supervision 3599
may be rescinded by a majority vote of the board. A member of 3600
the board who supervises the investigation of a case shall not 3601
participate in further adjudication of the case. 3602

(D) In investigating a possible violation of this chapter 3603
or a rule adopted under it, the board may administer oaths, 3604
order the taking of depositions, issue subpoenas, and compel the 3605
attendance of witnesses and production of books, accounts, 3606
papers, records, documents, and testimony, except that a 3607
subpoena for patient record information shall not be issued 3608
without consultation with the attorney general's office and 3609
approval of the secretary of the board. Before issuance of a 3610
subpoena for patient record information, the secretary shall 3611

determine whether there is probable cause to believe that the 3612
complaint filed alleges a violation of this chapter or a rule 3613
adopted under it and that the records sought are relevant to the 3614
alleged violation and material to the investigation. The 3615
subpoena may apply only to records that cover a reasonable 3616
period of time surrounding the alleged violation. 3617

On failure to comply with any subpoena issued by the board 3618
and after reasonable notice to the person being subpoenaed, the 3619
board may move for an order compelling the production of persons 3620
or records pursuant to the Rules of Civil Procedure. 3621

A subpoena issued by the board may be served by a sheriff, 3622
the sheriff's deputy, or a board employee designated by the 3623
board. Service of a subpoena issued by the board may be made by 3624
delivering a copy of the subpoena to the person named therein, 3625
reading it to the person, or leaving it at the person's usual 3626
place of residence. When the person being served is a physician 3627
assistant, service of the subpoena may be made by certified 3628
mail, restricted delivery, return receipt requested, and the 3629
subpoena shall be deemed served on the date delivery is made or 3630
the date the person refuses to accept delivery. 3631

A sheriff's deputy who serves a subpoena shall receive the 3632
same fees as a sheriff. Each witness who appears before the 3633
board in obedience to a subpoena shall receive the fees and 3634
mileage provided for under section 119.094 of the Revised Code. 3635

(E) All hearings and investigations of the board shall be 3636
considered civil actions for the purposes of section 2305.252 of 3637
the Revised Code. 3638

(F) Information received by the board pursuant to an 3639
investigation is confidential and not subject to discovery in 3640

any civil action. 3641

The board shall conduct all investigations and proceedings 3642
in a manner that protects the confidentiality of patients and 3643
persons who file complaints with the board. The board shall not 3644
make public the names or any other identifying information about 3645
patients or complainants unless proper consent is given or, in 3646
the case of a patient, a waiver of the patient privilege exists 3647
under division (B) of section 2317.02 of the Revised Code, 3648
except that consent or a waiver is not required if the board 3649
possesses reliable and substantial evidence that no bona fide 3650
physician-patient relationship exists. 3651

The board may share any information it receives pursuant 3652
to an investigation, including patient records and patient 3653
record information, with law enforcement agencies, other 3654
licensing boards, and other governmental agencies that are 3655
prosecuting, adjudicating, or investigating alleged violations 3656
of statutes or administrative rules. An agency or board that 3657
receives the information shall comply with the same requirements 3658
regarding confidentiality as those with which the state medical 3659
board must comply, notwithstanding any conflicting provision of 3660
the Revised Code or procedure of the agency or board that 3661
applies when it is dealing with other information in its 3662
possession. In a judicial proceeding, the information may be 3663
admitted into evidence only in accordance with the Rules of 3664
Evidence, but the court shall require that appropriate measures 3665
are taken to ensure that confidentiality is maintained with 3666
respect to any part of the information that contains names or 3667
other identifying information about patients or complainants 3668
whose confidentiality was protected by the state medical board 3669
when the information was in the board's possession. Measures to 3670
ensure confidentiality that may be taken by the court include 3671

sealing its records or deleting specific information from its 3672
records. 3673

No person shall knowingly access, use, or disclose 3674
confidential investigatory information in a manner prohibited by 3675
law. 3676

(G) The state medical board shall develop requirements for 3677
and provide appropriate initial and continuing training for 3678
investigators employed by the board to carry out its duties 3679
under this chapter. The training and continuing education may 3680
include enrollment in courses operated or approved by the Ohio 3681
peace officer training commission that the board considers 3682
appropriate under conditions set forth in section 109.79 of the 3683
Revised Code. 3684

(H) On a quarterly basis, the board shall prepare a report 3685
that documents the disposition of all cases during the preceding 3686
three months. The report shall contain the following information 3687
for each case with which the board has completed its activities: 3688

(1) The case number assigned to the complaint or alleged 3689
violation; 3690

(2) The type of license, if any, held by the individual 3691
against whom the complaint is directed; 3692

(3) A description of the allegations contained in the 3693
complaint; 3694

(4) Whether witnesses were interviewed; 3695

(5) Whether the individual against whom the complaint is 3696
directed is the subject of any pending complaints; 3697

(6) The disposition of the case. 3698

The report shall state how many cases are still pending, 3699
and shall be prepared in a manner that protects the identity of 3700
each person involved in each case. The report shall be submitted 3701
to the physician assistant policy committee of the board and is 3702
a public record for purposes of section 149.43 of the Revised 3703
Code. 3704

(I) The board may provide a status update regarding an 3705
investigation to a complainant on request if the board verifies 3706
the complainant's identity. 3707

Sec. 4730.32. (A) As used in this section, "criminal 3708
conduct" and "sexual misconduct" have the same meanings as in 3709
section 4731.224 of the Revised Code. 3710

(B) (1) Within ~~sixty~~-thirty days after the imposition of 3711
any formal disciplinary action taken by a health care facility 3712
against any individual holding a valid license to practice as a 3713
physician assistant issued under this chapter, the chief 3714
administrator or executive officer of the facility shall report 3715
to the state medical board the name of the individual, the 3716
action taken by the facility, and a summary of the underlying 3717
facts leading to the action taken. Upon request, the board shall 3718
be provided certified copies of the patient records that were 3719
the basis for the facility's action. Prior to release to the 3720
board, the summary shall be approved by the peer review 3721
committee that reviewed the case or by the governing board of 3722
the facility. 3723

The filing of a report with the board or decision not to 3724
file a report, investigation by the board, or any disciplinary 3725
action taken by the board, does not preclude a health care 3726
facility from taking disciplinary action against a physician 3727
assistant. 3728

In the absence of fraud or bad faith, no individual or 3729
entity that provides patient records to the board shall be 3730
liable in damages to any person as a result of providing the 3731
records. 3732

(2) Within thirty days after commencing an investigation 3733
regarding criminal conduct or sexual misconduct against any 3734
individual holding a valid license to practice issued pursuant 3735
to this chapter, a health care facility, including a hospital, 3736
health care facility operated by a health insuring corporation, 3737
ambulatory surgical center, or similar facility, shall report to 3738
the board the name of the individual and a summary of the 3739
underlying facts related to the investigation being commenced. 3740

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 3741
of this section and subject to division (C) (3) of this section, 3742
a physician assistant, professional association or society of 3743
physician assistants, physician, or professional association or 3744
society of physicians that believes a violation of any provision 3745
of this chapter, Chapter 4731. of the Revised Code, or rule of 3746
the board has occurred shall report to the board the information 3747
upon which the belief is based. 3748

(2) A physician assistant, professional association or 3749
society of physician assistants, physician, or professional 3750
association or society of physicians that believes that a 3751
violation of division (B) (4) or (5) of section 4730.25 of the 3752
Revised Code has occurred shall report the information upon 3753
which the belief is based to the monitoring organization 3754
conducting the confidential monitoring program established under 3755
section 4731.25 of the Revised Code. If any such report is made 3756
to the board, it shall be referred to the monitoring 3757
organization unless the board is aware that the individual who 3758

is the subject of the report does not meet the program 3759
eligibility requirements of section 4731.252 of the Revised 3760
Code. 3761

(3) If any individual authorized to practice under this 3762
chapter or any professional association or society of such 3763
individuals knows or has reasonable cause to suspect based on 3764
facts that would cause a reasonable person in a similar position 3765
to suspect that an individual authorized to practice under this 3766
chapter has committed or participated in criminal conduct or 3767
sexual misconduct, the information upon which the belief is 3768
based shall be reported to the board within thirty days. 3769

This division does not apply to a professional association 3770
or society whose staff interacts with members of the association 3771
or society only in advocacy, governance, or educational 3772
capacities and whose staff does not regularly interact with 3773
members in practice settings. 3774

(4) In addition to the self-reporting of criminal offenses 3775
that is required for license renewal, an individual authorized 3776
to practice under this chapter shall report to the board 3777
criminal charges regarding criminal conduct, sexual misconduct, 3778
or any conduct involving the use of a motor vehicle while under 3779
the influence of alcohol or drugs, including offenses that are 3780
equivalent offenses under division (A) of section 4511.181 of 3781
the Revised Code, violations of division (D) of section 4511.194 3782
of the Revised Code, and violations of division (C) of section 3783
4511.79 of the Revised Code. Reports under this division shall 3784
be made within thirty days of the criminal charge being filed. 3785

~~(C)~~ (D) Any professional association or society composed 3786
primarily of physician assistants that suspends or revokes an 3787
individual's membership for violations of professional ethics, 3788

or for reasons of professional incompetence or professional 3789
malpractice, within ~~sixty~~thirty days after a final decision, 3790
shall report to the board, on forms prescribed and provided by 3791
the board, the name of the individual, the action taken by the 3792
professional organization, and a summary of the underlying facts 3793
leading to the action taken. 3794

The filing or nonfiling of a report with the board, 3795
investigation by the board, or any disciplinary action taken by 3796
the board, shall not preclude a professional organization from 3797
taking disciplinary action against a physician assistant. 3798

~~(D)~~(E) Any insurer providing professional liability 3799
insurance to any person holding a valid license to practice as a 3800
physician assistant issued under this chapter or any other 3801
entity that seeks to indemnify the professional liability of a 3802
physician assistant shall notify the board within thirty days 3803
after the final disposition of any written claim for damages 3804
where such disposition results in a payment exceeding twenty- 3805
five thousand dollars. The notice shall contain the following 3806
information: 3807

(1) The name and address of the person submitting the 3808
notification; 3809

(2) The name and address of the insured who is the subject 3810
of the claim; 3811

(3) The name of the person filing the written claim; 3812

(4) The date of final disposition; 3813

(5) If applicable, the identity of the court in which the 3814
final disposition of the claim took place. 3815

~~(E)~~(F) The board may investigate possible violations of 3816

this chapter or the rules adopted under it that are brought to 3817
its attention as a result of the reporting requirements of this 3818
section, except that the board shall conduct an investigation if 3819
a possible violation involves repeated malpractice. As used in 3820
this division, "repeated malpractice" means three or more claims 3821
for malpractice within the previous five-year period, each 3822
resulting in a judgment or settlement in excess of twenty-five 3823
thousand dollars in favor of the claimant, and each involving 3824
negligent conduct by the physician assistant. 3825

~~(F) (G) All summaries, reports, and records received and 3826
maintained by the board pursuant to this section shall be held 3827
in confidence and shall not be subject to discovery or 3828
introduction in evidence in any federal or state civil action 3829
involving a physician assistant, supervising physician, or 3830
health care facility arising out of matters that are the subject 3831
of the reporting required by this section. The board may use the 3832
information obtained only as the basis for an investigation, as 3833
evidence in a disciplinary hearing against a physician assistant 3834
or supervising physician, or in any subsequent trial or appeal 3835
of a board action or order. 3836~~

~~The board may disclose the summaries and reports it 3837
receives under this section only to health care facility 3838
committees within or outside this state that are involved in 3839
credentialing or recredentialing a physician assistant or 3840
supervising physician or reviewing their privilege to practice 3841
within a particular facility. The board shall indicate whether 3842
or not the information has been verified. Information 3843
transmitted by the board shall be subject to the same 3844
confidentiality provisions as when maintained by the 3845
board confidential pursuant to division (F) of section 4730.26 of 3846
the Revised Code. 3847~~

~~(G)~~ (H) Except for reports filed by an individual pursuant 3848
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 3849
send a copy of any reports or summaries it receives pursuant to 3850
this section to the physician assistant. The physician assistant 3851
shall have the right to file a statement with the board 3852
concerning the correctness or relevance of the information. The 3853
statement shall at all times accompany that part of the record 3854
in contention. 3855

~~(H)~~ (I) An individual or entity that reports to the board, 3856
reports to the monitoring organization described in section 3857
4731.25 of the Revised Code, or refers an impaired physician 3858
assistant to a treatment provider approved under section 3859
4731.251 of the Revised Code shall not be subject to suit for 3860
civil damages as a result of the report, referral, or provision 3861
of the information. 3862

~~(I)~~ (J) In the absence of fraud or bad faith, a 3863
professional association or society of physician assistants that 3864
sponsors a committee or program to provide peer assistance to a 3865
physician assistant with substance abuse problems, a 3866
representative or agent of such a committee or program, a 3867
representative or agent of the monitoring organization described 3868
in section 4731.25 of the Revised Code, and a member of the 3869
state medical board shall not be held liable in damages to any 3870
person by reason of actions taken to refer a physician assistant 3871
to a treatment provider approved under section 4731.251 of the 3872
Revised Code for examination or treatment. 3873

Sec. 4730.57. (A) As used in this section, "intimate 3874
examination" means a pelvic, prostate, or rectal examination. 3875

(B) Except as provided in division (C) of this section, a 3876
physician assistant or student enrolled in a program or course 3877

of study described in division (B) of section 4730.11 of the 3878
Revised Code shall not perform, or authorize another individual 3879
to perform, an intimate examination on an anesthetized or 3880
unconscious patient. 3881

(C) Division (B) of this section does not apply in any of 3882
the following circumstances: 3883

(1) The performance of an intimate examination is within 3884
the scope of care for the surgical procedure or diagnostic 3885
examination to be performed on the patient. 3886

(2) The patient or the patient's legal representative 3887
gives specific, informed consent for the intimate examination, 3888
consistent with division (D) of this section. 3889

(3) An intimate examination is required for diagnostic 3890
purposes or treatment of the patient's medical condition. 3891

(D) To obtain informed consent for purposes of division 3892
(C) (2) of this section, the physician assistant shall do all of 3893
the following: 3894

(1) Provide the patient or the patient's legal 3895
representative with a written or electronic informed consent 3896
form that meets all of the following requirements: 3897

(a) Is a separate consent form or is included as a 3898
distinct or separate section of a general consent form; 3899

(b) Contains the following heading at the top of the form 3900
or section: "CONSENT FOR INTIMATE EXAMINATION"; 3901

(c) Specifies the nature and purpose of the intimate 3902
examination; 3903

(d) Informs the patient or the patient's legal 3904

representative that a student may be present if the patient or 3905
the patient's legal representative authorizes a student to 3906
perform the intimate examination or observe the intimate 3907
examination in person or through electronic means; 3908

(e) Allows the patient or the patient's legal 3909
representative the opportunity to consent to or refuse the 3910
intimate examination; 3911

(f) Permits a patient or the patient's legal 3912
representative who consents to an intimate examination to 3913
consent to or refuse a student performing or observing the 3914
intimate examination in person or through electronic means. 3915

(2) Provide the patient or the patient's legal 3916
representative with a meaningful opportunity to ask questions 3917
about the intimate examination; 3918

(3) Obtain the signature of the patient or the patient's 3919
legal representative on the informed consent form; 3920

(4) Sign the informed consent form. 3921

Sec. 4730.99. (A) Whoever violates section 4730.02 of the 3922
Revised Code is guilty of a misdemeanor of the first degree on a 3923
first offense; on each subsequent offense, the person is guilty 3924
of a felony of the fourth degree. 3925

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 3926
(1), ~~(C)~~ (2), (D), or (E) of section 4730.32 of the Revised 3927
Code is guilty of a minor misdemeanor on a first offense; on 3928
each subsequent offense the person is guilty of a misdemeanor of 3929
the fourth degree, except that an individual guilty of a 3930
subsequent offense shall not be subject to imprisonment, but to 3931
a fine alone of up to one thousand dollars for each offense. 3932

(2) Whoever violates division (B) (2) or (C) (3) of section 4730.32 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. 3933
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(C) Whoever violates division (F) of section 4730.26 of the Revised Code is guilty of disclosing confidential investigatory information, a misdemeanor of the first degree. 3939
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Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to grant a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate if the individual applying for or holding the license or certificate is found by the board to have committed fraud during the administration of the examination for a license or certificate to practice or to have committed fraud, misrepresentation, or deception in applying for, renewing, or securing any license or certificate to practice or certificate to recommend issued by the board. 3942
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(B) Except as provided in division (P) of this section, the board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to issue a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a 3956
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license or certificate for one or more of the following reasons:	3963
(1) Permitting one's name or one's license or certificate	3964
to practice to be used by a person, group, or corporation when	3965
the individual concerned is not actually directing the treatment	3966
given;	3967
(2) Failure to maintain minimal standards applicable to	3968
the selection or administration of drugs, or failure to employ	3969
acceptable scientific methods in the selection of drugs or other	3970
modalities for treatment of disease;	3971
(3) Except as provided in section 4731.97 of the Revised	3972
Code, selling, giving away, personally furnishing, prescribing,	3973
or administering drugs for other than legal and legitimate	3974
therapeutic purposes or a plea of guilty to, a judicial finding	3975
of guilt of, or a judicial finding of eligibility for	3976
intervention in lieu of conviction of, a violation of any	3977
federal or state law regulating the possession, distribution, or	3978
use of any drug;	3979
(4) Willfully betraying a professional confidence.	3980
For purposes of this division, "willfully betraying a	3981
professional confidence" does not include providing any	3982
information, documents, or reports under sections 307.621 to	3983
307.629 of the Revised Code to a child fatality review board;	3984
does not include providing any information, documents, or	3985
reports under sections 307.631 to 307.6410 of the Revised Code	3986
to a drug overdose fatality review committee, a suicide fatality	3987
review committee, or hybrid drug overdose fatality and suicide	3988
fatality review committee; does not include providing any	3989
information, documents, or reports under sections 307.651 to	3990
307.659 of the Revised Code to a domestic violence fatality	3991

review board; does not include providing any information, 3992
documents, or reports to the director of health pursuant to 3993
guidelines established under section 3701.70 of the Revised 3994
Code; does not include written notice to a mental health 3995
professional under section 4731.62 of the Revised Code; does not 3996
include making a report as described in division (F) of section 3997
2921.22 and section 4731.224 of the Revised Code; and does not 3998
include the making of a report of an employee's use of a drug of 3999
abuse, or a report of a condition of an employee other than one 4000
involving the use of a drug of abuse, to the employer of the 4001
employee as described in division (B) of section 2305.33 of the 4002
Revised Code. Nothing in this division affects the immunity from 4003
civil liability conferred by section 2305.33 or 4731.62 of the 4004
Revised Code upon a physician who makes a report in accordance 4005
with section 2305.33 or notifies a mental health professional in 4006
accordance with section 4731.62 of the Revised Code. As used in 4007
this division, "employee," "employer," and "physician" have the 4008
same meanings as in section 2305.33 of the Revised Code. 4009

(5) Making a false, fraudulent, deceptive, or misleading 4010
statement in the solicitation of or advertising for patients; in 4011
relation to the practice of medicine and surgery, osteopathic 4012
medicine and surgery, podiatric medicine and surgery, or a 4013
limited branch of medicine; or in securing or attempting to 4014
secure any license or certificate to practice issued by the 4015
board. 4016

As used in this division, "false, fraudulent, deceptive, 4017
or misleading statement" means a statement that includes a 4018
misrepresentation of fact, is likely to mislead or deceive 4019
because of a failure to disclose material facts, is intended or 4020
is likely to create false or unjustified expectations of 4021
favorable results, or includes representations or implications 4022

that in reasonable probability will cause an ordinarily prudent 4023
person to misunderstand or be deceived. 4024

(6) A departure from, or the failure to conform to, 4025
minimal standards of care of similar practitioners under the 4026
same or similar circumstances, whether or not actual injury to a 4027
patient is established; 4028

(7) Representing, with the purpose of obtaining 4029
compensation or other advantage as personal gain or for any 4030
other person, that an incurable disease or injury, or other 4031
incurable condition, can be permanently cured; 4032

(8) The obtaining of, or attempting to obtain, money or 4033
anything of value by fraudulent misrepresentations in the course 4034
of practice; 4035

(9) A plea of guilty to, a judicial finding of guilt of, 4036
or a judicial finding of eligibility for intervention in lieu of 4037
conviction for, a felony; 4038

(10) Commission of an act that constitutes a felony in 4039
this state, regardless of the jurisdiction in which the act was 4040
committed; 4041

(11) A plea of guilty to, a judicial finding of guilt of, 4042
or a judicial finding of eligibility for intervention in lieu of 4043
conviction for, a misdemeanor committed in the course of 4044
practice; 4045

(12) Commission of an act in the course of practice that 4046
constitutes a misdemeanor in this state, regardless of the 4047
jurisdiction in which the act was committed; 4048

(13) A plea of guilty to, a judicial finding of guilt of, 4049
or a judicial finding of eligibility for intervention in lieu of 4050

conviction for, a misdemeanor involving moral turpitude; 4051

(14) Commission of an act involving moral turpitude that 4052
constitutes a misdemeanor in this state, regardless of the 4053
jurisdiction in which the act was committed; 4054

(15) Violation of the conditions of limitation placed by 4055
the board upon a license or certificate to practice; 4056

(16) Failure to pay license renewal fees specified in this 4057
chapter; 4058

(17) Except as authorized in section 4731.31 of the 4059
Revised Code, engaging in the division of fees for referral of 4060
patients, or the receiving of a thing of value in return for a 4061
specific referral of a patient to utilize a particular service 4062
or business; 4063

(18) Subject to section 4731.226 of the Revised Code, 4064
violation of any provision of a code of ethics of the American 4065
medical association, the American osteopathic association, the 4066
American podiatric medical association, or any other national 4067
professional organizations that the board specifies by rule. The 4068
state medical board shall obtain and keep on file current copies 4069
of the codes of ethics of the various national professional 4070
organizations. The individual whose license or certificate is 4071
being suspended or revoked shall not be found to have violated 4072
any provision of a code of ethics of an organization not 4073
appropriate to the individual's profession. 4074

For purposes of this division, a "provision of a code of 4075
ethics of a national professional organization" does not include 4076
any provision that would preclude the making of a report by a 4077
physician of an employee's use of a drug of abuse, or of a 4078
condition of an employee other than one involving the use of a 4079

drug of abuse, to the employer of the employee as described in 4080
division (B) of section 2305.33 of the Revised Code. Nothing in 4081
this division affects the immunity from civil liability 4082
conferred by that section upon a physician who makes either type 4083
of report in accordance with division (B) of that section. As 4084
used in this division, "employee," "employer," and "physician" 4085
have the same meanings as in section 2305.33 of the Revised 4086
Code. 4087

(19) Inability to practice according to acceptable and 4088
prevailing standards of care by reason of mental illness or 4089
physical illness, including, but not limited to, physical 4090
deterioration that adversely affects cognitive, motor, or 4091
perceptive skills. 4092

In enforcing this division, the board, upon a showing of a 4093
possible violation, shall refer any individual who is authorized 4094
to practice by this chapter or who has submitted an application 4095
pursuant to this chapter to the monitoring organization that 4096
conducts the confidential monitoring program established under 4097
section 4731.25 of the Revised Code. The board also may compel 4098
the individual to submit to a mental examination, physical 4099
examination, including an HIV test, or both a mental and a 4100
physical examination. The expense of the examination is the 4101
responsibility of the individual compelled to be examined. 4102
Failure to submit to a mental or physical examination or consent 4103
to an HIV test ordered by the board constitutes an admission of 4104
the allegations against the individual unless the failure is due 4105
to circumstances beyond the individual's control, and a default 4106
and final order may be entered without the taking of testimony 4107
or presentation of evidence. If the board finds an individual 4108
unable to practice because of the reasons set forth in this 4109
division, the board shall require the individual to submit to 4110

care, counseling, or treatment by physicians approved or 4111
designated by the board, as a condition for initial, continued, 4112
reinstated, or renewed authority to practice. An individual 4113
affected under this division shall be afforded an opportunity to 4114
demonstrate to the board the ability to resume practice in 4115
compliance with acceptable and prevailing standards under the 4116
provisions of the individual's license or certificate. For the 4117
purpose of this division, any individual who applies for or 4118
receives a license or certificate to practice under this chapter 4119
accepts the privilege of practicing in this state and, by so 4120
doing, shall be deemed to have given consent to submit to a 4121
mental or physical examination when directed to do so in writing 4122
by the board, and to have waived all objections to the 4123
admissibility of testimony or examination reports that 4124
constitute a privileged communication. 4125

(20) Except as provided in division (F) (1) (b) of section 4126
4731.282 of the Revised Code or when civil penalties are imposed 4127
under section 4731.225 of the Revised Code, and subject to 4128
section 4731.226 of the Revised Code, violating or attempting to 4129
violate, directly or indirectly, or assisting in or abetting the 4130
violation of, or conspiring to violate, any provisions of this 4131
chapter or any rule promulgated by the board. 4132

This division does not apply to a violation or attempted 4133
violation of, assisting in or abetting the violation of, or a 4134
conspiracy to violate, any provision of this chapter or any rule 4135
adopted by the board that would preclude the making of a report 4136
by a physician of an employee's use of a drug of abuse, or of a 4137
condition of an employee other than one involving the use of a 4138
drug of abuse, to the employer of the employee as described in 4139
division (B) of section 2305.33 of the Revised Code. Nothing in 4140
this division affects the immunity from civil liability 4141

conferred by that section upon a physician who makes either type 4142
of report in accordance with division (B) of that section. As 4143
used in this division, "employee," "employer," and "physician" 4144
have the same meanings as in section 2305.33 of the Revised 4145
Code. 4146

(21) The violation of section 3701.79 of the Revised Code 4147
or of any abortion rule adopted by the director of health 4148
pursuant to section 3701.341 of the Revised Code; 4149

(22) Any of the following actions taken by an agency 4150
responsible for authorizing, certifying, or regulating an 4151
individual to practice a health care occupation or provide 4152
health care services in this state or another jurisdiction, for 4153
any reason other than the nonpayment of fees: the limitation, 4154
revocation, or suspension of an individual's license to 4155
practice; acceptance of an individual's license surrender; 4156
denial of a license; refusal to renew or reinstate a license; 4157
imposition of probation; or issuance of an order of censure or 4158
other reprimand; 4159

(23) The violation of section 2919.12 of the Revised Code 4160
or the performance or inducement of an abortion upon a pregnant 4161
woman with actual knowledge that the conditions specified in 4162
division (B) of section 2317.56 of the Revised Code have not 4163
been satisfied or with a heedless indifference as to whether 4164
those conditions have been satisfied, unless an affirmative 4165
defense as specified in division (H)(2) of that section would 4166
apply in a civil action authorized by division (H)(1) of that 4167
section; 4168

(24) The revocation, suspension, restriction, reduction, 4169
or termination of clinical privileges by the United States 4170
department of defense or department of veterans affairs or the 4171

termination or suspension of a certificate of registration to 4172
prescribe drugs by the drug enforcement administration of the 4173
United States department of justice; 4174

(25) Termination or suspension from participation in the 4175
medicare or medicaid programs by the department of health and 4176
human services or other responsible agency; 4177

(26) Impairment of ability to practice according to 4178
acceptable and prevailing standards of care because of substance 4179
use disorder or excessive use or abuse of drugs, alcohol, or 4180
other substances that may impair ability to practice. 4181

For the purposes of this division, any individual 4182
authorized to practice by this chapter accepts the privilege of 4183
practicing in this state subject to supervision by the board. By 4184
filing an application for or holding a license or certificate to 4185
practice under this chapter, an individual shall be deemed to 4186
have given consent to submit to a mental or physical examination 4187
when ordered to do so by the board in writing, and to have 4188
waived all objections to the admissibility of testimony or 4189
examination reports that constitute privileged communications. 4190

If it has reason to believe that any individual authorized 4191
to practice by this chapter or any applicant for licensure or 4192
certification to practice suffers such impairment, the board 4193
shall refer the individual to the monitoring organization that 4194
conducts the confidential monitoring program established under 4195
section 4731.25 of the Revised Code. The board also may compel 4196
the individual to submit to a mental or physical examination, or 4197
both. The expense of the examination is the responsibility of 4198
the individual compelled to be examined. Any mental or physical 4199
examination required under this division shall be undertaken by 4200
a treatment provider or physician who is qualified to conduct 4201

the examination and who is approved under section 4731.251 of 4202
the Revised Code. 4203

Failure to submit to a mental or physical examination 4204
ordered by the board constitutes an admission of the allegations 4205
against the individual unless the failure is due to 4206
circumstances beyond the individual's control, and a default and 4207
final order may be entered without the taking of testimony or 4208
presentation of evidence. If the board determines that the 4209
individual's ability to practice is impaired, the board shall 4210
suspend the individual's license or certificate or deny the 4211
individual's application and shall require the individual, as a 4212
condition for initial, continued, reinstated, or renewed 4213
licensure or certification to practice, to submit to treatment. 4214

Before being eligible to apply for reinstatement of a 4215
license or certificate suspended under this division, the 4216
impaired practitioner shall demonstrate to the board the ability 4217
to resume practice in compliance with acceptable and prevailing 4218
standards of care under the provisions of the practitioner's 4219
license or certificate. The demonstration shall include, but 4220
shall not be limited to, the following: 4221

(a) Certification from a treatment provider approved under 4222
section 4731.251 of the Revised Code that the individual has 4223
successfully completed any required inpatient treatment; 4224

(b) Evidence of continuing full compliance with an 4225
aftercare contract or consent agreement; 4226

(c) Two written reports indicating that the individual's 4227
ability to practice has been assessed and that the individual 4228
has been found capable of practicing according to acceptable and 4229
prevailing standards of care. The reports shall be made by 4230

individuals or providers approved by the board for making the 4231
assessments and shall describe the basis for their 4232
determination. 4233

The board may reinstate a license or certificate suspended 4234
under this division after that demonstration and after the 4235
individual has entered into a written consent agreement. 4236

When the impaired practitioner resumes practice, the board 4237
shall require continued monitoring of the individual. The 4238
monitoring shall include, but not be limited to, compliance with 4239
the written consent agreement entered into before reinstatement 4240
or with conditions imposed by board order after a hearing, and, 4241
upon termination of the consent agreement, submission to the 4242
board for at least two years of annual written progress reports 4243
made under penalty of perjury stating whether the individual has 4244
maintained sobriety. 4245

(27) A second or subsequent violation of section 4731.66 4246
or 4731.69 of the Revised Code; 4247

(28) Except as provided in division (N) of this section: 4248

(a) Waiving the payment of all or any part of a deductible 4249
or copayment that a patient, pursuant to a health insurance or 4250
health care policy, contract, or plan that covers the 4251
individual's services, otherwise would be required to pay if the 4252
waiver is used as an enticement to a patient or group of 4253
patients to receive health care services from that individual; 4254

(b) Advertising that the individual will waive the payment 4255
of all or any part of a deductible or copayment that a patient, 4256
pursuant to a health insurance or health care policy, contract, 4257
or plan that covers the individual's services, otherwise would 4258
be required to pay. 4259

(29) Failure to use universal blood and body fluid	4260
precautions established by rules adopted under section 4731.051	4261
of the Revised Code;	4262
(30) Failure to provide notice to, and receive	4263
acknowledgment of the notice from, a patient when required by	4264
section 4731.143 of the Revised Code prior to providing	4265
nonemergency professional services, or failure to maintain that	4266
notice in the patient's medical record;	4267
(31) Failure of a physician supervising a physician	4268
assistant to maintain supervision in accordance with the	4269
requirements of Chapter 4730. of the Revised Code and the rules	4270
adopted under that chapter;	4271
(32) Failure of a physician or podiatrist to enter into a	4272
standard care arrangement with a clinical nurse specialist,	4273
certified nurse-midwife, or certified nurse practitioner with	4274
whom the physician or podiatrist is in collaboration pursuant to	4275
section 4731.27 of the Revised Code or failure to fulfill the	4276
responsibilities of collaboration after entering into a standard	4277
care arrangement;	4278
(33) Failure to comply with the terms of a consult	4279
agreement entered into with a pharmacist pursuant to section	4280
4729.39 of the Revised Code;	4281
(34) Failure to cooperate in an investigation conducted by	4282
the board under division (F) of this section, including failure	4283
to comply with a subpoena or order issued by the board or	4284
failure to answer truthfully a question presented by the board	4285
in an investigative interview, an investigative office	4286
conference, at a deposition, or in written interrogatories,	4287
except that failure to cooperate with an investigation shall not	4288

constitute grounds for discipline under this section if a court 4289
of competent jurisdiction has issued an order that either 4290
quashes a subpoena or permits the individual to withhold the 4291
testimony or evidence in issue; 4292

(35) Failure to supervise an anesthesiologist assistant in 4293
accordance with Chapter 4760. of the Revised Code and the 4294
board's rules for supervision of an anesthesiologist assistant; 4295

(36) Assisting suicide, as defined in section 3795.01 of 4296
the Revised Code; 4297

(37) Failure to comply with the requirements of section 4298
2317.561 of the Revised Code; 4299

(38) Failure to supervise a radiologist assistant in 4300
accordance with Chapter 4774. of the Revised Code and the 4301
board's rules for supervision of radiologist assistants; 4302

(39) Performing or inducing an abortion at an office or 4303
facility with knowledge that the office or facility fails to 4304
post the notice required under section 3701.791 of the Revised 4305
Code; 4306

(40) Failure to comply with the standards and procedures 4307
established in rules under section 4731.054 of the Revised Code 4308
for the operation of or the provision of care at a pain 4309
management clinic; 4310

(41) Failure to comply with the standards and procedures 4311
established in rules under section 4731.054 of the Revised Code 4312
for providing supervision, direction, and control of individuals 4313
at a pain management clinic; 4314

(42) Failure to comply with the requirements of section 4315
4729.79 or 4731.055 of the Revised Code, unless the state board 4316

of pharmacy no longer maintains a drug database pursuant to 4317
section 4729.75 of the Revised Code; 4318

(43) Failure to comply with the requirements of section 4319
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 4320
to submit to the department of health in accordance with a court 4321
order a complete report as described in section 2919.171 or 4322
2919.202 of the Revised Code; 4323

(44) Practicing at a facility that is subject to licensure 4324
as a category III terminal distributor of dangerous drugs with a 4325
pain management clinic classification unless the person 4326
operating the facility has obtained and maintains the license 4327
with the classification; 4328

(45) Owning a facility that is subject to licensure as a 4329
category III terminal distributor of dangerous drugs with a pain 4330
management clinic classification unless the facility is licensed 4331
with the classification; 4332

(46) Failure to comply with any of the requirements 4333
regarding making or maintaining medical records or documents 4334
described in division (A) of section 2919.192, division (C) of 4335
section 2919.193, division (B) of section 2919.195, or division 4336
(A) of section 2919.196 of the Revised Code; 4337

(47) Failure to comply with the requirements in section 4338
3719.061 of the Revised Code before issuing for a minor a 4339
prescription for an opioid analgesic, as defined in section 4340
3719.01 of the Revised Code; 4341

(48) Failure to comply with the requirements of section 4342
4731.30 of the Revised Code or rules adopted under section 4343
4731.301 of the Revised Code when recommending treatment with 4344
medical marijuana; 4345

(49) A pattern of continuous or repeated violations of 4346
division (E) (2) or (3) of section 3963.02 of the Revised Code; 4347

(50) Failure to fulfill the responsibilities of a 4348
collaboration agreement entered into with an athletic trainer as 4349
described in section 4755.621 of the Revised Code; 4350

(51) Failure to take the steps specified in section 4351
4731.911 of the Revised Code following an abortion or attempted 4352
abortion in an ambulatory surgical facility or other location 4353
that is not a hospital when a child is born alive; 4354

(52) Violation of section 4731.77 of the Revised Code. 4355

(C) Disciplinary actions taken by the board under 4356
divisions (A) and (B) of this section shall be taken pursuant to 4357
an adjudication under Chapter 119. of the Revised Code, except 4358
that in lieu of an adjudication, the board may enter into a 4359
consent agreement with an individual to resolve an allegation of 4360
a violation of this chapter or any rule adopted under it. A 4361
consent agreement, when ratified by an affirmative vote of not 4362
fewer than six members of the board, shall constitute the 4363
findings and order of the board with respect to the matter 4364
addressed in the agreement. If the board refuses to ratify a 4365
consent agreement, the admissions and findings contained in the 4366
consent agreement shall be of no force or effect. 4367

A telephone conference call may be utilized for 4368
ratification of a consent agreement that revokes or suspends an 4369
individual's license or certificate to practice or certificate 4370
to recommend. The telephone conference call shall be considered 4371
a special meeting under division (F) of section 121.22 of the 4372
Revised Code. 4373

If the board takes disciplinary action against an 4374

individual under division (B) of this section for a second or 4375
subsequent plea of guilty to, or judicial finding of guilt of, a 4376
violation of section 2919.123 or 2919.124 of the Revised Code, 4377
the disciplinary action shall consist of a suspension of the 4378
individual's license or certificate to practice for a period of 4379
at least one year or, if determined appropriate by the board, a 4380
more serious sanction involving the individual's license or 4381
certificate to practice. Any consent agreement entered into 4382
under this division with an individual that pertains to a second 4383
or subsequent plea of guilty to, or judicial finding of guilt 4384
of, a violation of that section shall provide for a suspension 4385
of the individual's license or certificate to practice for a 4386
period of at least one year or, if determined appropriate by the 4387
board, a more serious sanction involving the individual's 4388
license or certificate to practice. 4389

(D) For purposes of divisions (B) (10), (12), and (14) of 4390
this section, the commission of the act may be established by a 4391
finding by the board, pursuant to an adjudication under Chapter 4392
119. of the Revised Code, that the individual committed the act. 4393
The board does not have jurisdiction under those divisions if 4394
the trial court renders a final judgment in the individual's 4395
favor and that judgment is based upon an adjudication on the 4396
merits. The board has jurisdiction under those divisions if the 4397
trial court issues an order of dismissal upon technical or 4398
procedural grounds. 4399

(E) The sealing or expungement of conviction records by 4400
any court shall have no effect upon a prior board order entered 4401
under this section or upon the board's jurisdiction to take 4402
action under this section if, based upon a plea of guilty, a 4403
judicial finding of guilt, or a judicial finding of eligibility 4404
for intervention in lieu of conviction, the board issued a 4405

notice of opportunity for a hearing prior to the court's order 4406
to seal or expunge the records. The board shall not be required 4407
to seal, expunge, destroy, redact, or otherwise modify its 4408
records to reflect the court's sealing of conviction records. 4409

(F) (1) The board shall investigate evidence that appears 4410
to show that a person has violated any provision of this chapter 4411
or any rule adopted under it. Any person may report to the board 4412
in a signed writing any information that the person may have 4413
that appears to show a violation of any provision of this 4414
chapter or any rule adopted under it. In the absence of bad 4415
faith, any person who reports information of that nature or who 4416
testifies before the board in any adjudication conducted under 4417
Chapter 119. of the Revised Code shall not be liable in damages 4418
in a civil action as a result of the report or testimony. Each 4419
complaint or allegation of a violation received by the board 4420
shall be assigned a case number and shall be recorded by the 4421
board. 4422

(2) Investigations of alleged violations of this chapter 4423
or any rule adopted under it shall be supervised by the 4424
supervising member elected by the board in accordance with 4425
section 4731.02 of the Revised Code and by the secretary as 4426
provided in section 4731.39 of the Revised Code. The president 4427
may designate another member of the board to supervise the 4428
investigation in place of the supervising member. Upon a vote of 4429
the majority of the board to authorize the addition of a 4430
consumer member in the supervision of any part of any 4431
investigation, the president shall designate a consumer member 4432
for supervision of investigations as determined by the 4433
president. The authorization of consumer member participation in 4434
investigation supervision may be rescinded by a majority vote of 4435
the board. No member of the board who supervises the 4436

investigation of a case shall participate in further 4437
adjudication of the case. 4438

(3) In investigating a possible violation of this chapter 4439
or any rule adopted under this chapter, or in conducting an 4440
inspection under division (E) of section 4731.054 of the Revised 4441
Code, the board may question witnesses, conduct interviews, 4442
administer oaths, order the taking of depositions, inspect and 4443
copy any books, accounts, papers, records, or documents, issue 4444
subpoenas, and compel the attendance of witnesses and production 4445
of books, accounts, papers, records, documents, and testimony, 4446
except that a subpoena for patient record information shall not 4447
be issued without consultation with the attorney general's 4448
office and approval of the secretary of the board. 4449

(a) Before issuance of a subpoena for patient record 4450
information, the secretary shall determine whether there is 4451
probable cause to believe that the complaint filed alleges a 4452
violation of this chapter or any rule adopted under it and that 4453
the records sought are relevant to the alleged violation and 4454
material to the investigation. The subpoena may apply only to 4455
records that cover a reasonable period of time surrounding the 4456
alleged violation. 4457

(b) On failure to comply with any subpoena issued by the 4458
board and after reasonable notice to the person being 4459
subpoenaed, the board may move for an order compelling the 4460
production of persons or records pursuant to the Rules of Civil 4461
Procedure. 4462

(c) A subpoena issued by the board may be served by a 4463
sheriff, the sheriff's deputy, or a board employee or agent 4464
designated by the board. Service of a subpoena issued by the 4465
board may be made by delivering a copy of the subpoena to the 4466

person named therein, reading it to the person, or leaving it at 4467
the person's usual place of residence, usual place of business, 4468
or address on file with the board. When serving a subpoena to an 4469
applicant for or the holder of a license or certificate issued 4470
under this chapter, service of the subpoena may be made by 4471
certified mail, return receipt requested, and the subpoena shall 4472
be deemed served on the date delivery is made or the date the 4473
person refuses to accept delivery. If the person being served 4474
refuses to accept the subpoena or is not located, service may be 4475
made to an attorney who notifies the board that the attorney is 4476
representing the person. 4477

(d) A sheriff's deputy who serves a subpoena shall receive 4478
the same fees as a sheriff. Each witness who appears before the 4479
board in obedience to a subpoena shall receive the fees and 4480
mileage provided for under section 119.094 of the Revised Code. 4481

(4) All hearings, investigations, and inspections of the 4482
board shall be considered civil actions for the purposes of 4483
section 2305.252 of the Revised Code. 4484

(5) A report required to be submitted to the board under 4485
this chapter, a complaint, or information received by the board 4486
pursuant to an investigation or pursuant to an inspection under 4487
division (E) of section 4731.054 of the Revised Code is 4488
confidential and not subject to discovery in any civil action. 4489

The board shall conduct all investigations or inspections 4490
and proceedings in a manner that protects the confidentiality of 4491
patients and persons who file complaints with the board. The 4492
board shall not make public the names or any other identifying 4493
information about patients or complainants unless proper consent 4494
is given or, in the case of a patient, a waiver of the patient 4495
privilege exists under division (B) of section 2317.02 of the 4496

Revised Code, except that consent or a waiver of that nature is 4497
not required if the board possesses reliable and substantial 4498
evidence that no bona fide physician-patient relationship 4499
exists. 4500

The board may share any information it receives pursuant 4501
to an investigation or inspection, including patient records and 4502
patient record information, with law enforcement agencies, other 4503
licensing boards, and other governmental agencies that are 4504
prosecuting, adjudicating, or investigating alleged violations 4505
of statutes or administrative rules. An agency or board that 4506
receives the information shall comply with the same requirements 4507
regarding confidentiality as those with which the state medical 4508
board must comply, notwithstanding any conflicting provision of 4509
the Revised Code or procedure of the agency or board that 4510
applies when it is dealing with other information in its 4511
possession. In a judicial proceeding, the information may be 4512
admitted into evidence only in accordance with the Rules of 4513
Evidence, but the court shall require that appropriate measures 4514
are taken to ensure that confidentiality is maintained with 4515
respect to any part of the information that contains names or 4516
other identifying information about patients or complainants 4517
whose confidentiality was protected by the state medical board 4518
when the information was in the board's possession. Measures to 4519
ensure confidentiality that may be taken by the court include 4520
sealing its records or deleting specific information from its 4521
records. 4522

No person shall knowingly access, use, or disclose 4523
confidential investigatory information in a manner prohibited by 4524
law. 4525

(6) On a quarterly basis, the board shall prepare a report 4526

that documents the disposition of all cases during the preceding 4527
three months. The report shall contain the following information 4528
for each case with which the board has completed its activities: 4529

(a) The case number assigned to the complaint or alleged 4530
violation; 4531

(b) The type of license or certificate to practice, if 4532
any, held by the individual against whom the complaint is 4533
directed; 4534

(c) A description of the allegations contained in the 4535
complaint; 4536

(d) Whether witnesses were interviewed; 4537

(e) Whether the individual against whom the complaint is 4538
directed is the subject of any pending complaints; 4539

(f) The disposition of the case. 4540

The report shall state how many cases are still pending 4541
and shall be prepared in a manner that protects the identity of 4542
each person involved in each case. The report shall be a public 4543
record under section 149.43 of the Revised Code. 4544

(7) The board may provide a status update regarding an 4545
investigation to a complainant on request if the board verifies 4546
the complainant's identity. 4547

~~(G)~~(G) (1) If either of the following circumstances occur, 4548
the secretary and supervising member ~~determine both of the~~ 4549
~~following,~~ they may recommend that the board suspend an 4550
individual's license or certificate to practice or certificate 4551
to recommend without a prior hearing: 4552

~~(1)~~(a) The secretary and supervising member determine 4553

both of the following: 4554

(i) That there is clear and convincing evidence that an 4555
individual has violated division (B) of this section; 4556

~~(2)~~ (ii) That the individual's continued practice presents 4557
a danger of immediate and serious harm to the public. 4558

~~Written~~ (b) The board receives verifiable information that 4559
a licensee has been charged in any state or federal court with a 4560
crime classified as a felony under the charging court's law and 4561
the conduct constitutes a violation of division (B) of this 4562
section. 4563

(2) If a recommendation is made to suspend without a prior 4564
hearing pursuant to division (G) (1) of this section, written 4565
allegations shall be prepared for consideration by the board. 4566
The board, upon review of those allegations and by an 4567
affirmative vote of not fewer than six of its members, excluding 4568
the secretary and supervising member, may suspend a license or 4569
certificate without a prior hearing. A telephone conference call 4570
may be utilized for reviewing the allegations and taking the 4571
vote on the summary suspension. 4572

The board shall serve a written order of suspension in 4573
accordance with sections 119.05 and 119.07 of the Revised Code. 4574
The order shall not be subject to suspension by the court during 4575
pendency of any appeal filed under section 119.12 of the Revised 4576
Code. If the individual subject to the summary suspension 4577
requests an adjudicatory hearing by the board, the date set for 4578
the hearing shall be within fifteen days, but not earlier than 4579
seven days, after the individual requests the hearing, unless 4580
otherwise agreed to by both the board and the individual. 4581

(3) Any summary suspension imposed under this division 4582

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

(H) If the board takes action under division (B) (9), (11),
or (13) of this section and the judicial finding of guilt,
guilty plea, or judicial finding of eligibility for intervention
in lieu of conviction is overturned on appeal, upon exhaustion
of the criminal appeal, a petition for reconsideration of the
order may be filed with the board along with appropriate court
documents. Upon receipt of a petition of that nature and
supporting court documents, the board shall reinstate the
individual's license or certificate to practice. 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 (B) of this section.

(I) The license or certificate to practice issued to an
individual under this chapter and the individual's practice in
this state are automatically suspended as of the date of the
individual's second or subsequent plea of guilty to, or judicial
finding of guilt of, a violation of section 2919.123 or 2919.124
of the Revised Code. In addition, the license or certificate to

practice or certificate to recommend issued to an individual 4614
under this chapter and the individual's practice in this state 4615
are automatically suspended as of the date the individual pleads 4616
guilty to, is found by a judge or jury to be guilty of, or is 4617
subject to a judicial finding of eligibility for intervention in 4618
lieu of conviction in this state or treatment or intervention in 4619
lieu of conviction in another jurisdiction for any of the 4620
following criminal offenses in this state or a substantially 4621
equivalent criminal offense in another jurisdiction: aggravated 4622
murder, murder, voluntary manslaughter, felonious assault, 4623
trafficking in persons, kidnapping, rape, sexual battery, gross 4624
sexual imposition, aggravated arson, aggravated robbery, or 4625
aggravated burglary. Continued practice after suspension shall 4626
be considered practicing without a license or certificate. 4627

The board shall notify the individual subject to the 4628
suspension in accordance with sections 119.05 and 119.07 of the 4629
Revised Code. If an individual whose license or certificate is 4630
automatically suspended under this division fails to make a 4631
timely request for an adjudication under Chapter 119. of the 4632
Revised Code, the board shall do whichever of the following is 4633
applicable: 4634

(1) If the automatic suspension under this division is for 4635
a second or subsequent plea of guilty to, or judicial finding of 4636
guilt of, a violation of section 2919.123 or 2919.124 of the 4637
Revised Code, the board shall enter an order suspending the 4638
individual's license or certificate to practice for a period of 4639
at least one year or, if determined appropriate by the board, 4640
imposing a more serious sanction involving the individual's 4641
license or certificate to practice. 4642

(2) In all circumstances in which division (I)(1) of this 4643

section does not apply, enter a final order permanently revoking 4644
the individual's license or certificate to practice. 4645

(J) If the board is required by Chapter 119. of the 4646
Revised Code to give notice of an opportunity for a hearing and 4647
if the individual subject to the notice does not timely request 4648
a hearing in accordance with section 119.07 of the Revised Code, 4649
the board is not required to hold a hearing, but may adopt, by 4650
an affirmative vote of not fewer than six of its members, a 4651
final order that contains the board's findings. In that final 4652
order, the board may order any of the sanctions identified under 4653
division (A) or (B) of this section. 4654

(K) Any action taken by the board under division (B) of 4655
this section resulting in a suspension from practice shall be 4656
accompanied by a written statement of the conditions under which 4657
the individual's license or certificate to practice may be 4658
reinstated. The board shall adopt rules governing conditions to 4659
be imposed for reinstatement. Reinstatement of a license or 4660
certificate suspended pursuant to division (B) of this section 4661
requires an affirmative vote of not fewer than six members of 4662
the board. 4663

(L) When the board refuses to grant or issue a license or 4664
certificate to practice to an applicant, revokes an individual's 4665
license or certificate to practice, refuses to renew an 4666
individual's license or certificate to practice, or refuses to 4667
reinstate an individual's license or certificate to practice, 4668
the board may specify that its action is permanent. An 4669
individual subject to a permanent action taken by the board is 4670
forever thereafter ineligible to hold a license or certificate 4671
to practice and the board shall not accept an application for 4672
reinstatement of the license or certificate or for issuance of a 4673

new license or certificate. 4674

(M) Notwithstanding any other provision of the Revised Code, all of the following apply: 4675
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(1) The surrender of a license or certificate issued under this chapter shall not be 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 or certificate to practice. 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 or certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board. 4677
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(2) An application for a license or certificate made under the provisions of this chapter may not be withdrawn without approval of the board. 4686
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(3) Failure by an individual to renew a license or certificate to practice in accordance with this chapter or a certificate to recommend in accordance with rules adopted under section 4731.301 of the Revised Code does not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual. 4689
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(4) The placement of an individual's license on retired status, as described in section 4731.283 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status. 4695
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(5) At the request of the board, a license or certificate holder shall immediately surrender to the board a license or certificate that the board has suspended, revoked, or 4700
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permanently revoked. 4703

(N) Sanctions shall not be imposed under division (B) (28) 4704
of this section against any person who waives deductibles and 4705
copayments as follows: 4706

(1) In compliance with the health benefit plan that 4707
expressly allows such a practice. Waiver of the deductibles or 4708
copayments shall be made only with the full knowledge and 4709
consent of the plan purchaser, payer, and third-party 4710
administrator. Documentation of the consent shall be made 4711
available to the board upon request. 4712

(2) For professional services rendered to any other person 4713
authorized to practice pursuant to this chapter, to the extent 4714
allowed by this chapter and rules adopted by the board. 4715

(O) Under the board's investigative duties described in 4716
this section and subject to division (F) of this section, the 4717
board shall develop and implement a quality intervention program 4718
designed to improve through remedial education the clinical and 4719
communication skills of individuals authorized under this 4720
chapter to practice medicine and surgery, osteopathic medicine 4721
and surgery, and podiatric medicine and surgery. In developing 4722
and implementing the quality intervention program, the board may 4723
do all of the following: 4724

(1) Offer in appropriate cases as determined by the board 4725
an educational and assessment program pursuant to an 4726
investigation the board conducts under this section; 4727

(2) Select providers of educational and assessment 4728
services, including a quality intervention program panel of case 4729
reviewers; 4730

(3) Make referrals to educational and assessment service 4731

providers and approve individual educational programs 4732
recommended by those providers. The board shall monitor the 4733
progress of each individual undertaking a recommended individual 4734
educational program. 4735

(4) Determine what constitutes successful completion of an 4736
individual educational program and require further monitoring of 4737
the individual who completed the program or other action that 4738
the board determines to be appropriate; 4739

(5) Adopt rules in accordance with Chapter 119. of the 4740
Revised Code to further implement the quality intervention 4741
program. 4742

An individual who participates in an individual 4743
educational program pursuant to this division shall pay the 4744
financial obligations arising from that educational program. 4745

(P) The board shall not refuse to issue a license to an 4746
applicant because of a conviction, plea of guilty, judicial 4747
finding of guilt, judicial finding of eligibility for 4748
intervention in lieu of conviction, or the commission of an act 4749
that constitutes a criminal offense, unless the refusal is in 4750
accordance with section 9.79 of the Revised Code. 4751

(Q) A license or certificate to practice or certificate to 4752
recommend issued to an individual under this chapter and an 4753
individual's practice under this chapter in this state are 4754
automatically suspended if the individual's license or 4755
certificate to practice a health care occupation or provide 4756
health care services is suspended, revoked, or surrendered or 4757
relinquished in lieu of discipline by an agency responsible for 4758
authorizing, certifying, or regulating an individual to practice 4759
a health care occupation or provide health care services in this 4760

state or another jurisdiction. The automatic suspension begins 4761
immediately upon entry of the order by the agency and lasts for 4762
ninety days to permit the board to investigate the basis for the 4763
action under this chapter. Continued practice during the 4764
automatic suspension shall be considered practicing without a 4765
license or certificate. 4766

The board shall notify the individual subject to the 4767
automatic suspension by certified mail or in person in 4768
accordance with section 119.07 of the Revised Code. If an 4769
individual subject to an automatic suspension under this 4770
division fails to make a timely request for an adjudication 4771
under Chapter 119. of the Revised Code, the board is not 4772
required to hold a hearing, but may adopt, by an affirmative 4773
vote of not fewer than six of its members, a final order that 4774
contains the board's findings. In that final order, the board 4775
may order any of the sanctions identified under division (A) or 4776
(B) of this section. 4777

Sec. 4731.224. (A) As used in this section: 4778

(1) "Criminal conduct" means any conduct that would 4779
constitute a felony, a misdemeanor committed in the course of 4780
medical practice, an offense of violence, or a sexually oriented 4781
offense, as defined in section 2950.01 of the Revised Code, 4782
regardless of whether a criminal charge has been filed or the 4783
location in this state where the conduct occurred. 4784

(2) "Sexual misconduct" means conduct that exploits the 4785
licensee-patient relationship in a sexual way, whether verbal or 4786
physical, and may include the expression of thoughts, feelings, 4787
or gestures that are sexual or that reasonably may be construed 4788
by a patient as sexual. Sexual misconduct includes sexual 4789
impropriety, sexual contact, and sexual interaction as defined 4790

by the state medical board in rules adopted in accordance with 4791
Chapter 119. of the Revised Code. 4792

(B)(1) Within ~~sixty~~thirty days after the imposition of 4793
any formal disciplinary action taken by any health care 4794
facility, including a hospital, health care facility operated by 4795
a health insuring corporation, ambulatory surgical center, or 4796
similar facility, against any individual holding a valid license 4797
or certificate to practice issued pursuant to this chapter, the 4798
chief administrator or executive officer of the facility shall 4799
report to the state medical board the name of the individual, 4800
the action taken by the facility, and a summary of the 4801
underlying facts leading to the action taken. Upon request, the 4802
board shall be provided certified copies of the patient records 4803
that were the basis for the facility's action. Prior to release 4804
to the board, the summary shall be approved by the peer review 4805
committee that reviewed the case or by the governing board of 4806
the facility. As used in this division, "formal disciplinary 4807
action" means any action resulting in the revocation, 4808
restriction, reduction, or termination of clinical privileges 4809
for violations of professional ethics, or for reasons of medical 4810
incompetence or medical malpractice. "Formal disciplinary 4811
action" includes a summary action, an action that takes effect 4812
notwithstanding any appeal rights that may exist, and an action 4813
that results in an individual surrendering clinical privileges 4814
while under investigation and during proceedings regarding the 4815
action being taken or in return for not being investigated or 4816
having proceedings held. "Formal disciplinary action" does not 4817
include any action taken for the sole reason of failure to 4818
maintain records on a timely basis or failure to attend staff or 4819
section meetings. 4820

The filing or nonfiling of a report with the board, 4821

investigation by the board, or any disciplinary action taken by 4822
the board, shall not preclude any action by a health care 4823
facility to suspend, restrict, or revoke the individual's 4824
clinical privileges. 4825

In the absence of fraud or bad faith, no individual or 4826
entity that provides patient records to the board shall be 4827
liable in damages to any person as a result of providing the 4828
records. 4829

(2) Within thirty days after commencing an investigation 4830
regarding criminal conduct or sexual misconduct against any 4831
individual holding a valid license or certificate to practice 4832
issued pursuant to this chapter, a health care facility, 4833
including a hospital, health care facility operated by a health 4834
insuring corporation, ambulatory surgical center, or similar 4835
facility, shall report to the board the name of the individual 4836
and a summary of the underlying facts related to the 4837
investigation being commenced. 4838

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 4839
of this section and subject to division (C) (3) of this section, 4840
if any individual authorized to practice under this chapter or 4841
any professional association or society of such individuals 4842
believes that a violation of any provision of this chapter, 4843
Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 4778. of 4844
the Revised Code, or any rule of the board has occurred, the 4845
individual, association, or society shall report to the board 4846
the information upon which the belief is based. 4847

(2) If any individual authorized to practice under this 4848
chapter or any professional association or society of such 4849
individuals believes that a violation of division (B) (19) or 4850
(26) of section 4731.22 of the Revised Code has occurred, the 4851

individual, association, or society shall report the information 4852
upon which the belief is based to the monitoring organization 4853
conducting the confidential monitoring program established under 4854
section 4731.25 of the Revised Code. If any such report is made 4855
to the board, it shall be referred to the monitoring 4856
organization unless the board is aware that the individual who 4857
is the subject of the report does not meet the program 4858
eligibility requirements of section 4731.252 of the Revised 4859
Code. 4860

(3) If any individual authorized to practice under this 4861
chapter or any professional association or society of such 4862
individuals knows or has reasonable cause to suspect based on 4863
facts that would cause a reasonable person in a similar position 4864
to suspect that an individual authorized to practice under this 4865
chapter has committed or participated in criminal conduct or 4866
sexual misconduct, the information upon which the belief is 4867
based shall be reported to the board within thirty days. 4868

This division does not apply to a professional association 4869
or society whose staff interacts with members of the association 4870
or society only in advocacy, governance, or educational 4871
capacities and whose staff does not regularly interact with 4872
members in practice settings. 4873

(4) In addition to the self-reporting of criminal offenses 4874
that is required for license renewal, an individual authorized 4875
to practice under this chapter shall report to the board 4876
criminal charges regarding criminal conduct, sexual misconduct, 4877
or any conduct involving the use of a motor vehicle while under 4878
the influence of alcohol or drugs, including offenses that are 4879
equivalent offenses under division (A) of section 4511.181 of 4880
the Revised Code, violations of division (D) of section 4511.194 4881

of the Revised Code, and violations of division (C) of section 4882
4511.79 of the Revised Code. Reports under this division shall 4883
be made within thirty days of the criminal charge being filed. 4884

~~(C)~~ (D) Any professional association or society composed 4885
primarily of doctors of medicine and surgery, doctors of 4886
osteopathic medicine and surgery, doctors of podiatric medicine 4887
and surgery, or practitioners of limited branches of medicine 4888
that suspends or revokes an individual's membership for 4889
violations of professional ethics, or for reasons of 4890
professional incompetence or professional malpractice, within 4891
~~sixty~~ thirty days after a final decision shall report to the 4892
board, on forms prescribed and provided by the board, the name 4893
of the individual, the action taken by the professional 4894
organization, and a summary of the underlying facts leading to 4895
the action taken. 4896

The filing of a report with the board or decision not to 4897
file a report, investigation by the board, or any disciplinary 4898
action taken by the board, does not preclude a professional 4899
organization from taking disciplinary action against an 4900
individual. 4901

~~(D)~~ (E) Any insurer providing professional liability 4902
insurance to an individual authorized to practice under this 4903
chapter, or any other entity that seeks to indemnify the 4904
professional liability of such an individual, shall notify the 4905
board within thirty days after the final disposition of any 4906
written claim for damages where such disposition results in a 4907
payment exceeding twenty-five thousand dollars. The notice shall 4908
contain the following information: 4909

(1) The name and address of the person submitting the 4910
notification; 4911

(2) The name and address of the insured who is the subject of the claim; 4912
4913

(3) The name of the person filing the written claim; 4914

(4) The date of final disposition; 4915

(5) If applicable, the identity of the court in which the final disposition of the claim took place. 4916
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~~(E)~~ (F) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for medical malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the practicing individual. 4918
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~~(F)~~ (G) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a health care professional or facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an individual whose practice is regulated under this chapter, or in any subsequent trial or appeal of a board action or order. 4928
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~~The board may disclose the summaries and reports it receives under this section only to health care facility~~ 4939
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~~committees within or outside this state that are involved in~~ 4941
~~credentialing or recredentialing the individual or in reviewing~~ 4942
~~the individual's clinical privileges. The board shall indicate~~ 4943
~~whether or not the information has been verified. Information~~ 4944
~~transmitted by the board shall be subject to the same~~ 4945
~~confidentiality provisions as when maintained by the~~ 4946
~~board~~confidential pursuant to division (F) (5) of section 4731.22 4947
of the Revised Code. 4948

~~(G)~~(H) Except for reports filed by an individual pursuant 4949
to division ~~(B)~~(B) (2) or (C) of this section, the board shall 4950
send a copy of any reports or summaries it receives pursuant to 4951
this section to the individual who is the subject of the reports 4952
or summaries. The individual shall have the right to file a 4953
statement with the board concerning the correctness or relevance 4954
of the information. The statement shall at all times accompany 4955
that part of the record in contention. 4956

~~(H)~~(I) An individual or entity that, pursuant to this 4957
section, reports to the board, reports to the monitoring 4958
organization described in section 4731.25 of the Revised Code, 4959
or refers an impaired practitioner to a treatment provider 4960
approved by the board under section 4731.251 of the Revised Code 4961
shall not be subject to suit for civil damages as a result of 4962
the report, referral, or provision of the information. 4963

~~(I)~~(J) In the absence of fraud or bad faith, no 4964
professional association or society of individuals authorized to 4965
practice under this chapter that sponsors a committee or program 4966
to provide peer assistance to practitioners with substance abuse 4967
problems, no representative or agent of such a committee or 4968
program, no representative or agent of the monitoring 4969
organization described in section 4731.25 of the Revised Code, 4970

and no member of the state medical board shall be held liable in 4971
damages to any person by reason of actions taken to refer a 4972
practitioner to a treatment provider approved under section 4973
4731.251 of the Revised Code for examination or treatment. 4974

Sec. 4731.2210. (A) As used in this section: 4975

(1) "Key third party" means an individual closely involved 4976
in a patient's decision-making regarding health care services, 4977
including a patient's spouse or partner, parents, children, 4978
siblings, or guardians. An individual's status as a key third 4979
party ceases upon termination of a practitioner-patient 4980
relationship or termination of the relationship between a 4981
patient and the individual. 4982

(2) "Practitioner" means any of the following: 4983

(a) An individual authorized under this chapter to 4984
practice medicine and surgery, osteopathic medicine and surgery, 4985
podiatric medicine and surgery, or a limited branch of medicine; 4986

(b) An individual licensed under Chapter 4730. of the 4987
Revised Code to practice as a physician assistant; 4988

(c) An individual authorized under Chapter 4759. of the 4989
Revised Code to practice as a dietitian; 4990

(d) An individual authorized under Chapter 4760. of the 4991
Revised Code to practice as an anesthesiologist assistant; 4992

(e) An individual authorized under Chapter 4761. of the 4993
Revised Code to practice respiratory care; 4994

(f) An individual authorized under Chapter 4762. of the 4995
Revised Code to practice as an acupuncturist or oriental 4996
medicine practitioner; 4997

<u>(g) An individual authorized under Chapter 4774. of the</u>	4998
<u>Revised Code to practice as a radiologist assistant;</u>	4999
<u>(h) An individual licensed under Chapter 4778. of the</u>	5000
<u>Revised Code to practice as a genetic counselor.</u>	5001
<u>(3) "Sexual misconduct" has the same meaning as in section</u>	5002
<u>4731.224 of the Revised Code.</u>	5003
<u>(B) Except as provided in division (D) of this section,</u>	5004
<u>the state medical board may require a practitioner that is</u>	5005
<u>subject to a probationary order of the board that is made on or</u>	5006
<u>after the effective date of this section, and that involves a</u>	5007
<u>circumstance described in division (C) of this section, to</u>	5008
<u>provide to each patient, or to the patient's guardian or a key</u>	5009
<u>third party, a written disclosure signed by the practitioner</u>	5010
<u>that includes all of the following:</u>	5011
<u>(1) The practitioner's probation status;</u>	5012
<u>(2) The total length of the probation;</u>	5013
<u>(3) The probation end date;</u>	5014
<u>(4) Practice restrictions placed on the practitioner by</u>	5015
<u>the board;</u>	5016
<u>(5) The board's telephone number;</u>	5017
<u>(6) An explanation of how the patient can find additional</u>	5018
<u>information regarding the probation on the practitioner's</u>	5019
<u>profile page on the board's internet web site.</u>	5020
<u>The written disclosure, if required by the board, shall be</u>	5021
<u>provided before the patient's first visit following the</u>	5022
<u>probationary order of the board. The practitioner shall obtain a</u>	5023
<u>copy of the disclosure signed by the patient, or the patient's</u>	5024

guardian or a key third party, and maintain the signed copy in 5025
the patient's medical record. The signed copy shall be made 5026
available to the board immediately upon request. 5027

(C) The written disclosure described in division (B) of 5028
this section applies in both of the following circumstances: 5029

(1) Issuance by the board of a final order, final 5030
adjudicative order under Chapter 119. of the Revised Code, or a 5031
consent agreement that is ratified by an affirmative vote of not 5032
fewer than six members of the board establishing any of the 5033
following: 5034

(a) Commission of any act of sexual misconduct with a 5035
patient or key third party; 5036

(b) Drug or alcohol abuse directly resulting in patient 5037
harm, or that impairs the ability of the practitioner to 5038
practice safely; 5039

(c) Criminal conviction directly resulting in harm to 5040
patient health; 5041

(d) Inappropriate prescribing directly resulting in 5042
patient harm. 5043

(2) A statement of issues alleged that the practitioner 5044
committed any of the acts described in divisions (C) (1) (a) 5045
through (d) and, notwithstanding a lack of admission of guilt, a 5046
consent agreement ratified by an affirmative vote of not fewer 5047
than six members of the board includes express acknowledgement 5048
that the disclosure requirements of this section would serve to 5049
protect the public interest. 5050

(D) Written disclosure as described in this section is not 5051
required in the following circumstances: 5052

(1) The patient is unconscious or otherwise unable to 5053
comprehend the disclosure and sign it, and a guardian or a key 5054
third party is unavailable to comprehend and sign it; 5055

(2) The direct patient interaction occurs in an emergency 5056
department or otherwise occurs as an immediate result of a 5057
medical emergency; 5058

(3) The practitioner does not have a direct treatment 5059
relationship with the patient and does not have direct contact 5060
or direct communication with the patient. 5061

(E) The board shall provide the following information 5062
regarding practitioners on probation and those practicing under 5063
probationary status, in plain view on a practitioner's profile 5064
page on the board's internet web site: 5065

(1) Formal action documents detailing the citation, 5066
reports and recommendations, board order, and consent agreement; 5067

(2) The length of the probation and the end date; 5068

(3) Practice restrictions placed on the practitioner by 5069
the board. 5070

(F) The board shall provide a sample probation disclosure 5071
letter on its internet web site to be used by practitioners to 5072
comply with this section. 5073

Sec. 4731.77. (A) As used in this section, "intimate 5074
examination" means a pelvic, prostate, or rectal examination. 5075

(B) Except as provided in division (C) of this section, a 5076
physician, student enrolled in a medical school or osteopathic 5077
medical school, or participant in a program of graduate medical 5078
education shall not perform, or authorize another individual to 5079
perform, an intimate examination on an anesthetized or 5080

unconscious patient. 5081

(C) Division (B) of this section does not apply in any of 5082
the following circumstances: 5083

(1) The performance of an intimate examination is within 5084
the scope of care for the surgical procedure or diagnostic 5085
examination to be performed on the patient. 5086

(2) The patient or the patient's legal representative 5087
gives specific, informed consent for the intimate examination, 5088
consistent with division (D) of this section. 5089

(3) An intimate examination is required for diagnostic 5090
purposes or treatment of the patient's medical condition. 5091

(D) To obtain informed consent for purposes of division 5092
(C) (2) of this section, the physician shall do all of the 5093
following: 5094

(1) Provide the patient or the patient's legal 5095
representative with a written or electronic informed consent 5096
form that meets all of the following requirements: 5097

(a) Is a separate consent form or is included as a 5098
distinct or separate section of a general consent form; 5099

(b) Contains the following heading at the top of the form 5100
or section: "CONSENT FOR INTIMATE EXAMINATION"; 5101

(c) Specifies the nature and purpose of the intimate 5102
examination; 5103

(d) Informs the patient or the patient's legal 5104
representative that a student may be present if the patient or 5105
the patient's legal representative authorizes a student to 5106
perform the intimate examination or observe the intimate 5107

<u>examination in person or through electronic means;</u>	5108
<u>(e) Allows the patient or the patient's legal</u>	5109
<u>representative the opportunity to consent to or refuse the</u>	5110
<u>intimate examination;</u>	5111
<u>(f) Permits a patient or the patient's legal</u>	5112
<u>representative who consents to an intimate examination to</u>	5113
<u>consent to or refuse a student to perform or observe the</u>	5114
<u>intimate examination in person or through electronic means.</u>	5115
<u>(2) Provide the patient or the patient's legal</u>	5116
<u>representative with a meaningful opportunity to ask questions</u>	5117
<u>about the intimate examination;</u>	5118
<u>(3) Obtain the signature of the patient or the patient's</u>	5119
<u>legal representative on the informed consent form;</u>	5120
<u>(4) Sign the informed consent form.</u>	5121
Sec. 4731.99. (A) Whoever violates section 4731.41,	5122
4731.43, or 4731.60 of the Revised Code is guilty of a felony of	5123
the fifth degree on a first offense and a felony of the fourth	5124
degree on each subsequent offense.	5125
(B) Whoever violates section 4731.49, 4731.50, or 4731.81	5126
of the Revised Code is guilty of a misdemeanor of the fourth	5127
degree on a first offense and a misdemeanor of the first degree	5128
on each subsequent offense.	5129
(C) Whoever violates section 4731.46 or 4731.47 of the	5130
Revised Code is guilty of a felony of the fifth degree.	5131
(D) Whoever violates section 4731.48 of the Revised Code	5132
is guilty of a misdemeanor of the fourth degree.	5133
(E) <u>(E) (1) Whoever violates division (A), (B) (B) (1), (C) (C)</u>	5134

(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) Except as provided in division (E) of this section, 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	5164
equivalent to the requirements adopted by the commission on	5165
dietetic registration;	5166
(4) Requirements for a person holding a limited permit	5167
under division (G) of section 4759.06 of the Revised Code,	5168
including the duration of validity of a limited permit and	5169
procedures for renewal;	5170
(5) Continuing education requirements for renewal of a	5171
license, including rules providing for pro rata reductions by	5172
month of the number of hours of continuing education that must	5173
be completed for license holders who have been disabled by	5174
illness or accident or have been absent from the country. Rules	5175
adopted under this division shall be consistent with the	5176
continuing education requirements adopted by the commission on	5177
dietetic registration.	5178
(6) Any additional education requirements the board	5179
considers necessary, for applicants who have not practiced	5180
dietetics within five years of the initial date of application	5181
for licensure;	5182
(7) Standards of professional responsibility and practice	5183
for persons licensed under this chapter that are consistent with	5184
those standards of professional responsibility and practice	5185
adopted by the academy of nutrition and dietetics;	5186
(8) Formulation of an application form for licensure or	5187
license renewal;	5188
(9) Procedures for license renewal;	5189
(10) Requirements for criminal records checks of	5190
applicants under section 4776.03 of the Revised Code.	5191

(B) (1) The board shall investigate evidence that appears 5192
to show that a person has violated any provision of this chapter 5193
or any rule adopted under it. Any person may report to the board 5194
in a signed writing any information that the person may have 5195
that appears to show a violation of any provision of this 5196
chapter or any rule adopted under it. In the absence of bad 5197
faith, any person who reports information of that nature or who 5198
testifies before the board in any adjudication conducted under 5199
Chapter 119. of the Revised Code shall not be liable in damages 5200
in a civil action as a result of the report or testimony. Each 5201
complaint or allegation of a violation received by the board 5202
shall be assigned a case number and shall be recorded by the 5203
board. 5204

(2) Investigations of alleged violations of this chapter 5205
or any rule adopted under it shall be supervised by the 5206
supervising member elected by the board in accordance with 5207
section 4731.02 of the Revised Code and by the secretary as 5208
provided in section 4759.012 of the Revised Code. The president 5209
may designate another member of the board to supervise the 5210
investigation in place of the supervising member. Upon a vote of 5211
the majority of the board to authorize the addition of a 5212
consumer member in the supervision of any part of any 5213
investigation, the president shall designate a consumer member 5214
for supervision of investigations as determined by the 5215
president. The authorization of consumer member participation in 5216
investigation supervision may be rescinded by a majority vote of 5217
the board. No member of the board who supervises the 5218
investigation of a case shall participate in further 5219
adjudication of the case. 5220

(3) In investigating a possible violation of this chapter 5221
or any rule adopted under this chapter, the board may issue 5222

subpoenas, question witnesses, conduct interviews, administer 5223
oaths, order the taking of depositions, inspect and copy any 5224
books, accounts, papers, records, or documents, and compel the 5225
attendance of witnesses and the production of books, accounts, 5226
papers, records, documents, and testimony, except that a 5227
subpoena for patient record information shall not be issued 5228
without consultation with the attorney general's office and 5229
approval of the secretary of the board. 5230

Before issuance of a subpoena for patient record 5231
information, the secretary shall determine whether there is 5232
probable cause to believe that the complaint filed alleges a 5233
violation of this chapter or any rule adopted under it and that 5234
the records sought are relevant to the alleged violation and 5235
material to the investigation. The subpoena may apply only to 5236
records that cover a reasonable period of time surrounding the 5237
alleged violation. 5238

On failure to comply with any subpoena issued by the board 5239
and after reasonable notice to the person being subpoenaed, the 5240
board may move for an order compelling the production of persons 5241
or records pursuant to the Rules of Civil Procedure. 5242

A subpoena issued by the board may be served by a sheriff, 5243
the sheriff's deputy, or a board employee or agent designated by 5244
the board. Service of a subpoena issued by the board may be made 5245
by delivering a copy of the subpoena to the person named 5246
therein, reading it to the person, or leaving it at the person's 5247
usual place of residence, usual place of business, or address on 5248
file with the board. When serving a subpoena to an applicant for 5249
or the holder of a license or limited permit issued under this 5250
chapter, service of the subpoena may be made by certified mail, 5251
return receipt requested, and the subpoena shall be deemed 5252

served on the date delivery is made or the date the person 5253
refuses to accept delivery. If the person being served refuses 5254
to accept the subpoena or is not located, service may be made to 5255
an attorney who notifies the board that the attorney is 5256
representing the person. 5257

A sheriff's deputy who serves a subpoena shall receive the 5258
same fees as a sheriff. Each witness who appears before the 5259
board in obedience to a subpoena shall receive the fees and 5260
mileage provided for under section 119.094 of the Revised Code. 5261

(4) All hearings, investigations, and inspections of the 5262
board shall be considered civil actions for the purposes of 5263
section 2305.252 of the Revised Code. 5264

(5) A report required to be submitted to the board under 5265
this chapter, a complaint, or information received by the board 5266
pursuant to an investigation is confidential and not subject to 5267
discovery in any civil action. 5268

The board shall conduct all investigations or inspections 5269
and proceedings in a manner that protects the confidentiality of 5270
patients and persons who file complaints with the board. The 5271
board shall not make public the names or any other identifying 5272
information about patients or complainants unless proper consent 5273
is given. 5274

The board may share any information it receives pursuant 5275
to an investigation or inspection, including patient records and 5276
patient record information, with law enforcement agencies, other 5277
licensing boards, and other governmental agencies that are 5278
prosecuting, adjudicating, or investigating alleged violations 5279
of statutes or administrative rules. An agency or board that 5280
receives the information shall comply with the same requirements 5281

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 Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

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

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

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

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

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is 5311
directed is the subject of any pending complaints; 5312

(f) The disposition of the case. 5313

The report shall state how many cases are still pending 5314
and shall be prepared in a manner that protects the identity of 5315
each person involved in each case. The report shall be a public 5316
record under section 149.43 of the Revised Code. 5317

(7) The board may provide a status update regarding an 5318
investigation to a complainant on request if the board verifies 5319
the complainant's identity. 5320

(C) The board shall keep records as are necessary to carry 5321
out the provisions of this chapter. 5322

(D) The board shall maintain and publish on its internet 5323
web site the board's rules and requirements for licensure 5324
adopted under division (A) of this section. 5325

(E) The board shall issue a license or limited permit to 5326
practice dietetics in accordance with Chapter 4796. of the 5327
Revised Code to an applicant if either of the following apply: 5328

(1) The applicant holds a license or permit in another 5329
state. 5330

(2) The applicant has satisfactory work experience, a 5331
government certification, or a private certification as 5332
described in that chapter as a dietitian in a state that does 5333
not issue that license. 5334

Sec. 4759.07. (A) The state medical board, by an 5335
affirmative vote of not fewer than six members, shall, except as 5336
provided in division (B) of this section, and to the extent 5337
permitted by law, limit, revoke, or suspend an individual's 5338

license or limited permit, refuse to issue a license or limited 5339
permit to an individual, refuse to renew a license or limited 5340
permit, refuse to reinstate a license or limited permit, or 5341
reprimand or place on probation the holder of a license or 5342
limited permit for one or more of the following reasons: 5343

(1) Except when civil penalties are imposed under section 5344
4759.071 of the Revised Code, violating or attempting to 5345
violate, directly or indirectly, or assisting in or abetting the 5346
violation of, or conspiring to violate, any provision of this 5347
chapter or the rules adopted by the board; 5348

(2) Making a false, fraudulent, deceptive, or misleading 5349
statement in the solicitation of or advertising for patients; in 5350
relation to the practice of dietetics; or in securing or 5351
attempting to secure any license or permit issued by the board 5352
under this chapter. 5353

As used in division (A) (2) of this section, "false, 5354
fraudulent, deceptive, or misleading statement" means a 5355
statement that includes a misrepresentation of fact, is likely 5356
to mislead or deceive because of a failure to disclose material 5357
facts, is intended or is likely to create false or unjustified 5358
expectations of favorable results, or includes representations 5359
or implications that in reasonable probability will cause an 5360
ordinarily prudent person to misunderstand or be deceived. 5361

(3) Committing fraud during the administration of the 5362
examination for a license to practice or committing fraud, 5363
misrepresentation, or deception in applying for, renewing, or 5364
securing any license or permit issued by the board; 5365

(4) A plea of guilty to, a judicial finding of guilt of, 5366
or a judicial finding of eligibility for intervention in lieu of 5367

conviction for, a felony;	5368
(5) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	5369 5370 5371
(6) 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;	5372 5373 5374 5375
(7) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	5376 5377 5378
(8) 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;	5379 5380 5381
(9) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	5382 5383 5384
(10) A record of engaging in incompetent or negligent conduct in the practice of dietetics;	5385 5386
(11) 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 a patient is established;	5387 5388 5389 5390
(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	5391 5392 5393
(13) Violation of the conditions of limitation placed by the board on a license or permit;	5394 5395

(14) 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;	5396 5397 5398 5399
(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;	5400 5401 5402 5403 5404 5405 5406 5407 5408 5409
(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;	5410 5411 5412
(17) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (A) (11), (12), or (14) of this section;	5413 5414 5415 5416 5417
(18) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;	5418 5419 5420 5421
(19) Failure to cooperate in an investigation conducted by the board under division (B) of section 4759.05 of the Revised Code, including failure to comply with a subpoena or order	5422 5423 5424

issued by the board or failure to answer truthfully a question 5425
presented by the board in an investigative interview, an 5426
investigative office conference, at a deposition, or in written 5427
interrogatories, except that failure to cooperate with an 5428
investigation shall not constitute grounds for discipline under 5429
this section if a court of competent jurisdiction has issued an 5430
order that either quashes a subpoena or permits the individual 5431
to withhold the testimony or evidence in issue; 5432

(20) Representing with the purpose of obtaining 5433
compensation or other advantage as personal gain or for any 5434
other person, that an incurable disease or injury, or other 5435
incurable condition, can be permanently cured. 5436

(B) The board shall not refuse to issue a license or 5437
limited permit to an applicant because of a plea of guilty to, a 5438
judicial finding of guilt of, or a judicial finding of 5439
eligibility for intervention in lieu of conviction for an 5440
offense unless the refusal is in accordance with section 9.79 of 5441
the Revised Code. 5442

(C) Any action taken by the board under division (A) of 5443
this section resulting in a suspension from practice shall be 5444
accompanied by a written statement of the conditions under which 5445
the individual's license or permit may be reinstated. The board 5446
shall adopt rules governing conditions to be imposed for 5447
reinstatement. Reinstatement of a license or permit suspended 5448
pursuant to division (A) of this section requires an affirmative 5449
vote of not fewer than six members of the board. 5450

(D) When the board refuses to grant or issue a license or 5451
permit to an applicant, revokes an individual's license or 5452
permit, refuses to renew an individual's license or permit, or 5453
refuses to reinstate an individual's license or permit, the 5454

board may specify that its action is permanent. An individual 5455
subject to a permanent action taken by the board is forever 5456
thereafter ineligible to hold a license or permit and the board 5457
shall not accept an application for reinstatement of the license 5458
or permit or for issuance of a new license or permit. 5459

(E) Disciplinary actions taken by the board under division 5460
(A) of this section shall be taken pursuant to an adjudication 5461
under Chapter 119. of the Revised Code, except that in lieu of 5462
an adjudication, the board may enter into a consent agreement 5463
with an individual to resolve an allegation of a violation of 5464
this chapter or any rule adopted under it. A consent agreement, 5465
when ratified by an affirmative vote of not fewer than six 5466
members of the board, shall constitute the findings and order of 5467
the board with respect to the matter addressed in the agreement. 5468
If the board refuses to ratify a consent agreement, the 5469
admissions and findings contained in the consent agreement shall 5470
be of no force or effect. 5471

A telephone conference call may be utilized for 5472
ratification of a consent agreement that revokes or suspends an 5473
individual's license or permit. The telephone conference call 5474
shall be considered a special meeting under division (F) of 5475
section 121.22 of the Revised Code. 5476

(F) In enforcing division (A)(14) of this section, the 5477
board, upon a showing of a possible violation, shall refer any 5478
individual authorized to practice by this chapter or who has 5479
submitted an application pursuant to this chapter to the 5480
monitoring organization that conducts the confidential 5481
monitoring program established under section 4731.25 of the 5482
Revised Code. The board also may compel the individual to submit 5483
to a mental examination, physical examination, including an HIV 5484

test, or both a mental and a physical examination. The expense 5485
of the examination is the responsibility of the individual 5486
compelled to be examined. Failure to submit to a mental or 5487
physical examination or consent to an HIV test ordered by the 5488
board constitutes an admission of the allegations against the 5489
individual unless the failure is due to circumstances beyond the 5490
individual's control, and a default and final order may be 5491
entered without the taking of testimony or presentation of 5492
evidence. If the board finds an individual unable to practice 5493
because of the reasons set forth in division (A) (14) of this 5494
section, the board shall require the individual to submit to 5495
care, counseling, or treatment by physicians approved or 5496
designated by the board, as a condition for initial, continued, 5497
reinstated, or renewed authority to practice. An individual 5498
affected under this division shall be afforded an opportunity to 5499
demonstrate to the board the ability to resume practice in 5500
compliance with acceptable and prevailing standards under the 5501
provisions of the individual's license or permit. For the 5502
purpose of division (A) (14) of this section, any individual who 5503
applies for or receives a license or permit under this chapter 5504
accepts the privilege of practicing in this state and, by so 5505
doing, shall be deemed to have given consent to submit to a 5506
mental or physical examination when directed to do so in writing 5507
by the board, and to have waived all objections to the 5508
admissibility of testimony or examination reports that 5509
constitute a privileged communication. 5510

(G) For the purposes of division (A) (18) of this section, 5511
any individual authorized to practice by this chapter accepts 5512
the privilege of practicing in this state subject to supervision 5513
by the board. By filing an application for or holding a license 5514
or permit under this chapter, an individual shall be deemed to 5515

have given consent to submit to a mental or physical examination 5516
when ordered to do so by the board in writing, and to have 5517
waived all objections to the admissibility of testimony or 5518
examination reports that constitute privileged communications. 5519

If it has reason to believe that any individual authorized 5520
to practice by this chapter or any applicant for a license or 5521
permit suffers such impairment, the board shall refer the 5522
individual to the monitoring organization that conducts the 5523
confidential monitoring program established under section 5524
4731.25 of the Revised Code. The board also may compel the 5525
individual to submit to a mental or physical examination, or 5526
both. The expense of the examination is the responsibility of 5527
the individual compelled to be examined. Any mental or physical 5528
examination required under this division shall be undertaken by 5529
a treatment provider or physician who is qualified to conduct 5530
the examination and who is approved under section 4731.251 of 5531
the Revised Code. 5532

Failure to submit to a mental or physical examination 5533
ordered by the board constitutes an admission of the allegations 5534
against the individual unless the failure is due to 5535
circumstances beyond the individual's control, and a default and 5536
final order may be entered without the taking of testimony or 5537
presentation of evidence. If the board determines that the 5538
individual's ability to practice is impaired, the board shall 5539
suspend the individual's license or permit or deny the 5540
individual's application and shall require the individual, as a 5541
condition for an initial, continued, reinstated, or renewed 5542
license or permit, to submit to treatment. 5543

Before being eligible to apply for reinstatement of a 5544
license or permit suspended under this division, the impaired 5545

practitioner shall demonstrate to the board the ability to 5546
resume practice in compliance with acceptable and prevailing 5547
standards of care under the provisions of the practitioner's 5548
license or permit. The demonstration shall include, but shall 5549
not be limited to, the following: 5550

(1) Certification from a treatment provider approved under 5551
section 4731.251 of the Revised Code that the individual has 5552
successfully completed any required inpatient treatment; 5553

(2) Evidence of continuing full compliance with an 5554
aftercare contract or consent agreement; 5555

(3) Two written reports indicating that the individual's 5556
ability to practice has been assessed and that the individual 5557
has been found capable of practicing according to acceptable and 5558
prevailing standards of care. The reports shall be made by 5559
individuals or providers approved by the board for making the 5560
assessments and shall describe the basis for their 5561
determination. 5562

The board may reinstate a license or permit suspended 5563
under this division after that demonstration and after the 5564
individual has entered into a written consent agreement. 5565

When the impaired practitioner resumes practice, the board 5566
shall require continued monitoring of the individual. The 5567
monitoring shall include, but not be limited to, compliance with 5568
the written consent agreement entered into before reinstatement 5569
or with conditions imposed by board order after a hearing, and, 5570
upon termination of the consent agreement, submission to the 5571
board for at least two years of annual written progress reports 5572
made under penalty of perjury stating whether the individual has 5573
maintained sobriety. 5574

~~(H)~~-(H) (1) If either of the following circumstances occur, 5575
the secretary and supervising member ~~determine both of the~~ 5576
~~following, they~~ may recommend that the board suspend an 5577
individual's license or permit without a prior hearing: 5578

~~(1)~~-(a) The secretary and supervising member determine 5579

both of the following: 5580

(i) That there is clear and convincing evidence that an 5581
individual has violated division (A) of this section; 5582

~~(2)~~-(ii) That the individual's continued practice presents 5583
a danger of immediate and serious harm to the public. 5584

~~Written~~-(b) The board receives verifiable information that 5585
a licensee has been charged in any state or federal court for a 5586
crime classified as a felony under the charging court's law and 5587
the conduct charged constitutes a violation of division (A) of 5588
this section. 5589

(2) If a recommendation is made to suspend without a prior 5590
hearing pursuant to division (H) (1) of this section, written 5591
allegations shall be prepared for consideration by the board. 5592
The board, upon review of those allegations and by an 5593
affirmative vote of not fewer than six of its members, excluding 5594
the secretary and supervising member, may suspend a license or 5595
permit without a prior hearing. A telephone conference call may 5596
be utilized for reviewing the allegations and taking the vote on 5597
the summary suspension. 5598

The board shall serve a written order of suspension in 5599
accordance with sections 119.05 and 119.07 of the Revised Code. 5600
The order shall not be subject to suspension by the court during 5601
pendency of any appeal filed under section 119.12 of the Revised 5602
Code. If the individual subject to the summary suspension 5603

requests an adjudicatory hearing by the board, the date set for 5604
the hearing shall be within fifteen days, but not earlier than 5605
seven days, after the individual requests the hearing, unless 5606
otherwise agreed to by both the board and the individual. 5607

(3) Any summary suspension imposed under this division 5608
shall remain in effect, unless reversed on appeal, until a final 5609
adjudicative order issued by the board pursuant to this section 5610
and Chapter 119. of the Revised Code becomes effective. The 5611
board shall issue its final adjudicative order within seventy- 5612
five days after completion of its hearing. A failure to issue 5613
the order within seventy-five days shall result in dissolution 5614
of the summary suspension order but shall not invalidate any 5615
subsequent, final adjudicative order. 5616

(I) If the board is required by Chapter 119. of the 5617
Revised Code to give notice of an opportunity for a hearing and 5618
if the individual subject to the notice does not timely request 5619
a hearing in accordance with section 119.07 of the Revised Code, 5620
the board is not required to hold a hearing, but may adopt, by 5621
an affirmative vote of not fewer than six of its members, a 5622
final order that contains the board's findings. In the final 5623
order, the board may order any of the sanctions identified under 5624
division (A) of this section. 5625

(J) For purposes of divisions (A) (5), (7), and (9) of this 5626
section, the commission of the act may be established by a 5627
finding by the board, pursuant to an adjudication under Chapter 5628
119. of the Revised Code, that the individual committed the act. 5629
The board does not have jurisdiction under those divisions if 5630
the trial court renders a final judgment in the individual's 5631
favor and that judgment is based upon an adjudication on the 5632
merits. The board has jurisdiction under those divisions if the 5633

trial court issues an order of dismissal upon technical or 5634
procedural grounds. 5635

(K) The sealing or expungement of conviction records by 5636
any court shall have no effect upon a prior board order entered 5637
under this section or upon the board's jurisdiction to take 5638
action under this section if, based upon a plea of guilty, a 5639
judicial finding of guilt, or a judicial finding of eligibility 5640
for intervention in lieu of conviction, the board issued a 5641
notice of opportunity for a hearing prior to the court's order 5642
to seal or expunge the records. The board shall not be required 5643
to seal, destroy, redact, or otherwise modify its records to 5644
reflect the court's sealing or expungement of conviction 5645
records. 5646

(L) If the board takes action under division (A) (4), (6), 5647
or (8) of this section, and the judicial finding of guilt, 5648
guilty plea, or judicial finding of eligibility for intervention 5649
in lieu of conviction is overturned on appeal, upon exhaustion 5650
of the criminal appeal, a petition for reconsideration of the 5651
order may be filed with the board along with appropriate court 5652
documents. Upon receipt of a petition for reconsideration and 5653
supporting court documents, the board shall reinstate the 5654
individual's license or permit. The board may then hold an 5655
adjudication under Chapter 119. of the Revised Code to determine 5656
whether the individual committed the act in question. Notice of 5657
an opportunity for a hearing shall be given in accordance with 5658
Chapter 119. of the Revised Code. If the board finds, pursuant 5659
to an adjudication held under this division, that the individual 5660
committed the act or if no hearing is requested, the board may 5661
order any of the sanctions identified under division (A) of this 5662
section. 5663

(M) 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 serve the individual subject to the suspension in accordance with sections 119.05 and 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 permanently revoking the individual's license or permit.

(N) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license or permit issued under this chapter shall not be 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 or permit. 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 or permit surrendered

to the board requires an affirmative vote of not fewer than six 5694
members of the board. 5695

(2) An application for a license or permit made under the 5696
provisions of this chapter may not be withdrawn without approval 5697
of the board. 5698

(3) Failure by an individual to renew a license or permit 5699
in accordance with this chapter does not remove or limit the 5700
board's jurisdiction to take any disciplinary action under this 5701
section against the individual. 5702

(4) The placement of an individual's license on retired 5703
status, as described in section 4759.064 of the Revised Code, 5704
does not remove or limit the board's jurisdiction to take any 5705
disciplinary action against the individual with regard to the 5706
license as it existed before being placed on retired status. 5707

(5) At the request of the board, a license or permit 5708
holder shall immediately surrender to the board a license or 5709
permit that the board has suspended, revoked, or permanently 5710
revoked. 5711

Sec. 4759.14. (A) As used in this section, "criminal 5712
conduct" and "sexual misconduct" have the same meanings as in 5713
section 4731.224 of the Revised Code. 5714

(B) (1) Within thirty days after commencing an 5715
investigation regarding criminal conduct or sexual misconduct 5716
against any individual holding a valid license to practice 5717
issued pursuant to this chapter, a health care facility, 5718
including a hospital, health care facility operated by a health 5719
insuring corporation, ambulatory surgical facility, or similar 5720
facility, shall report to the board the name of the individual 5721
and a summary of the underlying facts related to the 5722

investigation being commenced. 5723

(2) If any individual authorized to practice under this 5724
chapter or any professional association or society of such 5725
individuals knows or has reasonable cause to suspect based on 5726
facts that would cause a reasonable person in a similar position 5727
to suspect that an individual authorized to practice under this 5728
chapter has committed or participated in criminal conduct or 5729
sexual misconduct the information upon which the belief is based 5730
shall be reported to the board within thirty days. 5731

This division does not apply to a professional association 5732
or society whose staff interacts with members of the association 5733
or society only in advocacy, governance, or educational 5734
capacities and whose staff does not regularly interact with 5735
members in practice settings. 5736

(3) In addition to the self-reporting of criminal offenses 5737
that is required for license renewal, an individual authorized 5738
to practice under this chapter shall report to the board 5739
criminal charges regarding criminal conduct, sexual misconduct, 5740
or any conduct involving the use of a motor vehicle while under 5741
the influence of alcohol or drugs, including offenses that are 5742
equivalent offenses under division (A) of section 4511.181 of 5743
the Revised Code, violations of division (D) of section 4511.194 5744
of the Revised Code, and violations of division (C) of section 5745
4511.79 of the Revised Code. Reports under this division shall 5746
be made within thirty days of the criminal charge being filed. 5747

Sec. 4759.99. Whoever violates section 4759.02 of the 5748
Revised Code is guilty of a minor misdemeanor. If the offender 5749
has been previously convicted once of a violation of the 5750
section, then the violation is a misdemeanor of the fourth 5751
degree. If the offender has been previously convicted more than 5752

once of a violation of the section, then the violation is a 5753
misdemeanor of the first degree. 5754

Whoever violates division (B) (1) or (2) of section 4759.14 5755
of the Revised Code is guilty of failure to report criminal 5756
conduct or sexual misconduct, a misdemeanor of the fourth 5757
degree. If the offender has previously been convicted of a 5758
violation of this division, the failure to report is a 5759
misdemeanor of the first degree. 5760

Whoever violates division (B) of section 4759.05 of the 5761
Revised Code is guilty of disclosing confidential investigatory 5762
information, a misdemeanor of the first degree. 5763

Sec. 4760.13. (A) The state medical board, by an 5764
affirmative vote of not fewer than six members, may refuse to 5765
grant a license to practice as an anesthesiologist assistant to, 5766
or may revoke the license held by, an individual found by the 5767
board to have committed fraud, misrepresentation, or deception 5768
in applying for or securing the license. 5769

(B) The board, by an affirmative vote of not fewer than 5770
six members, shall, except as provided in division (C) of this 5771
section, and to the extent permitted by law, limit, revoke, or 5772
suspend an individual's license to practice as an 5773
anesthesiologist assistant, refuse to issue a license to an 5774
applicant, refuse to renew a license, refuse to reinstate a 5775
license, or reprimand or place on probation the holder of a 5776
license for any of the following reasons: 5777

(1) Permitting the holder's name or license to be used by 5778
another person; 5779

(2) Failure to comply with the requirements of this 5780
chapter, Chapter 4731. of the Revised Code, or any rules adopted 5781

by the board;	5782
(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;	5783 5784 5785 5786
(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;	5787 5788 5789 5790
(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;	5791 5792 5793 5794
(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice;	5795 5796 5797 5798
(7) Willfully betraying a professional confidence;	5799
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as an anesthesiologist assistant.	5800 5801 5802
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.	5803 5804 5805 5806 5807 5808 5809 5810

- (9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice; 5811
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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; 5814
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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; 5817
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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; 5820
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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; 5824
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- (14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 5827
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- (15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 5830
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- (16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs; 5833
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- (17) Any of the following actions taken by the state 5838

agency responsible for regulating the practice of	5839
anesthesiologist assistants in another jurisdiction, for any	5840
reason other than the nonpayment of fees: the limitation,	5841
revocation, or suspension of an individual's license to	5842
practice; acceptance of an individual's license surrender;	5843
denial of a license; refusal to renew or reinstate a license;	5844
imposition of probation; or issuance of an order of censure or	5845
other reprimand;	5846
(18) Violation of the conditions placed by the board on a	5847
license to practice;	5848
(19) Failure to use universal blood and body fluid	5849
precautions established by rules adopted under section 4731.051	5850
of the Revised Code;	5851
(20) Failure to cooperate in an investigation conducted by	5852
the board under section 4760.14 of the Revised Code, including	5853
failure to comply with a subpoena or order issued by the board	5854
or failure to answer truthfully a question presented by the	5855
board at a deposition or in written interrogatories, except that	5856
failure to cooperate with an investigation shall not constitute	5857
grounds for discipline under this section if a court of	5858
competent jurisdiction has issued an order that either quashes a	5859
subpoena or permits the individual to withhold the testimony or	5860
evidence in issue;	5861
(21) Failure to comply with any code of ethics established	5862
by the national commission for the certification of	5863
anesthesiologist assistants;	5864
(22) Failure to notify the state medical board of the	5865
revocation or failure to maintain certification from the	5866
national commission for certification of anesthesiologist	5867

assistants. 5868

(C) The board shall not refuse to issue a certificate to 5869
an applicant because of a plea of guilty to, a judicial finding 5870
of guilt of, or a judicial finding of eligibility for 5871
intervention in lieu of conviction for an offense unless the 5872
refusal is in accordance with section 9.79 of the Revised Code. 5873

(D) Disciplinary actions taken by the board under 5874
divisions (A) and (B) of this section shall be taken pursuant to 5875
an adjudication under Chapter 119. of the Revised Code, except 5876
that in lieu of an adjudication, the board may enter into a 5877
consent agreement with an anesthesiologist assistant or 5878
applicant to resolve an allegation of a violation of this 5879
chapter or any rule adopted under it. A consent agreement, when 5880
ratified by an affirmative vote of not fewer than six members of 5881
the board, shall constitute the findings and order of the board 5882
with respect to the matter addressed in the agreement. If the 5883
board refuses to ratify a consent agreement, the admissions and 5884
findings contained in the consent agreement shall be of no force 5885
or effect. 5886

(E) For purposes of divisions (B) (11), (14), and (15) of 5887
this section, the commission of the act may be established by a 5888
finding by the board, pursuant to an adjudication under Chapter 5889
119. of the Revised Code, that the applicant or license holder 5890
committed the act in question. The board shall have no 5891
jurisdiction under these divisions in cases where the trial 5892
court renders a final judgment in the license holder's favor and 5893
that judgment is based upon an adjudication on the merits. The 5894
board shall have jurisdiction under these divisions in cases 5895
where the trial court issues an order of dismissal on technical 5896
or procedural grounds. 5897

(F) The sealing or expungement of conviction records by 5898
any court shall have no effect on a prior board order entered 5899
under the provisions of this section or on the board's 5900
jurisdiction to take action under the provisions of this section 5901
if, based upon a plea of guilty, a judicial finding of guilt, or 5902
a judicial finding of eligibility for intervention in lieu of 5903
conviction, the board issued a notice of opportunity for a 5904
hearing prior to the court's order to seal or expunge the 5905
records. The board shall not be required to seal, destroy, 5906
redact, or otherwise modify its records to reflect the court's 5907
sealing or expungement of conviction records. 5908

(G) For purposes of this division, any individual who 5909
holds a license to practice issued under this chapter, or 5910
applies for a license to practice, shall be deemed to have given 5911
consent to submit to a mental or physical examination when 5912
directed to do so in writing by the board and to have waived all 5913
objections to the admissibility of testimony or examination 5914
reports that constitute a privileged communication. 5915

(1) In enforcing division (B) (5) of this section, the 5916
board, on a showing of a possible violation, shall refer any 5917
individual who holds, or has applied for, a license issued under 5918
this chapter to the monitoring organization that conducts the 5919
confidential monitoring program established under section 5920
4731.25 of the Revised Code. The board also may compel the 5921
individual to this chapter to submit to a mental or physical 5922
examination, or both. A physical examination may include an HIV 5923
test. The expense of the examination is the responsibility of 5924
the individual compelled to be examined. Failure to submit to a 5925
mental or physical examination or consent to an HIV test ordered 5926
by the board constitutes an admission of the allegations against 5927
the individual unless the failure is due to circumstances beyond 5928

the individual's control, and a default and final order may be 5929
entered without the taking of testimony or presentation of 5930
evidence. If the board finds an anesthesiologist assistant 5931
unable to practice because of the reasons set forth in division 5932
(B) (5) of this section, the board shall require the 5933
anesthesiologist assistant to submit to care, counseling, or 5934
treatment by physicians approved or designated by the board, as 5935
a condition for an initial, continued, reinstated, or renewed 5936
license to practice. An individual affected by this division 5937
shall be afforded an opportunity to demonstrate to the board the 5938
ability to resume practicing in compliance with acceptable and 5939
prevailing standards of care. 5940

(2) For purposes of division (B) (6) of this section, if 5941
the board has reason to believe that any individual who holds a 5942
license to practice issued under this chapter or any applicant 5943
for a license to practice suffers such impairment, the board 5944
shall report the individual to the monitoring organization that 5945
conducts the confidential monitoring program established under 5946
section 4731.25 of the Revised Code. The board also may compel 5947
the individual to submit to a mental or physical examination, or 5948
both. The expense of the examination is the responsibility of 5949
the individual compelled to be examined. Any mental or physical 5950
examination required under this division shall be undertaken by 5951
a treatment provider or physician qualified to conduct such 5952
examination and approved under section 4731.251 of the Revised 5953
Code. 5954

Failure to submit to a mental or physical examination 5955
ordered by the board constitutes an admission of the allegations 5956
against the individual unless the failure is due to 5957
circumstances beyond the individual's control, and a default and 5958
final order may be entered without the taking of testimony or 5959

presentation of evidence. If the board determines that the 5960
individual's ability to practice is impaired, the board shall 5961
suspend the individual's license or deny the individual's 5962
application and shall require the individual, as a condition for 5963
an initial, continued, reinstated, or renewed license to 5964
practice, to submit to treatment. 5965

Before being eligible to apply for reinstatement of a 5966
license suspended under this division, the anesthesiologist 5967
assistant shall demonstrate to the board the ability to resume 5968
practice in compliance with acceptable and prevailing standards 5969
of care. The demonstration shall include the following: 5970

(a) Certification from a treatment provider approved under 5971
section 4731.251 of the Revised Code that the individual has 5972
successfully completed any required inpatient treatment; 5973

(b) Evidence of continuing full compliance with an 5974
aftercare contract or consent agreement; 5975

(c) Two written reports indicating that the individual's 5976
ability to practice has been assessed and that the individual 5977
has been found capable of practicing according to acceptable and 5978
prevailing standards of care. The reports shall be made by 5979
individuals or providers approved by the board for making such 5980
assessments and shall describe the basis for their 5981
determination. 5982

The board may reinstate a license suspended under this 5983
division after such demonstration and after the individual has 5984
entered into a written consent agreement. 5985

When the impaired anesthesiologist assistant resumes 5986
practice, the board shall require continued monitoring of the 5987
anesthesiologist assistant. The monitoring shall include 5988

monitoring of compliance with the written consent agreement 5989
entered into before reinstatement or with conditions imposed by 5990
board order after a hearing, and, on termination of the consent 5991
agreement, submission to the board for at least two years of 5992
annual written progress reports made under penalty of 5993
falsification stating whether the anesthesiologist assistant has 5994
maintained sobriety. 5995

~~(H)~~ (H) (1) If either of the following circumstances occur, 5996
the secretary and supervising member ~~determine~~ may recommend 5997
that the board suspend the individual's license without a prior 5998
hearing: 5999

(a) The secretary and supervising member determine that 6000
there is clear and convincing evidence that an anesthesiologist 6001
assistant has violated division (B) of this section and that the 6002
individual's continued practice presents a danger of immediate 6003
and serious harm to the public, ~~they may recommend that the~~ 6004
~~board suspend the individual's license without a prior hearing.~~ 6005

(b) The board receives verifiable information that a 6006
licensee has been charged in any state or federal court for a 6007
crime classified as a felony under the charging court's law and 6008
the conduct charged constitutes a violation of division (B) of 6009
this section. ~~Written~~ 6010

(2) If a recommendation is made to suspend without a prior 6011
hearing pursuant to division (H) (1) of this section, written 6012
allegations shall be prepared for consideration by the board. 6013

The board, on review of the allegations and by an 6014
affirmative vote of not fewer than six of its members, excluding 6015
the secretary and supervising member, may suspend a license 6016
without a prior hearing. A telephone conference call may be 6017

utilized for reviewing the allegations and taking the vote on 6018
the summary suspension. 6019

The board shall serve a written order of suspension in 6020
accordance with sections 119.05 and 119.07 of the Revised Code. 6021
The order shall not be subject to suspension by the court during 6022
pendency of any appeal filed under section 119.12 of the Revised 6023
Code. If the anesthesiologist assistant requests an adjudicatory 6024
hearing by the board, the date set for the hearing shall be 6025
within fifteen days, but not earlier than seven days, after the 6026
anesthesiologist assistant requests the hearing, unless 6027
otherwise agreed to by both the board and the license holder. 6028

(3) A summary suspension imposed under this division shall 6029
remain in effect, unless reversed on appeal, until a final 6030
adjudicative order issued by the board pursuant to this section 6031
and Chapter 119. of the Revised Code becomes effective. The 6032
board shall issue its final adjudicative order within sixty days 6033
after completion of its hearing. Failure to issue the order 6034
within sixty days shall result in dissolution of the summary 6035
suspension order, but shall not invalidate any subsequent, final 6036
adjudicative order. 6037

(I) If the board takes action under division (B) (11), 6038
(13), or (14) of this section, and the judicial finding of 6039
guilt, guilty plea, or judicial finding of eligibility for 6040
intervention in lieu of conviction is overturned on appeal, on 6041
exhaustion of the criminal appeal, a petition for 6042
reconsideration of the order may be filed with the board along 6043
with appropriate court documents. On receipt of a petition and 6044
supporting court documents, the board shall reinstate the 6045
license to practice. The board may then hold an adjudication 6046
under Chapter 119. of the Revised Code to determine whether the 6047

individual committed the act in question. Notice of opportunity 6048
for hearing shall be given in accordance with Chapter 119. of 6049
the Revised Code. If the board finds, pursuant to an 6050
adjudication held under this division, that the individual 6051
committed the act, or if no hearing is requested, it may order 6052
any of the sanctions specified in division (B) of this section. 6053

(J) The license to practice of an anesthesiologist 6054
assistant and the assistant's practice in this state are 6055
automatically suspended as of the date the anesthesiologist 6056
assistant pleads guilty to, is found by a judge or jury to be 6057
guilty of, or is subject to a judicial finding of eligibility 6058
for intervention in lieu of conviction in this state or 6059
treatment ~~of or~~ intervention in lieu of conviction in another 6060
jurisdiction for any of the following criminal offenses in this 6061
state or a substantially equivalent criminal offense in another 6062
jurisdiction: aggravated murder, murder, voluntary manslaughter, 6063
felonious assault, trafficking in persons, kidnapping, rape, 6064
sexual battery, gross sexual imposition, aggravated arson, 6065
aggravated robbery, or aggravated burglary. Continued practice 6066
after the suspension shall be considered practicing without a 6067
license. 6068

The board shall serve the individual subject to the 6069
suspension in accordance with sections 119.05 and 119.07 of the 6070
Revised Code. If an individual whose license is suspended under 6071
this division fails to make a timely request for an adjudication 6072
under Chapter 119. of the Revised Code, the board shall enter a 6073
final order permanently revoking the individual's license to 6074
practice. 6075

(K) In any instance in which the board is required by 6076
Chapter 119. of the Revised Code to give notice of opportunity 6077

for hearing and the individual subject to the notice does not 6078
timely request a hearing in accordance with section 119.07 of 6079
the Revised Code, the board is not required to hold a hearing, 6080
but may adopt, by an affirmative vote of not fewer than six of 6081
its members, a final order that contains the board's findings. 6082
In the final order, the board may order any of the sanctions 6083
identified under division (A) or (B) of this section. 6084

(L) Any action taken by the board under division (B) of 6085
this section resulting in a suspension shall be accompanied by a 6086
written statement of the conditions under which the 6087
anesthesiologist assistant's license may be reinstated. The 6088
board shall adopt rules in accordance with Chapter 119. of the 6089
Revised Code governing conditions to be imposed for 6090
reinstatement. Reinstatement of a license suspended pursuant to 6091
division (B) of this section requires an affirmative vote of not 6092
fewer than six members of the board. 6093

(M) When the board refuses to grant or issue a license to 6094
practice as an anesthesiologist assistant to an applicant, 6095
revokes an individual's license, refuses to renew an 6096
individual's license, or refuses to reinstate an individual's 6097
license, the board may specify that its action is permanent. An 6098
individual subject to a permanent action taken by the board is 6099
forever thereafter ineligible to hold a license to practice as 6100
an anesthesiologist assistant and the board shall not accept an 6101
application for reinstatement of the license or for issuance of 6102
a new license. 6103

(N) Notwithstanding any other provision of the Revised 6104
Code, all of the following apply: 6105

(1) The surrender of a license to practice issued under 6106
this chapter is not effective unless or until accepted by the 6107

board. Reinstatement of a license surrendered to the board 6108
requires an affirmative vote of not fewer than six members of 6109
the board. 6110

(2) An application made under this chapter for a license 6111
to practice may not be withdrawn without approval of the board. 6112

(3) Failure by an individual to renew a license to 6113
practice in accordance with section 4760.06 of the Revised Code 6114
does not remove or limit the board's jurisdiction to take 6115
disciplinary action under this section against the individual. 6116

(4) The placement of an individual's license on retired 6117
status, as described in section 4760.062 of the Revised Code, 6118
does not remove or limit the board's jurisdiction to take any 6119
disciplinary action against the individual with regard to the 6120
license as it existed before being placed on retired status. 6121

Sec. 4760.14. (A) The state medical board shall 6122
investigate evidence that appears to show that any person has 6123
violated this chapter or the rules adopted under it. Any person 6124
may report to the board in a signed writing any information the 6125
person has that appears to show a violation of any provision of 6126
this chapter or the rules adopted under it. In the absence of 6127
bad faith, a person who reports such information or testifies 6128
before the board in an adjudication conducted under Chapter 119. 6129
of the Revised Code shall not be liable for civil damages as a 6130
result of reporting the information or providing testimony. Each 6131
complaint or allegation of a violation received by the board 6132
shall be assigned a case number and be recorded by the board. 6133

(B) Investigations of alleged violations of this chapter 6134
or rules adopted under it shall be supervised by the supervising 6135
member elected by the board in accordance with section 4731.02 6136

of the Revised Code and by the secretary as provided in section 6137
4760.15 of the Revised Code. The board's president may designate 6138
another member of the board to supervise the investigation in 6139
place of the supervising member. Upon a vote of the majority of 6140
the board to authorize the addition of a consumer member in the 6141
supervision of any part of any investigation, the president 6142
shall designate a consumer member for supervision of 6143
investigations as determined by the president. The authorization 6144
of consumer member participation in investigation supervision 6145
may be rescinded by a majority vote of the board. A member of 6146
the board who supervises the investigation of a case shall not 6147
participate in further adjudication of the case. 6148

(C) In investigating a possible violation of this chapter 6149
or the rules adopted under it, the board may administer oaths, 6150
order the taking of depositions, issue subpoenas, and compel the 6151
attendance of witnesses and production of books, accounts, 6152
papers, records, documents, and testimony, except that a 6153
subpoena for patient record information shall not be issued 6154
without consultation with the attorney general's office and 6155
approval of the secretary of the board. Before issuance of a 6156
subpoena for patient record information, the secretary shall 6157
determine whether there is probable cause to believe that the 6158
complaint filed alleges a violation of this chapter or the rules 6159
adopted under it and that the records sought are relevant to the 6160
alleged violation and material to the investigation. The 6161
subpoena may apply only to records that cover a reasonable 6162
period of time surrounding the alleged violation. 6163

On failure to comply with any subpoena issued by the board 6164
and after reasonable notice to the person being subpoenaed, the 6165
board may move for an order compelling the production of persons 6166
or records pursuant to the Rules of Civil Procedure. 6167

A subpoena issued by the board may be served by a sheriff, 6168
the sheriff's deputy, or a board employee designated by the 6169
board. Service of a subpoena issued by the board may be made by 6170
delivering a copy of the subpoena to the person named therein, 6171
reading it to the person, or leaving it at the person's usual 6172
place of residence. When the person being served is an 6173
anesthesiologist assistant, service of the subpoena may be made 6174
by certified mail, restricted delivery, return receipt 6175
requested, and the subpoena shall be deemed served on the date 6176
delivery is made or the date the person refuses to accept 6177
delivery. 6178

A sheriff's deputy who serves a subpoena shall receive the 6179
same fees as a sheriff. Each witness who appears before the 6180
board in obedience to a subpoena shall receive the fees and 6181
mileage provided for under section 119.094 of the Revised Code. 6182

(D) All hearings and investigations of the board shall be 6183
considered civil actions for the purposes of section 2305.252 of 6184
the Revised Code. 6185

(E) Information received by the board pursuant to an 6186
investigation is confidential and not subject to discovery in 6187
any civil action. 6188

The board shall conduct all investigations and proceedings 6189
in a manner that protects the confidentiality of patients and 6190
persons who file complaints with the board. The board shall not 6191
make public the names or any other identifying information about 6192
patients or complainants unless proper consent is given. 6193

The board may share any information it receives pursuant 6194
to an investigation, including patient records and patient 6195
record information, with law enforcement agencies, other 6196

licensing boards, and other governmental agencies that are 6197
prosecuting, adjudicating, or investigating alleged violations 6198
of statutes or administrative rules. An agency or board that 6199
receives the information shall comply with the same requirements 6200
regarding confidentiality as those with which the state medical 6201
board must comply, notwithstanding any conflicting provision of 6202
the Revised Code or procedure of the agency or board that 6203
applies when it is dealing with other information in its 6204
possession. In a judicial proceeding, the information may be 6205
admitted into evidence only in accordance with the Rules of 6206
Evidence, but the court shall require that appropriate measures 6207
are taken to ensure that confidentiality is maintained with 6208
respect to any part of the information that contains names or 6209
other identifying information about patients or complainants 6210
whose confidentiality was protected by the state medical board 6211
when the information was in the board's possession. Measures to 6212
ensure confidentiality that may be taken by the court include 6213
sealing its records or deleting specific information from its 6214
records. 6215

No person shall knowingly access, use, or disclose 6216
confidential investigatory information in a manner prohibited by 6217
law. 6218

(F) The state medical board shall develop requirements for 6219
and provide appropriate initial training and continuing 6220
education for investigators employed by the board to carry out 6221
its duties under this chapter. The training and continuing 6222
education may include enrollment in courses operated or approved 6223
by the Ohio peace officer training commission that the board 6224
considers appropriate under conditions set forth in section 6225
109.79 of the Revised Code. 6226

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

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

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

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

(4) Whether witnesses were interviewed;

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

(6) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

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

Sec. 4760.16. (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 ~~sixty~~ thirty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by

a health insuring corporation, ambulatory surgical facility, or 6254
similar facility, against any individual holding a valid license 6255
to practice as an anesthesiologist assistant, the chief 6256
administrator or executive officer of the facility shall report 6257
to the state medical board the name of the individual, the 6258
action taken by the facility, and a summary of the underlying 6259
facts leading to the action taken. On request, the board shall 6260
be provided certified copies of the patient records that were 6261
the basis for the facility's action. Prior to release to the 6262
board, the summary shall be approved by the peer review 6263
committee that reviewed the case or by the governing board of 6264
the facility. 6265

The filing of a report with the board or decision not to 6266
file a report, investigation by the board, or any disciplinary 6267
action taken by the board, does not preclude a health care 6268
facility from taking disciplinary action against an 6269
anesthesiologist assistant. 6270

In the absence of fraud or bad faith, no individual or 6271
entity that provides patient records to the board shall be 6272
liable in damages to any person as a result of providing the 6273
records. 6274

(2) Within thirty days after commencing an investigation 6275
regarding criminal conduct or sexual misconduct against any 6276
individual holding a valid license to practice issued pursuant 6277
to this chapter, a health care facility, including a hospital, 6278
health care facility operated by a health insuring corporation, 6279
ambulatory surgical center, or similar facility, shall report to 6280
the board the name of the individual and a summary of the 6281
underlying facts related to the investigation being commenced. 6282

~~(B) (1) (C) (1)~~ Except as provided in division ~~(B) (2) (C) (2)~~ 6283

of this section and subject to division (C) (3) of this section, 6284
an anesthesiologist assistant, professional association or 6285
society of anesthesiologist assistants, physician, or 6286
professional association or society of physicians that believes 6287
a violation of any provision of this chapter, Chapter 4731. of 6288
the Revised Code, or rule of the board has occurred shall report 6289
to the board the information on which the belief is based. 6290

(2) An anesthesiologist assistant, professional 6291
association or society of anesthesiologist assistants, 6292
physician, or professional association or society of physicians 6293
that believes that a violation of division (B) (5) or (6) of 6294
section 4760.13 of the Revised Code has occurred shall report 6295
the information upon which the belief is based to the monitoring 6296
organization conducting the confidential monitoring program 6297
established under section 4731.25 of the Revised Code. If any 6298
such report is made to the board, it shall be referred to the 6299
monitoring organization unless the board is aware that the 6300
individual who is the subject of the report does not meet the 6301
program eligibility requirements of section 4731.252 of the 6302
Revised Code. 6303

(3) If any individual authorized to practice under this 6304
chapter or any professional association or society of such 6305
individuals knows or has reasonable cause to suspect based on 6306
facts that would cause a reasonable person in a similar position 6307
to suspect that an individual authorized to practice under this 6308
chapter has committed or participated in criminal conduct or 6309
sexual misconduct, the information upon which the belief is 6310
based shall be reported to the board within thirty days. 6311

This division does not apply to a professional association 6312
or society whose staff interacts with members of the association 6313

or society only in advocacy, governance, or educational 6314
capacities and whose staff does not regularly interact with 6315
members in practice settings. 6316

(4) In addition to the self-reporting of criminal offenses 6317
that is required for license renewal, an individual authorized 6318
to practice under this chapter shall report to the board 6319
criminal charges regarding criminal conduct, sexual misconduct, 6320
or any conduct involving the use of a motor vehicle while under 6321
the influence of alcohol or drugs, including offenses that are 6322
equivalent offenses under division (A) of section 4511.181 of 6323
the Revised Code, violations of division (D) of section 4511.194 6324
of the Revised Code, and violations of division (C) of section 6325
4511.79 of the Revised Code. Reports under this division shall 6326
be made within thirty days of the criminal charge being filed. 6327

~~(C)~~(D) Any professional association or society composed 6328
primarily of anesthesiologist assistants that suspends or 6329
revokes an individual's membership for violations of 6330
professional ethics, or for reasons of professional incompetence 6331
or professional malpractice, within ~~sixty~~thirty days after a 6332
final decision, shall report to the board, on forms prescribed 6333
and provided by the board, the name of the individual, the 6334
action taken by the professional organization, and a summary of 6335
the underlying facts leading to the action taken. 6336

The filing of a report with the board or decision not to 6337
file a report, investigation by the board, or any disciplinary 6338
action taken by the board, does not preclude a professional 6339
organization from taking disciplinary action against an 6340
anesthesiologist assistant. 6341

~~(D)~~(E) Any insurer providing professional liability 6342
insurance to any person holding a valid license to practice as 6343

an anesthesiologist assistant or any other entity that seeks to indemnify the professional liability of an anesthesiologist assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

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

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

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

(4) The date of final disposition;

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

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

~~(F)~~ (G) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving an anesthesiologist assistant, supervising physician,

~~or health care facility arising out of matters that are the
subject of the reporting required by this section. The board may
use the information obtained only as the basis for an
investigation, as evidence in a disciplinary hearing against an
anesthesiologist assistant or supervising physician, or in any
subsequent trial or appeal of a board action or order.~~

~~The board may disclose the summaries and reports it
receives under this section only to health care facility
committees within or outside this state that are involved in
credentialing or recredentialing an anesthesiologist assistant
or supervising physician or reviewing their privilege to
practice within a particular facility. The board shall indicate
whether or not the information has been verified. Information
transmitted by the board shall be subject to the same
confidentiality provisions as when maintained by the
board~~confidential pursuant to division (E) of section 4760.14 of
the Revised Code.

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

~~(H)~~(I) An individual or entity that reports to the board,
reports to the monitoring organization described in section
4731.25 of the Revised Code, or refers an impaired
anesthesiologist assistant to a treatment provider approved
under section 4731.251 of the Revised Code shall not be subject

to suit for civil damages as a result of the report, referral, 6403
or provision of the information. 6404

~~(I)~~ (J) In the absence of fraud or bad faith, a 6405
professional association or society of anesthesiologist 6406
assistants that sponsors a committee or program to provide peer 6407
assistance to an anesthesiologist assistant with substance abuse 6408
problems, a representative or agent of such a committee or 6409
program, a representative or agent of the monitoring 6410
organization described in section 4731.25 of the Revised Code, 6411
and a member of the state medical board shall not be held liable 6412
in damages to any person by reason of actions taken to refer an 6413
anesthesiologist assistant to a treatment provider approved 6414
under section 4731.251 of the Revised Code for examination or 6415
treatment. 6416

Sec. 4760.99. (A) Whoever violates section 4760.02 of the 6417
Revised Code is guilty of a misdemeanor of the first degree on a 6418
first offense; on each subsequent offense, the person is guilty 6419
of a felony of the fourth degree. 6420

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 6421
(1), ~~or (C) (2)~~, (D), or (E) of section 4760.16 of the Revised 6422
Code is guilty of a minor misdemeanor on a first offense; on 6423
each subsequent offense the person is guilty of a misdemeanor of 6424
the fourth degree, except that an individual guilty of a 6425
subsequent offense shall not be subject to imprisonment, but to 6426
a fine alone of up to one thousand dollars for each offense. 6427

(2) Whoever violates division (B) (2) or (C) (3) of section 6428
4760.16 of the Revised Code is guilty of failure to report 6429
criminal conduct or sexual misconduct, a misdemeanor of the 6430
fourth degree. If the offender has previously been convicted of 6431
a violation of this division, the failure to report is a 6432

misdemeanor of the first degree. 6433

(C) Whoever violates division (E) of section 4760.14 of 6434
the Revised Code is guilty of disclosing confidential 6435
investigatory information, a misdemeanor of the first degree. 6436

Sec. 4761.03. (A) The state medical board shall regulate 6437
the practice of respiratory care in this state and the persons 6438
to whom the board issues licenses and limited permits under this 6439
chapter. Rules adopted under this chapter that deal with the 6440
provision of respiratory care in a hospital, other than rules 6441
regulating the issuance of licenses or limited permits, shall be 6442
consistent with the conditions for participation under medicare, 6443
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 6444
42 U.S.C.A. 1395, as amended, and with the respiratory care 6445
accreditation standards of the joint commission or the American 6446
osteopathic association. 6447

(B) The board shall adopt, and may rescind or amend, rules 6448
in accordance with Chapter 119. of the Revised Code to carry out 6449
the purposes of this chapter, including rules prescribing the 6450
following: 6451

(1) The form and manner for filing applications under 6452
sections 4761.05 and 4761.06 of the Revised Code; 6453

(2) Standards for the approval of examinations and 6454
reexaminations administered by national organizations for 6455
licensure, license renewal, and license reinstatement; 6456

(3) Standards for the approval of educational programs 6457
required to qualify for licensure and approval of continuing 6458
education programs required for license renewal; 6459

(4) Continuing education courses and the number of hour 6460
requirements necessary for license renewal under section 4761.06 6461

of the Revised Code, including rules providing for pro rata 6462
reductions by month of the number of hours of continuing 6463
education that must be completed for license holders who are in 6464
their first renewal period, have been disabled by illness or 6465
accident, or have been absent from the country; 6466

(5) Procedures for the issuance and renewal of licenses 6467
and limited permits, including the duties that may be fulfilled 6468
by the board's executive director and other board employees; 6469

(6) Procedures for the limitation, suspension, and 6470
revocation of licenses and limited permits, the refusal to 6471
issue, renew, or reinstate licenses and limited permits, and the 6472
imposition of a reprimand or probation under section 4761.09 of 6473
the Revised Code; 6474

(7) Standards of ethical conduct for the practice of 6475
respiratory care; 6476

(8) The respiratory care tasks that may be performed by an 6477
individual practicing as a polysomnographic technologist 6478
pursuant to division (B) (3) of section 4761.10 of the Revised 6479
Code; 6480

(9) Requirements for criminal records checks of applicants 6481
under section 4776.03 of the Revised Code. 6482

(C) The board shall determine the sufficiency of an 6483
applicant's qualifications for admission to the licensing 6484
examination or a reexamination, and for the issuance or renewal 6485
of a license or limited permit. 6486

(D) The board shall determine the respiratory care 6487
educational programs that are acceptable for fulfilling the 6488
requirements of division (A) of section 4761.04 of the Revised 6489
Code. 6490

(E) (1) The board shall investigate evidence that appears 6491
to show that a person has violated any provision of this chapter 6492
or any rule adopted under it. Any person may report to the board 6493
in a signed writing any information that the person may have 6494
that appears to show a violation of any provision of this 6495
chapter or any rule adopted under it. In the absence of bad 6496
faith, any person who reports information of that nature or who 6497
testifies before the board in any adjudication conducted under 6498
Chapter 119. of the Revised Code shall not be liable in damages 6499
in a civil action as a result of the report or testimony. Each 6500
complaint or allegation of a violation received by the board 6501
shall be assigned a case number and shall be recorded by the 6502
board. 6503

(2) Investigations of alleged violations of this chapter 6504
or any rule adopted under it shall be supervised by the 6505
supervising member elected by the board in accordance with 6506
section 4731.02 of the Revised Code and by the secretary as 6507
provided in section 4761.012 of the Revised Code. The president 6508
may designate another member of the board to supervise the 6509
investigation in place of the supervising member. Upon a vote of 6510
the majority of the board to authorize the addition of a 6511
consumer member in the supervision of any part of any 6512
investigation, the president shall designate a consumer member 6513
for supervision of investigations as determined by the 6514
president. The authorization of consumer member participation in 6515
investigation supervision may be rescinded by a majority vote of 6516
the board. No member of the board who supervises the 6517
investigation of a case shall participate in further 6518
adjudication of the case. 6519

(3) In investigating a possible violation of this chapter 6520
or any rule adopted under it, the board may issue subpoenas, 6521

administer oaths, question witnesses, conduct interviews, order 6522
the taking of depositions, inspect and copy any books, accounts, 6523
papers, records, or documents, and compel the attendance of 6524
witnesses and production of books, accounts, papers, records, 6525
documents, and testimony, except that a subpoena for patient 6526
record information shall not be issued without consultation with 6527
the attorney general's office and approval of the secretary of 6528
the board. 6529

Before issuance of a subpoena for patient record 6530
information, the secretary shall determine whether there is 6531
probable cause to believe that the complaint filed alleges a 6532
violation of this chapter or any rule adopted under it and that 6533
the records sought are relevant to the alleged violation and 6534
material to the investigation. The subpoena may apply only to 6535
records that cover a reasonable period of time surrounding the 6536
alleged violation. 6537

On failure to comply with any subpoena issued by the board 6538
and after reasonable notice to the person being subpoenaed, the 6539
board may move for an order compelling the production of persons 6540
or records pursuant to the Rules of Civil Procedure. 6541

A subpoena issued by the board may be served by a sheriff, 6542
the sheriff's deputy, or a board employee or agent designated by 6543
the board. Service of a subpoena issued by the board may be made 6544
by delivering a copy of the subpoena to the person named 6545
therein, reading it to the person, or leaving it at the person's 6546
usual place of residence, usual place of business, or address on 6547
file with the board. When serving a subpoena to an applicant for 6548
or the holder of a license or limited permit issued under this 6549
chapter, service of the subpoena may be made by certified mail, 6550
return receipt requested, and the subpoena shall be deemed 6551

served on the date delivery is made or the date the person 6552
refuses to accept delivery. If the person being served refuses 6553
to accept the subpoena or is not located, service may be made to 6554
an attorney who notifies the board that the attorney is 6555
representing the person. 6556

A sheriff's deputy who serves a subpoena shall receive the 6557
same fees as a sheriff. Each witness who appears before the 6558
board in obedience to a subpoena shall receive the fees and 6559
mileage provided for under section 119.094 of the Revised Code. 6560

(4) All hearings, investigations, and inspections of the 6561
board shall be considered civil actions for the purposes of 6562
section 2305.252 of the Revised Code. 6563

(5) A report required to be submitted to the board under 6564
this chapter, a complaint, or information received by the board 6565
pursuant to an investigation is confidential and not subject to 6566
discovery in any civil action. 6567

The board shall conduct all investigations or inspections 6568
and proceedings in a manner that protects the confidentiality of 6569
patients and persons who file complaints with the board. The 6570
board shall not make public the names or any other identifying 6571
information about patients or complainants unless proper consent 6572
is given. 6573

The board may share any information it receives pursuant 6574
to an investigation or inspection, including patient records and 6575
patient record information, with law enforcement agencies, other 6576
licensing boards, and other governmental agencies that are 6577
prosecuting, adjudicating, or investigating alleged violations 6578
of statutes or administrative rules. An agency or board that 6579
receives the information shall comply with the same requirements 6580

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 Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

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

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

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

(b) The type of license or limited permit, if any, held by the individual against whom the complaint is directed;

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

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is 6610
directed is the subject of any pending complaints; 6611

(f) The disposition of the case. 6612

The report shall state how many cases are still pending 6613
and shall be prepared in a manner that protects the identity of 6614
each person involved in each case. The report shall be a public 6615
record under section 149.43 of the Revised Code. 6616

(7) The board may provide a status update regarding an 6617
investigation to a complainant on request if the board verifies 6618
the complainant's identity. 6619

(F) The board shall keep records of its proceedings and do 6620
other things as are necessary and proper to carry out and 6621
enforce the provisions of this chapter. 6622

(G) The board shall maintain and publish on its internet 6623
web site all of the following: 6624

(1) The requirements for the issuance of licenses and 6625
limited permits under this chapter and rules adopted by the 6626
board; 6627

(2) A list of the names and locations of the institutions 6628
that each year granted degrees or certificates of completion in 6629
respiratory care. 6630

Sec. 4761.09. (A) The state medical board, by an 6631
affirmative vote of not fewer than six members, shall, except as 6632
provided in division (B) of this section, and to the extent 6633
permitted by law, limit, revoke, or suspend an individual's 6634
license or limited permit, refuse to issue a license or limited 6635
permit to an individual, refuse to renew a license or limited 6636
permit, refuse to reinstate a license or limited permit, or 6637

reprimand or place on probation the holder of a license or 6638
limited permit for one or more of the following reasons: 6639

(1) A plea of guilty to, a judicial finding of guilt of, 6640
or a judicial finding of eligibility for intervention in lieu of 6641
conviction for, a felony; 6642

(2) Commission of an act that constitutes a felony in this 6643
state, regardless of the jurisdiction in which the act was 6644
committed; 6645

(3) A plea of guilty to, a judicial finding of guilt of, 6646
or a judicial finding of eligibility for intervention in lieu of 6647
conviction for, a misdemeanor committed in the course of 6648
practice; 6649

(4) Commission of an act in the course of practice that 6650
constitutes a misdemeanor in this state, regardless of the 6651
jurisdiction in which the act was committed; 6652

(5) A plea of guilty to, a judicial finding of guilt of, 6653
or a judicial finding of eligibility for intervention in lieu of 6654
conviction for, a misdemeanor involving moral turpitude; 6655

(6) Commission of an act involving moral turpitude that 6656
constitutes a misdemeanor in this state, regardless of the 6657
jurisdiction in which the act was committed; 6658

(7) Except when civil penalties are imposed under section 6659
4761.091 of the Revised Code, violating or attempting to 6660
violate, directly or indirectly, or assisting in or abetting the 6661
violation of, or conspiring to violate, any provision of this 6662
chapter or the rules adopted by the board; 6663

(8) Making a false, fraudulent, deceptive, or misleading 6664
statement in the solicitation of or advertising for patients; in 6665

relation to the practice of respiratory care; or in securing or 6666
attempting to secure any license or permit issued by the board 6667
under this chapter. 6668

As used in division (A) (8) of this section, "false, 6669
fraudulent, deceptive, or misleading statement" means a 6670
statement that includes a misrepresentation of fact, is likely 6671
to mislead or deceive because of a failure to disclose material 6672
facts, is intended or is likely to create false or unjustified 6673
expectations of favorable results, or includes representations 6674
or implications that in reasonable probability will cause an 6675
ordinarily prudent person to misunderstand or be deceived. 6676

(9) Committing fraud during the administration of the 6677
examination for a license to practice or committing fraud, 6678
misrepresentation, or deception in applying for, renewing, or 6679
securing any license or permit issued by the board; 6680

(10) A departure from, or failure to conform to, minimal 6681
standards of care of similar practitioners under the same or 6682
similar circumstances, whether or not actual injury to a patient 6683
is established; 6684

(11) Violating the standards of ethical conduct adopted by 6685
the board, in the practice of respiratory care; 6686

(12) The obtaining of, or attempting to obtain, money or 6687
anything of value by fraudulent misrepresentations in the course 6688
of practice; 6689

(13) Violation of the conditions of limitation placed by 6690
the board upon a license or permit; 6691

(14) Inability to practice according to acceptable and 6692
prevailing standards of care by reason of mental illness or 6693
physical illness, including physical deterioration that 6694

adversely affects cognitive, motor, or perceptive skills; 6695

(15) Any of the following actions taken by an agency 6696
responsible for authorizing, certifying, or regulating an 6697
individual to practice a health care occupation or provide 6698
health care services in this state or another jurisdiction, for 6699
any reason other than the nonpayment of fees: the limitation, 6700
revocation, or suspension of an individual's license; acceptance 6701
of an individual's license surrender; denial of a license; 6702
refusal to renew or reinstate a license; imposition of 6703
probation; or issuance of an order of censure or other 6704
reprimand; 6705

(16) The revocation, suspension, restriction, reduction, 6706
or termination of practice privileges by the United States 6707
department of defense or department of veterans affairs; 6708

(17) Termination or suspension from participation in the 6709
medicare or medicaid programs by the department of health and 6710
human services or other responsible agency for any act or acts 6711
that also would constitute a violation of division (A) (10), 6712
(12), or (14) of this section; 6713

(18) Impairment of ability to practice according to 6714
acceptable and prevailing standards of care because of substance 6715
use disorder or excessive use or abuse of drugs, alcohol, or 6716
other substances that may impair ability to practice; 6717

(19) Failure to cooperate in an investigation conducted by 6718
the board under division (E) of section 4761.03 of the Revised 6719
Code, including failure to comply with a subpoena or order 6720
issued by the board or failure to answer truthfully a question 6721
presented by the board in an investigative interview, an 6722
investigative office conference, at a deposition, or in written 6723

interrogatories, except that failure to cooperate with an 6724
investigation shall not constitute grounds for discipline under 6725
this section if a court of competent jurisdiction has issued an 6726
order that either quashes a subpoena or permits the individual 6727
to withhold the testimony or evidence in issue; 6728

(20) Practicing in an area of respiratory care for which 6729
the person is clearly untrained or incompetent or practicing in 6730
a manner that conflicts with section 4761.17 of the Revised 6731
Code; 6732

(21) Employing, directing, or supervising a person who is 6733
not authorized to practice respiratory care under this chapter 6734
in the performance of respiratory care procedures; 6735

(22) Misrepresenting educational attainments or authorized 6736
functions for the purpose of obtaining some benefit related to 6737
the practice of respiratory care; 6738

(23) Assisting suicide as defined in section 3795.01 of 6739
the Revised Code; 6740

(24) Representing, with the purpose of obtaining 6741
compensation or other advantage as personal gain or for any 6742
other person, that an incurable disease or injury, or other 6743
incurable condition, can be permanently cured. 6744

Disciplinary actions taken by the board under division (A) 6745
of this section shall be taken pursuant to an adjudication under 6746
Chapter 119. of the Revised Code, except that in lieu of an 6747
adjudication, the board may enter into a consent agreement with 6748
an individual to resolve an allegation of a violation of this 6749
chapter or any rule adopted under it. A consent agreement, when 6750
ratified by an affirmative vote of not fewer than six members of 6751
the board, shall constitute the findings and order of the board 6752

with respect to the matter addressed in the agreement. If the 6753
board refuses to ratify a consent agreement, the admissions and 6754
findings contained in the consent agreement shall be of no 6755
effect. 6756

A telephone conference call may be utilized for 6757
ratification of a consent agreement that revokes or suspends an 6758
individual's license or permit. The telephone conference call 6759
shall be considered a special meeting under division (F) of 6760
section 121.22 of the Revised Code. 6761

(B) The board shall not refuse to issue a license or 6762
limited permit to an applicant because of a plea of guilty to, a 6763
judicial finding of guilt of, or a judicial finding of 6764
eligibility for intervention in lieu of conviction for an 6765
offense unless the refusal is in accordance with section 9.79 of 6766
the Revised Code. 6767

(C) Any action taken by the board under division (A) of 6768
this section resulting in a suspension from practice shall be 6769
accompanied by a written statement of the conditions under which 6770
the individual's license or permit may be reinstated. The board 6771
shall adopt rules governing conditions to be imposed for 6772
reinstatement. Reinstatement of a license or permit suspended 6773
pursuant to division (A) of this section requires an affirmative 6774
vote of not fewer than six members of the board. 6775

(D) When the board refuses to grant or issue a license or 6776
permit to an applicant, revokes an individual's license or 6777
permit, refuses to renew an individual's license or permit, or 6778
refuses to reinstate an individual's license or permit, the 6779
board may specify that its action is permanent. An individual 6780
subject to a permanent action taken by the board is forever 6781
thereafter ineligible to hold a license or permit and the board 6782

shall not accept an application for reinstatement of the license 6783
or permit or for issuance of a new license or permit. 6784

(E) If the board is required by Chapter 119. of the 6785
Revised Code to give notice of an opportunity for a hearing and 6786
if the individual subject to the notice does not timely request 6787
a hearing in accordance with section 119.07 of the Revised Code, 6788
the board is not required to hold a hearing, but may adopt, by 6789
an affirmative vote of not fewer than six of its members, a 6790
final order that contains the board's findings. In the final 6791
order, the board may order any of the sanctions identified under 6792
division (A) of this section. 6793

(F) In enforcing division (A)(14) of this section, the 6794
board, upon a showing of a possible violation, shall refer any 6795
individual authorized to practice by this chapter or who has 6796
submitted an application pursuant to this chapter to the 6797
monitoring organization that conducts the confidential 6798
monitoring program established under section 4731.25 of the 6799
Revised Code. The board also may compel the individual to submit 6800
to a mental examination, physical examination, including an HIV 6801
test, or both a mental and a physical examination. The expense 6802
of the examination is the responsibility of the individual 6803
compelled to be examined. Failure to submit to a mental or 6804
physical examination or consent to an HIV test ordered by the 6805
board constitutes an admission of the allegations against the 6806
individual unless the failure is due to circumstances beyond the 6807
individual's control, and a default and final order may be 6808
entered without the taking of testimony or presentation of 6809
evidence. If the board finds an individual unable to practice 6810
because of the reasons set forth in division (A)(14) of this 6811
section, the board shall require the individual to submit to 6812
care, counseling, or treatment by physicians approved or 6813

designated by the board, as a condition for initial, continued, 6814
reinstated, or renewed authority to practice. An individual 6815
affected under this division shall be afforded an opportunity to 6816
demonstrate to the board the ability to resume practice in 6817
compliance with acceptable and prevailing standards under the 6818
provisions of the individual's license or permit. For the 6819
purpose of division (A) (14) of this section, any individual who 6820
applies for or receives a license or permit to practice under 6821
this chapter accepts the privilege of practicing in this state 6822
and, by so doing, shall be deemed to have given consent to 6823
submit to a mental or physical examination when directed to do 6824
so in writing by the board, and to have waived all objections to 6825
the admissibility of testimony or examination reports that 6826
constitute a privileged communication. 6827

(G) For the purposes of division (A) (18) of this section, 6828
any individual authorized to practice by this chapter accepts 6829
the privilege of practicing in this state subject to supervision 6830
by the board. By filing an application for or holding a license 6831
or permit under this chapter, an individual shall be deemed to 6832
have given consent to submit to a mental or physical examination 6833
when ordered to do so by the board in writing, and to have 6834
waived all objections to the admissibility of testimony or 6835
examination reports that constitute privileged communications. 6836

If it has reason to believe that any individual authorized 6837
to practice by this chapter or any applicant for a license or 6838
permit suffers such impairment, the board shall refer the 6839
individual to the monitoring organization that conducts the 6840
confidential monitoring program established under section 6841
4731.25 of the Revised Code. The board also may compel the 6842
individual to submit to a mental or physical examination, or 6843
both. The expense of the examination is the responsibility of 6844

the individual compelled to be examined. Any mental or physical 6845
examination required under this division shall be undertaken by 6846
a treatment provider or physician who is qualified to conduct 6847
the examination and who is approved under section 4731.251 of 6848
the Revised Code. 6849

Failure to submit to a mental or physical examination 6850
ordered by the board constitutes an admission of the allegations 6851
against the individual unless the failure is due to 6852
circumstances beyond the individual's control, and a default and 6853
final order may be entered without the taking of testimony or 6854
presentation of evidence. If the board determines that the 6855
individual's ability to practice is impaired, the board shall 6856
suspend the individual's license or permit or deny the 6857
individual's application and shall require the individual, as a 6858
condition for an initial, continued, reinstated, or renewed 6859
license or permit, to submit to treatment. 6860

Before being eligible to apply for reinstatement of a 6861
license or permit suspended under this division, the impaired 6862
practitioner shall demonstrate to the board the ability to 6863
resume practice in compliance with acceptable and prevailing 6864
standards of care under the provisions of the practitioner's 6865
license or permit. The demonstration shall include, but shall 6866
not be limited to, the following: 6867

(1) Certification from a treatment provider approved under 6868
section 4731.251 of the Revised Code that the individual has 6869
successfully completed any required inpatient treatment; 6870

(2) Evidence of continuing full compliance with an 6871
aftercare contract or consent agreement; 6872

(3) Two written reports indicating that the individual's 6873

ability to practice has been assessed and that the individual 6874
has been found capable of practicing according to acceptable and 6875
prevailing standards of care. The reports shall be made by 6876
individuals or providers approved by the board for making the 6877
assessments and shall describe the basis for their 6878
determination. 6879

The board may reinstate a license or permit suspended 6880
under this division after that demonstration and after the 6881
individual has entered into a written consent agreement. 6882

When the impaired practitioner resumes practice, the board 6883
shall require continued monitoring of the individual. The 6884
monitoring shall include, but not be limited to, compliance with 6885
the written consent agreement entered into before reinstatement 6886
or with conditions imposed by board order after a hearing, and, 6887
upon termination of the consent agreement, submission to the 6888
board for at least two years of annual written progress reports 6889
made under penalty of perjury stating whether the individual has 6890
maintained sobriety. 6891

~~(H)~~ (H) (1) If either of the following circumstances occur, 6892
the secretary and supervising member ~~determine both of the~~ 6893
~~following, they~~ may recommend that the board suspend an 6894
individual's license or permit without a prior hearing: 6895

~~(1)~~ (a) The secretary and supervising member determine 6896
both of the following: 6897

(i) That there is clear and convincing evidence that an 6898
individual has violated division (A) of this section; 6899

~~(2)~~ (ii) That the individual's continued practice presents 6900
a danger of immediate and serious harm to the public. 6901

~~Written~~ (b) The board receives verifiable information that 6902

a licensee has been charged in any state or federal court for a 6903
crime classified as a felony under the charging court's law and 6904
the conduct charged constitutes a violation of division (A) of 6905
this section. 6906

(2) If a recommendation is made to suspend without a prior 6907
hearing pursuant to division (H) (1) of this section, written 6908
allegations shall be prepared for consideration by the board. 6909
The board, upon review of those allegations and by an 6910
affirmative vote of not fewer than six of its members, excluding 6911
the secretary and supervising member, may suspend a license or 6912
permit without a prior hearing. A telephone conference call may 6913
be utilized for reviewing the allegations and taking the vote on 6914
the summary suspension. 6915

The board shall serve a written order of suspension in 6916
accordance with sections 119.05 and 119.07 of the Revised Code. 6917
The order shall not be subject to suspension by the court during 6918
pendency of any appeal filed under section 119.12 of the Revised 6919
Code. If the individual subject to the summary suspension 6920
requests an adjudicatory hearing by the board, the date set for 6921
the hearing shall be within fifteen days, but not earlier than 6922
seven days, after the individual requests the hearing, unless 6923
otherwise agreed to by both the board and the individual. 6924

(3) Any summary suspension imposed under this division 6925
shall remain in effect, unless reversed on appeal, until a final 6926
adjudicative order issued by the board pursuant to this section 6927
and Chapter 119. of the Revised Code becomes effective. The 6928
board shall issue its final adjudicative order within seventy- 6929
five days after completion of its hearing. A failure to issue 6930
the order within seventy-five days shall result in dissolution 6931
of the summary suspension order but shall not invalidate any 6932

subsequent, final adjudicative order. 6933

(I) For purposes of divisions (A) (2), (4), and (6) of this 6934
section, the commission of the act may be established by a 6935
finding by the board, pursuant to an adjudication under Chapter 6936
119. of the Revised Code, that the individual committed the act. 6937
The board does not have jurisdiction under those divisions if 6938
the trial court renders a final judgment in the individual's 6939
favor and that judgment is based upon an adjudication on the 6940
merits. The board has jurisdiction under those divisions if the 6941
trial court issues an order of dismissal upon technical or 6942
procedural grounds. 6943

(J) The sealing or expungement of conviction records by 6944
any court shall have no effect upon a prior board order entered 6945
under this section or upon the board's jurisdiction to take 6946
action under this section if, based upon a plea of guilty, a 6947
judicial finding of guilt, or a judicial finding of eligibility 6948
for intervention in lieu of conviction, the board issued a 6949
notice of opportunity for a hearing prior to the court's order 6950
to seal or expunge the records. The board shall not be required 6951
to seal, destroy, redact, or otherwise modify its records to 6952
reflect the court's sealing or expungement of conviction 6953
records. 6954

(K) If the board takes action under division (A) (1), (3), 6955
or (5) of this section, and the judicial finding of guilt, 6956
guilty plea, or judicial finding of eligibility for intervention 6957
in lieu of conviction is overturned on appeal, upon exhaustion 6958
of the criminal appeal, a petition for reconsideration of the 6959
order may be filed with the board along with appropriate court 6960
documents. Upon receipt of a petition for reconsideration and 6961
supporting court documents, the board shall reinstate the 6962

individual's license or permit. The board may then hold an 6963
adjudication under Chapter 119. of the Revised Code to determine 6964
whether the individual committed the act in question. Notice of 6965
an opportunity for a hearing shall be given in accordance with 6966
Chapter 119. of the Revised Code. If the board finds, pursuant 6967
to an adjudication held under this division, that the individual 6968
committed the act or if no hearing is requested, the board may 6969
order any of the sanctions identified under division (A) of this 6970
section. 6971

(L) The license or permit issued to an individual under 6972
this chapter and the individual's practice in this state are 6973
automatically suspended as of the date the individual pleads 6974
guilty to, is found by a judge or jury to be guilty of, or is 6975
subject to a judicial finding of eligibility for intervention in 6976
lieu of conviction in this state or treatment or intervention in 6977
lieu of conviction in another jurisdiction for any of the 6978
following criminal offenses in this state or a substantially 6979
equivalent criminal offense in another jurisdiction: aggravated 6980
murder, murder, voluntary manslaughter, felonious assault, 6981
trafficking in persons, kidnapping, rape, sexual battery, gross 6982
sexual imposition, aggravated arson, aggravated robbery, or 6983
aggravated burglary. Continued practice after suspension shall 6984
be considered practicing without a license or permit. 6985

The board shall serve the individual subject to the 6986
suspension in accordance with sections 119.05 and 119.07 of the 6987
Revised Code. If an individual whose license or permit is 6988
automatically suspended under this division fails to make a 6989
timely request for an adjudication under Chapter 119. of the 6990
Revised Code, the board shall enter a final order permanently 6991
revoking the individual's license or permit. 6992

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:	6993
	6994
(1) The surrender of a license or permit issued under this chapter shall not be 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 or permit. 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 or permit surrendered to the board requires an affirmative vote of not fewer than six members of the board.	6995
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(2) An application for a license or permit made under the provisions of this chapter may not be withdrawn without approval of the board.	7004
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(3) Failure by an individual to renew a license or permit in accordance with this chapter does not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.	7007
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(4) The placement of an individual's license on retired status, as described in section 4761.062 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.	7011
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(5) At the request of the board, a license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked.	7016
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Sec. 4761.14. <u>(A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in</u>	7020
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section 4731.224 of the Revised Code.

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(B) (1) An employer that disciplines or terminates the
employment of a respiratory care professional or individual
holding a limited permit issued under this chapter because of
conduct that would be grounds for disciplinary action under
section 4761.09 of the Revised Code shall, not later than ~~sixty-~~
thirty days after the discipline or termination, report the
action to the state medical board. The report shall state the
name of the respiratory care professional or individual holding
the limited permit and the reason the employer took the action.
If an employer fails to report to the board, the board may seek
an order from the Franklin county court of common pleas, or any
other court of competent jurisdiction, compelling submission of
the report.

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

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(C) 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

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shall be reported to the board within thirty days. 7052

This division does not apply to a professional association 7053
or society whose staff interacts with members of the association 7054
or society only in advocacy, governance, or educational 7055
capacities and whose staff does not regularly interact with 7056
members in practice settings. 7057

(D) In addition to the self-reporting of criminal offenses 7058
that is required for license renewal, an individual authorized 7059
to practice under this chapter shall report to the board 7060
criminal charges regarding criminal conduct, sexual misconduct, 7061
or any conduct involving the use of a motor vehicle while under 7062
the influence of alcohol or drugs, including offenses that are 7063
equivalent offenses under division (A) of section 4511.181 of 7064
the Revised Code, violations of division (D) of section 4511.194 7065
of the Revised Code, and violations of division (C) of section 7066
4511.79 of the Revised Code. Reports under this division shall 7067
be made within thirty days of the criminal charge being filed. 7068

Sec. 4761.99. Whoever violates division (A) of section 7069
4761.10 of the Revised Code is guilty of a minor misdemeanor on 7070
a first offense. On a second offense, the person is guilty of a 7071
misdemeanor of the fourth degree. On each subsequent offense, 7072
the person is guilty of a misdemeanor of the first degree. 7073

Whoever violates division (B) (2) or (C) of section 4761.14 7074
of the Revised Code is guilty of failure to report criminal 7075
conduct or sexual misconduct, a misdemeanor of the fourth 7076
degree. If the offender has previously been convicted of a 7077
violation of this division, the failure to report is a 7078
misdemeanor of the first degree. 7079

Whoever violates division (E) (5) of section 4761.03 of the 7080

Revised Code is guilty of disclosing confidential investigatory 7081
information, a misdemeanor of the first degree. 7082

Sec. 4762.13. (A) The state medical board, by an 7083
affirmative vote of not fewer than six members, may refuse to 7084
grant a license to practice as an oriental medicine practitioner 7085
or license to practice as an acupuncturist to, or may revoke the 7086
license held by, an individual found by the board to have 7087
committed fraud, misrepresentation, or deception in applying for 7088
or securing the license. 7089

(B) The board, by an affirmative vote of not fewer than 7090
six members, shall, except as provided in division (C) of this 7091
section, and to the extent permitted by law, limit, revoke, or 7092
suspend an individual's license to practice, refuse to issue a 7093
license to an applicant, refuse to renew a license, refuse to 7094
reinstate a license, or reprimand or place on probation the 7095
holder of a license for any of the following reasons: 7096

(1) Permitting the holder's name or license to be used by 7097
another person; 7098

(2) Failure to comply with the requirements of this 7099
chapter, Chapter 4731. of the Revised Code, or any rules adopted 7100
by the board; 7101

(3) Violating or attempting to violate, directly or 7102
indirectly, or assisting in or abetting the violation of, or 7103
conspiring to violate, any provision of this chapter, Chapter 7104
4731. of the Revised Code, or the rules adopted by the board; 7105

(4) A departure from, or failure to conform to, minimal 7106
standards of care of similar practitioners under the same or 7107
similar circumstances whether or not actual injury to the 7108
patient is established; 7109

(5) Inability to practice according to acceptable and 7110
prevailing standards of care by reason of mental illness or 7111
physical illness, including physical deterioration that 7112
adversely affects cognitive, motor, or perceptive skills; 7113

(6) Impairment of ability to practice according to 7114
acceptable and prevailing standards of care because of substance 7115
use disorder or excessive use or abuse of drugs, alcohol, or 7116
other substances that may impair ability to practice; 7117

(7) Willfully betraying a professional confidence; 7118

(8) Making a false, fraudulent, deceptive, or misleading 7119
statement in soliciting or advertising for patients or in 7120
securing or attempting to secure a license to practice as an 7121
oriental medicine practitioner or license to practice as an 7122
acupuncturist. 7123

As used in this division, "false, fraudulent, deceptive, 7124
or misleading statement" means a statement that includes a 7125
misrepresentation of fact, is likely to mislead or deceive 7126
because of a failure to disclose material facts, is intended or 7127
is likely to create false or unjustified expectations of 7128
favorable results, or includes representations or implications 7129
that in reasonable probability will cause an ordinarily prudent 7130
person to misunderstand or be deceived. 7131

(9) Representing, with the purpose of obtaining 7132
compensation or other advantage personally or for any other 7133
person, that an incurable disease or injury, or other incurable 7134
condition, can be permanently cured; 7135

(10) The obtaining of, or attempting to obtain, money or a 7136
thing of value by fraudulent misrepresentations in the course of 7137
practice; 7138

(11) A plea of guilty to, a judicial finding of guilt of, 7139
or a judicial finding of eligibility for intervention in lieu of 7140
conviction for, a felony; 7141

(12) Commission of an act that constitutes a felony in 7142
this state, regardless of the jurisdiction in which the act was 7143
committed; 7144

(13) A plea of guilty to, a judicial finding of guilt of, 7145
or a judicial finding of eligibility for intervention in lieu of 7146
conviction for, a misdemeanor committed in the course of 7147
practice; 7148

(14) A plea of guilty to, a judicial finding of guilt of, 7149
or a judicial finding of eligibility for intervention in lieu of 7150
conviction for, a misdemeanor involving moral turpitude; 7151

(15) Commission of an act in the course of practice that 7152
constitutes a misdemeanor in this state, regardless of the 7153
jurisdiction in which the act was committed; 7154

(16) Commission of an act involving moral turpitude that 7155
constitutes a misdemeanor in this state, regardless of the 7156
jurisdiction in which the act was committed; 7157

(17) A plea of guilty to, a judicial finding of guilt of, 7158
or a judicial finding of eligibility for intervention in lieu of 7159
conviction for violating any state or federal law regulating the 7160
possession, distribution, or use of any drug, including 7161
trafficking in drugs; 7162

(18) Any of the following actions taken by the state 7163
agency responsible for regulating the practice of oriental 7164
medicine or acupuncture in another jurisdiction, for any reason 7165
other than the nonpayment of fees: the limitation, revocation, 7166
or suspension of an individual's license to practice; acceptance 7167

of an individual's license surrender; denial of a license;	7168
refusal to renew or reinstate a license; imposition of	7169
probation; or issuance of an order of censure or other	7170
reprimand;	7171
(19) Violation of the conditions placed by the board on a	7172
license to practice as an oriental medicine practitioner or	7173
license to practice as an acupuncturist;	7174
(20) Failure to use universal blood and body fluid	7175
precautions established by rules adopted under section 4731.051	7176
of the Revised Code;	7177
(21) Failure to cooperate in an investigation conducted by	7178
the board under section 4762.14 of the Revised Code, including	7179
failure to comply with a subpoena or order issued by the board	7180
or failure to answer truthfully a question presented by the	7181
board at a deposition or in written interrogatories, except that	7182
failure to cooperate with an investigation shall not constitute	7183
grounds for discipline under this section if a court of	7184
competent jurisdiction has issued an order that either quashes a	7185
subpoena or permits the individual to withhold the testimony or	7186
evidence in issue;	7187
(22) Failure to comply with the standards of the national	7188
certification commission for acupuncture and oriental medicine	7189
regarding professional ethics, commitment to patients,	7190
commitment to the profession, and commitment to the public;	7191
(23) Failure to have adequate professional liability	7192
insurance coverage in accordance with section 4762.22 of the	7193
Revised Code;	7194
(24) Failure to maintain a current and active designation	7195
as a diplomate in oriental medicine, diplomate of acupuncture	7196

and Chinese herbology, or diplomate in acupuncture, as 7197
applicable, from the national certification commission for 7198
acupuncture and oriental medicine, including revocation by the 7199
commission of the individual's designation, failure by the 7200
individual to meet the commission's requirements for 7201
redesignation, or failure to notify the board that the 7202
appropriate designation has not been maintained. 7203

(C) The board shall not refuse to issue a certificate to 7204
an applicant because of a plea of guilty to, a judicial finding 7205
of guilt of, or a judicial finding of eligibility for 7206
intervention in lieu of conviction for an offense unless the 7207
refusal is in accordance with section 9.79 of the Revised Code. 7208

(D) Disciplinary actions taken by the board under 7209
divisions (A) and (B) of this section shall be taken pursuant to 7210
an adjudication under Chapter 119. of the Revised Code, except 7211
that in lieu of an adjudication, the board may enter into a 7212
consent agreement with an oriental medicine practitioner or 7213
acupuncturist or applicant to resolve an allegation of a 7214
violation of this chapter or any rule adopted under it. A 7215
consent agreement, when ratified by an affirmative vote of not 7216
fewer than six members of the board, shall constitute the 7217
findings and order of the board with respect to the matter 7218
addressed in the agreement. If the board refuses to ratify a 7219
consent agreement, the admissions and findings contained in the 7220
consent agreement shall be of no force or effect. 7221

(E) For purposes of divisions (B) (12), (15), and (16) of 7222
this section, the commission of the act may be established by a 7223
finding by the board, pursuant to an adjudication under Chapter 7224
119. of the Revised Code, that the applicant or license holder 7225
committed the act in question. The board shall have no 7226

jurisdiction under these divisions in cases where the trial 7227
court renders a final judgment in the license holder's favor and 7228
that judgment is based upon an adjudication on the merits. The 7229
board shall have jurisdiction under these divisions in cases 7230
where the trial court issues an order of dismissal upon 7231
technical or procedural grounds. 7232

(F) The sealing or expungement of conviction records by 7233
any court shall have no effect upon a prior board order entered 7234
under the provisions of this section or upon the board's 7235
jurisdiction to take action under the provisions of this section 7236
if, based upon a plea of guilty, a judicial finding of guilt, or 7237
a judicial finding of eligibility for intervention in lieu of 7238
conviction, the board issued a notice of opportunity for a 7239
hearing or entered into a consent agreement prior to the court's 7240
order to seal or expunge the records. The board shall not be 7241
required to seal, destroy, redact, or otherwise modify its 7242
records to reflect the court's sealing or expungement of 7243
conviction records. 7244

(G) For purposes of this division, any individual who 7245
holds a license to practice issued under this chapter, or 7246
applies for a license to practice, shall be deemed to have given 7247
consent to submit to a mental or physical examination when 7248
directed to do so in writing by the board and to have waived all 7249
objections to the admissibility of testimony or examination 7250
reports that constitute a privileged communication. 7251

(1) In enforcing division (B) (5) of this section, the 7252
board, upon a showing of a possible violation, shall refer any 7253
individual who holds, or has applied for, a license under this 7254
chapter to the monitoring organization that conducts the 7255
confidential monitoring program established under section 7256

4731.25 of the Revised Code. The board also may compel the 7257
individual to submit to a mental examination, physical 7258
examination, including an HIV test, or both a mental and 7259
physical examination. The expense of the examination is the 7260
responsibility of the individual compelled to be examined. 7261
Failure to submit to a mental or physical examination or consent 7262
to an HIV test ordered by the board constitutes an admission of 7263
the allegations against the individual unless the failure is due 7264
to circumstances beyond the individual's control, and a default 7265
and final order may be entered without the taking of testimony 7266
or presentation of evidence. If the board finds an oriental 7267
medicine practitioner or acupuncturist unable to practice 7268
because of the reasons set forth in division (B)(5) of this 7269
section, the board shall require the individual to submit to 7270
care, counseling, or treatment by physicians approved or 7271
designated by the board, as a condition for an initial, 7272
continued, reinstated, or renewed license to practice. An 7273
individual affected by this division shall be afforded an 7274
opportunity to demonstrate to the board the ability to resume 7275
practicing in compliance with acceptable and prevailing 7276
standards of care. 7277

(2) For purposes of division (B)(6) of this section, if 7278
the board has reason to believe that any individual who holds a 7279
license to practice issued under this chapter or any applicant 7280
for a license suffers such impairment, the board shall refer the 7281
individual to the monitoring organization that conducts the 7282
confidential monitoring program established under section 7283
4731.25 of the Revised Code. The board also may compel the 7284
individual to submit to a mental or physical examination, or 7285
both. The expense of the examination is the responsibility of 7286
the individual compelled to be examined. Any mental or physical 7287

examination required under this division shall be undertaken by 7288
a treatment provider or physician qualified to conduct such 7289
examination and approved under section 4731.251 of the Revised 7290
Code. 7291

Failure to submit to a mental or physical examination 7292
ordered by the board constitutes an admission of the allegations 7293
against the individual unless the failure is due to 7294
circumstances beyond the individual's control, and a default and 7295
final order may be entered without the taking of testimony or 7296
presentation of evidence. If the board determines that the 7297
individual's ability to practice is impaired, the board shall 7298
suspend the individual's license or deny the individual's 7299
application and shall require the individual, as a condition for 7300
an initial, continued, reinstated, or renewed license, to submit 7301
to treatment. 7302

Before being eligible to apply for reinstatement of a 7303
license suspended under this division, the oriental medicine 7304
practitioner or acupuncturist shall demonstrate to the board the 7305
ability to resume practice in compliance with acceptable and 7306
prevailing standards of care. The demonstration shall include 7307
the following: 7308

(a) Certification from a treatment provider approved under 7309
section 4731.251 of the Revised Code that the individual has 7310
successfully completed any required inpatient treatment; 7311

(b) Evidence of continuing full compliance with an 7312
aftercare contract or consent agreement; 7313

(c) Two written reports indicating that the individual's 7314
ability to practice has been assessed and that the individual 7315
has been found capable of practicing according to acceptable and 7316

prevailing standards of care. The reports shall be made by 7317
individuals or providers approved by the board for making such 7318
assessments and shall describe the basis for their 7319
determination. 7320

The board may reinstate a license suspended under this 7321
division after such demonstration and after the individual has 7322
entered into a written consent agreement. 7323

When the impaired individual resumes practice, the board 7324
shall require continued monitoring of the individual. The 7325
monitoring shall include monitoring of compliance with the 7326
written consent agreement entered into before reinstatement or 7327
with conditions imposed by board order after a hearing, and, 7328
upon termination of the consent agreement, submission to the 7329
board for at least two years of annual written progress reports 7330
made under penalty of falsification stating whether the 7331
individual has maintained sobriety. 7332

~~(H)~~ (H) (1) If either of the following circumstances occur, 7333
the secretary and supervising member ~~determine both of the~~ 7334
~~following, they~~ may recommend that the board suspend an 7335
individual's license to practice without a prior hearing: 7336

~~(1)~~ (a) The secretary and supervising member determine 7337
both of the following: 7338

(i) That there is clear and convincing evidence that an 7339
oriental medicine practitioner or acupuncturist has violated 7340
division (B) of this section; 7341

~~(2)~~ (ii) That the individual's continued practice presents 7342
a danger of immediate and serious harm to the public. 7343

~~Written~~ (b) The board receives verifiable information that 7344
a licensee has been charged in any state or federal court for a 7345

crime classified as a felony under the charging court's law and 7346
the conduct charged constitutes a violation of division (B) of 7347
this section. 7348

(2) If a recommendation is made to suspend without a prior 7349
hearing pursuant to division (H) (1) of this section, written 7350
allegations shall be prepared for consideration by the board. 7351
The board, upon review of the allegations and by an affirmative 7352
vote of not fewer than six of its members, excluding the 7353
secretary and supervising member, may suspend a license without 7354
a prior hearing. A telephone conference call may be utilized for 7355
reviewing the allegations and taking the vote on the summary 7356
suspension. 7357

The board shall serve a written order of suspension in 7358
accordance with sections 119.05 and 119.07 of the Revised Code. 7359
The order shall not be subject to suspension by the court during 7360
pendency of any appeal filed under section 119.12 of the Revised 7361
Code. If the oriental medicine practitioner or acupuncturist 7362
requests an adjudicatory hearing by the board, the date set for 7363
the hearing shall be within fifteen days, but not earlier than 7364
seven days, after the hearing is requested, unless otherwise 7365
agreed to by both the board and the license holder. 7366

(3) A summary suspension imposed under this division shall 7367
remain in effect, unless reversed on appeal, until a final 7368
adjudicative order issued by the board pursuant to this section 7369
and Chapter 119. of the Revised Code becomes effective. The 7370
board shall issue its final adjudicative order within sixty days 7371
after completion of its hearing. Failure to issue the order 7372
within sixty days shall result in dissolution of the summary 7373
suspension order, but shall not invalidate any subsequent, final 7374
adjudicative order. 7375

(I) If the board takes action under division (B) (11), 7376
(13), or (14) of this section, and the judicial finding of 7377
guilt, guilty plea, or judicial finding of eligibility for 7378
intervention in lieu of conviction is overturned on appeal, upon 7379
exhaustion of the criminal appeal, a petition for 7380
reconsideration of the order may be filed with the board along 7381
with appropriate court documents. Upon receipt of a petition and 7382
supporting court documents, the board shall reinstate the 7383
license. The board may then hold an adjudication under Chapter 7384
119. of the Revised Code to determine whether the individual 7385
committed the act in question. Notice of opportunity for hearing 7386
shall be given in accordance with Chapter 119. of the Revised 7387
Code. If the board finds, pursuant to an adjudication held under 7388
this division, that the individual committed the act, or if no 7389
hearing is requested, it may order any of the sanctions 7390
specified in division (B) of this section. 7391

(J) The license to practice of an oriental medicine 7392
practitioner or acupuncturist and the practitioner's or 7393
acupuncturist's practice in this state are automatically 7394
suspended as of the date the practitioner or acupuncturist 7395
pleads guilty to, is found by a judge or jury to be guilty of, 7396
or is subject to a judicial finding of eligibility for 7397
intervention in lieu of conviction in this state or treatment or 7398
intervention in lieu of conviction in another jurisdiction for 7399
any of the following criminal offenses in this state or a 7400
substantially equivalent criminal offense in another 7401
jurisdiction: aggravated murder, murder, voluntary manslaughter, 7402
felonious assault, trafficking in persons, kidnapping, rape, 7403
sexual battery, gross sexual imposition, aggravated arson, 7404
aggravated robbery, or aggravated burglary. Continued practice 7405
after the suspension shall be considered practicing without a 7406

license. 7407

The board shall serve the individual subject to the 7408
suspension in accordance with sections 119.05 and 119.07 of the 7409
Revised Code. If an individual whose license is suspended under 7410
this division fails to make a timely request for an adjudication 7411
under Chapter 119. of the Revised Code, the board shall enter a 7412
final order permanently revoking the individual's license. 7413

(K) In any instance in which the board is required by 7414
Chapter 119. of the Revised Code to give notice of opportunity 7415
for hearing and the individual subject to the notice does not 7416
timely request a hearing in accordance with section 119.07 of 7417
the Revised Code, the board is not required to hold a hearing, 7418
but may adopt, by an affirmative vote of not fewer than six of 7419
its members, a final order that contains the board's findings. 7420
In the final order, the board may order any of the sanctions 7421
identified under division (A) or (B) of this section. 7422

(L) Any action taken by the board under division (B) of 7423
this section resulting in a suspension shall be accompanied by a 7424
written statement of the conditions under which the license may 7425
be reinstated. The board shall adopt rules in accordance with 7426
Chapter 119. of the Revised Code governing conditions to be 7427
imposed for reinstatement. Reinstatement of a license suspended 7428
pursuant to division (B) of this section requires an affirmative 7429
vote of not fewer than six members of the board. 7430

(M) When the board refuses to grant or issue a license to 7431
an applicant, revokes an individual's license, refuses to renew 7432
an individual's license, or refuses to reinstate an individual's 7433
license, the board may specify that its action is permanent. An 7434
individual subject to a permanent action taken by the board is 7435
forever thereafter ineligible to hold a license to practice as 7436

an oriental medicine practitioner or license to practice as an 7437
acupuncturist and the board shall not accept an application for 7438
reinstatement of the license or for issuance of a new license. 7439

(N) Notwithstanding any other provision of the Revised 7440
Code, all of the following apply: 7441

(1) The surrender of a license to practice as an oriental 7442
medicine practitioner or license to practice as an acupuncturist 7443
issued under this chapter is not effective unless or until 7444
accepted by the board. Reinstatement of a license surrendered to 7445
the board requires an affirmative vote of not fewer than six 7446
members of the board. 7447

(2) An application made under this chapter for a license 7448
may not be withdrawn without approval of the board. 7449

(3) Failure by an individual to renew a license in 7450
accordance with section 4762.06 of the Revised Code does not 7451
remove or limit the board's jurisdiction to take disciplinary 7452
action under this section against the individual. 7453

(4) The placement of an individual's license on retired 7454
status, as described in section 4762.062 of the Revised Code, 7455
does not remove or limit the board's jurisdiction to take any 7456
disciplinary action against the individual with regard to the 7457
license as it existed before being placed on retired status. 7458

Sec. 4762.14. (A) The state medical board shall 7459
investigate evidence that appears to show that any person has 7460
violated this chapter or the rules adopted under it. Any person 7461
may report to the board in a signed writing any information the 7462
person has that appears to show a violation of any provision of 7463
this chapter or the rules adopted under it. In the absence of 7464
bad faith, a person who reports such information or testifies 7465

before the board in an adjudication conducted under Chapter 119. 7466
of the Revised Code shall not be liable for civil damages as a 7467
result of reporting the information or providing testimony. Each 7468
complaint or allegation of a violation received by the board 7469
shall be assigned a case number and be recorded by the board. 7470

(B) Investigations of alleged violations of this chapter 7471
or rules adopted under it shall be supervised by the supervising 7472
member elected by the board in accordance with section 4731.02 7473
of the Revised Code and by the secretary as provided in section 7474
4762.17 of the Revised Code. The board's president may designate 7475
another member of the board to supervise the investigation in 7476
place of the supervising member. Upon a vote of the majority of 7477
the board to authorize the addition of a consumer member in the 7478
supervision of any part of any investigation, the president 7479
shall designate a consumer member for supervision of 7480
investigations as determined by the president. The authorization 7481
of consumer member participation in investigation supervision 7482
may be rescinded by a majority vote of the board. A member of 7483
the board who supervises the investigation of a case shall not 7484
participate in further adjudication of the case. 7485

(C) In investigating a possible violation of this chapter 7486
or the rules adopted under it, the board may administer oaths, 7487
order the taking of depositions, issue subpoenas, and compel the 7488
attendance of witnesses and production of books, accounts, 7489
papers, records, documents, and testimony, except that a 7490
subpoena for patient record information shall not be issued 7491
without consultation with the attorney general's office and 7492
approval of the secretary of the board. Before issuance of a 7493
subpoena for patient record information, the secretary shall 7494
determine whether there is probable cause to believe that the 7495
complaint filed alleges a violation of this chapter or the rules 7496

adopted under it and that the records sought are relevant to the 7497
alleged violation and material to the investigation. The 7498
subpoena may apply only to records that cover a reasonable 7499
period of time surrounding the alleged violation. 7500

On failure to comply with any subpoena issued by the board 7501
and after reasonable notice to the person being subpoenaed, the 7502
board may move for an order compelling the production of persons 7503
or records pursuant to the Rules of Civil Procedure. 7504

A subpoena issued by the board may be served by a sheriff, 7505
the sheriff's deputy, or a board employee designated by the 7506
board. Service of a subpoena issued by the board may be made by 7507
delivering a copy of the subpoena to the person named therein, 7508
reading it to the person, or leaving it at the person's usual 7509
place of residence. When the person being served is an oriental 7510
medicine practitioner or acupuncturist, service of the subpoena 7511
may be made by certified mail, restricted delivery, return 7512
receipt requested, and the subpoena shall be deemed served on 7513
the date delivery is made or the date the person refuses to 7514
accept delivery. 7515

A sheriff's deputy who serves a subpoena shall receive the 7516
same fees as a sheriff. Each witness who appears before the 7517
board in obedience to a subpoena shall receive the fees and 7518
mileage provided for under section 119.094 of the Revised Code. 7519

(D) All hearings and investigations of the board shall be 7520
considered civil actions for the purposes of section 2305.252 of 7521
the Revised Code. 7522

(E) Information received by the board pursuant to an 7523
investigation is confidential and not subject to discovery in 7524
any civil action. 7525

The board shall conduct all investigations and proceedings 7526
in a manner that protects the confidentiality of patients and 7527
persons who file complaints with the board. The board shall not 7528
make public the names or any other identifying information about 7529
patients or complainants unless proper consent is given. 7530

The board may share any information it receives pursuant 7531
to an investigation, including patient records and patient 7532
record information, with law enforcement agencies, other 7533
licensing boards, and other governmental agencies that are 7534
prosecuting, adjudicating, or investigating alleged violations 7535
of statutes or administrative rules. An agency or board that 7536
receives the information shall comply with the same requirements 7537
regarding confidentiality as those with which the state medical 7538
board must comply, notwithstanding any conflicting provision of 7539
the Revised Code or procedure of the agency or board that 7540
applies when it is dealing with other information in its 7541
possession. In a judicial proceeding, the information may be 7542
admitted into evidence only in accordance with the Rules of 7543
Evidence, but the court shall require that appropriate measures 7544
are taken to ensure that confidentiality is maintained with 7545
respect to any part of the information that contains names or 7546
other identifying information about patients or complainants 7547
whose confidentiality was protected by the state medical board 7548
when the information was in the board's possession. Measures to 7549
ensure confidentiality that may be taken by the court include 7550
sealing its records or deleting specific information from its 7551
records. 7552

No person shall knowingly access, use, or disclose 7553
confidential investigatory information in a manner prohibited by 7554
law. 7555

(F) The state medical board shall develop requirements for 7556
and provide appropriate initial training and continuing 7557
education for investigators employed by the board to carry out 7558
its duties under this chapter. The training and continuing 7559
education may include enrollment in courses operated or approved 7560
by the Ohio peace officer training commission that the board 7561
considers appropriate under conditions set forth in section 7562
109.79 of the Revised Code. 7563

(G) On a quarterly basis, the board shall prepare a report 7564
that documents the disposition of all cases during the preceding 7565
three months. The report shall contain the following information 7566
for each case with which the board has completed its activities: 7567

(1) The case number assigned to the complaint or alleged 7568
violation; 7569

(2) The type of license, if any, held by the individual 7570
against whom the complaint is directed; 7571

(3) A description of the allegations contained in the 7572
complaint; 7573

(4) Whether witnesses were interviewed; 7574

(5) Whether the individual against whom the complaint is 7575
directed is the subject of any pending complaints; 7576

(6) The disposition of the case. 7577

The report shall state how many cases are still pending, 7578
and shall be prepared in a manner that protects the identity of 7579
each person involved in each case. The report is a public record 7580
for purposes of section 149.43 of the Revised Code. 7581

(H) The board may provide a status update regarding an 7582
investigation to a complainant on request if the board verifies 7583

the complainant's identity. 7584

Sec. 4762.16. (A) As used in this section, "criminal 7585
conduct" and "sexual misconduct" have the same meanings as in 7586
section 4731.224 of the Revised Code. 7587

(B) (1) Within ~~sixty~~-thirty days after the imposition of 7588
any formal disciplinary action taken by any health care 7589
facility, including a hospital, health care facility operated by 7590
a health insuring corporation, ambulatory surgical center, or 7591
similar facility, against any individual holding a valid license 7592
to practice as an oriental medicine practitioner or valid 7593
license to practice as an acupuncturist, the chief administrator 7594
or executive officer of the facility shall report to the state 7595
medical board the name of the individual, the action taken by 7596
the facility, and a summary of the underlying facts leading to 7597
the action taken. Upon request, the board shall be provided 7598
certified copies of the patient records that were the basis for 7599
the facility's action. Prior to release to the board, the 7600
summary shall be approved by the peer review committee that 7601
reviewed the case or by the governing board of the facility. 7602

The filing of a report with the board or decision not to 7603
file a report, investigation by the board, or any disciplinary 7604
action taken by the board, does not preclude a health care 7605
facility from taking disciplinary action against an oriental 7606
medicine practitioner or acupuncturist. 7607

In the absence of fraud or bad faith, no individual or 7608
entity that provides patient records to the board shall be 7609
liable in damages to any person as a result of providing the 7610
records. 7611

(2) Within thirty days after commencing an investigation 7612

regarding criminal conduct or sexual misconduct against any 7613
individual holding a valid license to practice issued pursuant 7614
to this chapter, a health care facility, including a hospital, 7615
health care facility operated by a health insuring corporation, 7616
ambulatory surgical center, or similar facility, shall report to 7617
the board the name of the individual and a summary of the 7618
underlying facts related to the investigation being commenced. 7619

~~(B) (1)~~ ~~(C) (1)~~ Except as provided in division ~~(B) (2)~~ ~~(C) (2)~~ 7620
of this section and subject to division (C) (3) of this section, 7621
an oriental medicine practitioner or acupuncturist, professional 7622
association or society of oriental medicine practitioners or 7623
acupuncturists, physician, or professional association or 7624
society of physicians that believes a violation of any provision 7625
of this chapter, Chapter 4731. of the Revised Code, or rule of 7626
the board has occurred shall report to the board the information 7627
upon which the belief is based. 7628

(2) An oriental medicine practitioner or acupuncturist, 7629
professional association or society of oriental medicine 7630
practitioners or acupuncturists, physician, or professional 7631
association or society of physicians that believes a violation 7632
of division (B) (5) or (6) of section 4762.13 of the Revised Code 7633
has occurred shall report the information upon which the belief 7634
is based to the monitoring organization conducting the 7635
confidential monitoring program established under section 7636
4731.25 of the Revised Code. If any such report is made to the 7637
board, it shall be referred to the monitoring organization 7638
unless the board is aware that the individual who is the subject 7639
of the report does not meet the program eligibility requirements 7640
of section 4731.252 of the Revised Code. 7641

(3) If any individual authorized to practice under this 7642

chapter or any professional association or society of such 7643
individuals knows or has reasonable cause to suspect based on 7644
facts that would cause a reasonable person in a similar position 7645
to suspect that an individual authorized to practice under this 7646
chapter has committed or participated in criminal conduct or 7647
sexual misconduct, the information upon which the belief is 7648
based shall be reported to the board within thirty days. 7649

This division does not apply to a professional association 7650
or society whose staff interacts with members of the association 7651
or society only in advocacy, governance, or educational 7652
capacities and whose staff does not regularly interact with 7653
members in practice settings. 7654

(4) In addition to the self-reporting of criminal offenses 7655
that is required for license renewal, an individual authorized 7656
to practice under this chapter shall report to the board 7657
criminal charges regarding criminal conduct, sexual misconduct, 7658
or any conduct involving the use of a motor vehicle while under 7659
the influence of alcohol or drugs, including offenses that are 7660
equivalent offenses under division (A) of section 4511.181 of 7661
the Revised Code, violations of division (D) of section 4511.194 7662
of the Revised Code, and violations of division (C) of section 7663
4511.79 of the Revised Code. Reports under this division shall 7664
be made within thirty days of the criminal charge being filed. 7665

~~(C)~~(D) Any professional association or society composed 7666
primarily of oriental medicine practitioners or acupuncturists 7667
that suspends or revokes an individual's membership for 7668
violations of professional ethics, or for reasons of 7669
professional incompetence or professional malpractice, within 7670
~~sixty~~thirty days after a final decision, shall report to the 7671
board, on forms prescribed and provided by the board, the name 7672

of the individual, the action taken by the professional 7673
organization, and a summary of the underlying facts leading to 7674
the action taken. 7675

The filing of a report with the board or decision not to 7676
file a report, investigation by the board, or any disciplinary 7677
action taken by the board, does not preclude a professional 7678
organization from taking disciplinary action against an 7679
individual. 7680

~~(D)~~ (E) Any insurer providing professional liability 7681
insurance to any person holding a valid license to practice as 7682
an oriental medicine practitioner or valid license to practice 7683
as an acupuncturist or any other entity that seeks to indemnify 7684
the professional liability of an oriental medicine practitioner 7685
or acupuncturist shall notify the board within thirty days after 7686
the final disposition of any written claim for damages where 7687
such disposition results in a payment exceeding twenty-five 7688
thousand dollars. The notice shall contain the following 7689
information: 7690

(1) The name and address of the person submitting the 7691
notification; 7692

(2) The name and address of the insured who is the subject 7693
of the claim; 7694

(3) The name of the person filing the written claim; 7695

(4) The date of final disposition; 7696

(5) If applicable, the identity of the court in which the 7697
final disposition of the claim took place. 7698

~~(E)~~ (F) The board may investigate possible violations of 7699
this chapter or the rules adopted under it that are brought to 7700

its attention as a result of the reporting requirements of this 7701
section, except that the board shall conduct an investigation if 7702
a possible violation involves repeated malpractice. As used in 7703
this division, "repeated malpractice" means three or more claims 7704
for malpractice within the previous five-year period, each 7705
resulting in a judgment or settlement in excess of twenty-five 7706
thousand dollars in favor of the claimant, and each involving 7707
negligent conduct by the oriental medicine practitioner or 7708
acupuncturist. 7709

~~(F)-(G) All summaries, reports, and records received and 7710
maintained by the board pursuant to this section shall be held 7711
in confidence and shall not be subject to discovery or 7712
introduction in evidence in any federal or state civil action 7713
involving an oriental medicine practitioner, acupuncturist, 7714
supervising physician, or health care facility arising out of 7715
matters that are the subject of the reporting required by this 7716
section. The board may use the information obtained only as the 7717
basis for an investigation, as evidence in a disciplinary 7718
hearing against an oriental medicine practitioner, 7719
acupuncturist, or supervising physician, or in any subsequent 7720
trial or appeal of a board action or order. 7721~~

~~The board may disclose the summaries and reports it 7722
receives under this section only to health care facility 7723
committees within or outside this state that are involved in 7724
credentialing or recredentialing an oriental medicine 7725
practitioner, acupuncturist, or supervising physician or 7726
reviewing their privilege to practice within a particular 7727
facility. The board shall indicate whether or not the 7728
information has been verified. Information transmitted by the 7729
board shall be subject to the same confidentiality provisions as 7730
when maintained by the board confidential pursuant to division 7731~~

(E) of section 4762.14 of the Revised Code. 7732

~~(G)~~ (H) Except for reports filed by an individual pursuant 7733
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 7734
send a copy of any reports or summaries it receives pursuant to 7735
this section to the acupuncturist. The oriental medicine 7736
practitioner or acupuncturist shall have the right to file a 7737
statement with the board concerning the correctness or relevance 7738
of the information. The statement shall at all times accompany 7739
that part of the record in contention. 7740

~~(H)~~ (I) An individual or entity that reports to the board, 7741
reports to the monitoring organization described in section 7742
4731.25 of the Revised Code, or refers an impaired oriental 7743
medicine practitioner or impaired acupuncturist to a treatment 7744
provider approved under section 4731.251 of the Revised Code 7745
shall not be subject to suit for civil damages as a result of 7746
the report, referral, or provision of the information. 7747

~~(I)~~ (J) In the absence of fraud or bad faith, a 7748
professional association or society of oriental medicine 7749
practitioners or acupuncturists that sponsors a committee or 7750
program to provide peer assistance to an oriental medicine 7751
practitioner or acupuncturist with substance abuse problems, a 7752
representative or agent of such a committee or program, a 7753
representative or agent of the monitoring organization described 7754
in section 4731.25 of the Revised Code, and a member of the 7755
state medical board shall not be held liable in damages to any 7756
person by reason of actions taken to refer an oriental medicine 7757
practitioner or acupuncturist to a treatment provider approved 7758
under section 4731.251 of the Revised Code for examination or 7759
treatment. 7760

Sec. 4762.99. (A) Whoever violates section 4762.02 of the 7761

Revised Code is guilty of a misdemeanor of the first degree on a 7762
first offense; on each subsequent offense, the person is guilty 7763
of a felony of the fourth degree. 7764

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C) 7765
(1), ~~(C) (2)~~, (D), or (E) of section 4762.16 of the Revised 7766
Code is guilty of a minor misdemeanor on a first offense; on 7767
each subsequent offense the person is guilty of a misdemeanor of 7768
the fourth degree, except that an individual guilty of a 7769
subsequent offense shall not be subject to imprisonment, but to 7770
a fine alone of up to one thousand dollars for each offense. 7771

(2) Whoever violates division (B) (2) or (C) (3) of section 7772
4762.16 of the Revised Code is guilty of failure to report 7773
criminal conduct or sexual misconduct, a misdemeanor of the 7774
fourth degree. If the offender has previously been convicted of 7775
a violation of this division, the failure to report is a 7776
misdemeanor of the first degree. 7777

(C) Whoever violates division (E) of section 4762.14 of 7778
the Revised Code is guilty of disclosing confidential 7779
investigatory information, a misdemeanor of the first degree. 7780

Sec. 4774.13. (A) The state medical board, by an 7781
affirmative vote of not fewer than six members, may refuse to 7782
grant a license to practice as a radiologist assistant to, or 7783
may revoke the license held by, an individual found by the board 7784
to have committed fraud, misrepresentation, or deception in 7785
applying for or securing the license. 7786

(B) The board, by an affirmative vote of not fewer than 7787
six members, shall, except as provided in division (C) of this 7788
section, and to the extent permitted by law, limit, revoke, or 7789
suspend an individual's license to practice as a radiologist 7790

assistant, refuse to issue a license to an applicant, refuse to 7791
renew a license, refuse to reinstate a license, or reprimand or 7792
place on probation the holder of a license for any of the 7793
following reasons: 7794

(1) Permitting the holder's name or license to be used by 7795
another person; 7796

(2) Failure to comply with the requirements of this 7797
chapter, Chapter 4731. of the Revised Code, or any rules adopted 7798
by the board; 7799

(3) Violating or attempting to violate, directly or 7800
indirectly, or assisting in or abetting the violation of, or 7801
conspiring to violate, any provision of this chapter, Chapter 7802
4731. of the Revised Code, or the rules adopted by the board; 7803

(4) A departure from, or failure to conform to, minimal 7804
standards of care of similar practitioners under the same or 7805
similar circumstances whether or not actual injury to the 7806
patient is established; 7807

(5) Inability to practice according to acceptable and 7808
prevailing standards of care by reason of mental illness or 7809
physical illness, including physical deterioration that 7810
adversely affects cognitive, motor, or perceptive skills; 7811

(6) Impairment of ability to practice according to 7812
acceptable and prevailing standards of care because of substance 7813
use disorder or excessive use or abuse of drugs, alcohol, or 7814
other substances that may impair ability to practice; 7815

(7) Willfully betraying a professional confidence; 7816

(8) Making a false, fraudulent, deceptive, or misleading 7817
statement in securing or attempting to secure a license to 7818

practice as a radiologist assistant. 7819

As used in this division, "false, fraudulent, deceptive, 7820
or misleading statement" means a statement that includes a 7821
misrepresentation of fact, is likely to mislead or deceive 7822
because of a failure to disclose material facts, is intended or 7823
is likely to create false or unjustified expectations of 7824
favorable results, or includes representations or implications 7825
that in reasonable probability will cause an ordinarily prudent 7826
person to misunderstand or be deceived. 7827

(9) The obtaining of, or attempting to obtain, money or a 7828
thing of value by fraudulent misrepresentations in the course of 7829
practice; 7830

(10) A plea of guilty to, a judicial finding of guilt of, 7831
or a judicial finding of eligibility for intervention in lieu of 7832
conviction for, a felony; 7833

(11) Commission of an act that constitutes a felony in 7834
this state, regardless of the jurisdiction in which the act was 7835
committed; 7836

(12) A plea of guilty to, a judicial finding of guilt of, 7837
or a judicial finding of eligibility for intervention in lieu of 7838
conviction for, a misdemeanor committed in the course of 7839
practice; 7840

(13) A plea of guilty to, a judicial finding of guilt of, 7841
or a judicial finding of eligibility for intervention in lieu of 7842
conviction for, a misdemeanor involving moral turpitude; 7843

(14) Commission of an act in the course of practice that 7844
constitutes a misdemeanor in this state, regardless of the 7845
jurisdiction in which the act was committed; 7846

(15) Commission of an act involving moral turpitude that 7847
constitutes a misdemeanor in this state, regardless of the 7848
jurisdiction in which the act was committed; 7849

(16) A plea of guilty to, a judicial finding of guilt of, 7850
or a judicial finding of eligibility for intervention in lieu of 7851
conviction for violating any state or federal law regulating the 7852
possession, distribution, or use of any drug, including 7853
trafficking in drugs; 7854

(17) Any of the following actions taken by the state 7855
agency responsible for regulating the practice of radiologist 7856
assistants in another jurisdiction, for any reason other than 7857
the nonpayment of fees: the limitation, revocation, or 7858
suspension of an individual's license to practice; acceptance of 7859
an individual's license surrender; denial of a license; refusal 7860
to renew or reinstate a license; imposition of probation; or 7861
issuance of an order of censure or other reprimand; 7862

(18) Violation of the conditions placed by the board on a 7863
license to practice as a radiologist assistant; 7864

(19) Failure to use universal blood and body fluid 7865
precautions established by rules adopted under section 4731.051 7866
of the Revised Code; 7867

(20) Failure to cooperate in an investigation conducted by 7868
the board under section 4774.14 of the Revised Code, including 7869
failure to comply with a subpoena or order issued by the board 7870
or failure to answer truthfully a question presented by the 7871
board at a deposition or in written interrogatories, except that 7872
failure to cooperate with an investigation shall not constitute 7873
grounds for discipline under this section if a court of 7874
competent jurisdiction has issued an order that either quashes a 7875

subpoena or permits the individual to withhold the testimony or 7876
evidence in issue; 7877

(21) Failure to maintain a license as a radiographer under 7878
Chapter 4773. of the Revised Code; 7879

(22) Failure to maintain certification as a registered 7880
radiologist assistant from the American registry of radiologic 7881
technologists, including revocation by the registry of the 7882
assistant's certification or failure by the assistant to meet 7883
the registry's requirements for annual registration, or failure 7884
to notify the board that the certification as a registered 7885
radiologist assistant has not been maintained; 7886

(23) Failure to comply with any of the rules of ethics 7887
included in the standards of ethics established by the American 7888
registry of radiologic technologists, as those rules apply to an 7889
individual who holds the registry's certification as a 7890
registered radiologist assistant. 7891

(C) The board shall not refuse to issue a license to an 7892
applicant because of a plea of guilty to, a judicial finding of 7893
guilt of, or a judicial finding of eligibility for intervention 7894
in lieu of conviction for an offense unless the refusal is in 7895
accordance with section 9.79 of the Revised Code. 7896

(D) Disciplinary actions taken by the board under 7897
divisions (A) and (B) of this section shall be taken pursuant to 7898
an adjudication under Chapter 119. of the Revised Code, except 7899
that in lieu of an adjudication, the board may enter into a 7900
consent agreement with a radiologist assistant or applicant to 7901
resolve an allegation of a violation of this chapter or any rule 7902
adopted under it. A consent agreement, when ratified by an 7903
affirmative vote of not fewer than six members of the board, 7904

shall constitute the findings and order of the board with 7905
respect to the matter addressed in the agreement. If the board 7906
refuses to ratify a consent agreement, the admissions and 7907
findings contained in the consent agreement shall be of no force 7908
or effect. 7909

(E) For purposes of divisions (B) (11), (14), and (15) of 7910
this section, the commission of the act may be established by a 7911
finding by the board, pursuant to an adjudication under Chapter 7912
119. of the Revised Code, that the applicant or license holder 7913
committed the act in question. The board shall have no 7914
jurisdiction under these divisions in cases where the trial 7915
court renders a final judgment in the license holder's favor and 7916
that judgment is based upon an adjudication on the merits. The 7917
board shall have jurisdiction under these divisions in cases 7918
where the trial court issues an order of dismissal on technical 7919
or procedural grounds. 7920

(F) The sealing or expungement of conviction records by 7921
any court shall have no effect on a prior board order entered 7922
under the provisions of this section or on the board's 7923
jurisdiction to take action under the provisions of this section 7924
if, based upon a plea of guilty, a judicial finding of guilt, or 7925
a judicial finding of eligibility for intervention in lieu of 7926
conviction, the board issued a notice of opportunity for a 7927
hearing prior to the court's order to seal or expunge the 7928
records. The board shall not be required to seal, destroy, 7929
redact, or otherwise modify its records to reflect the court's 7930
sealing or expungement of conviction records. 7931

(G) For purposes of this division, any individual who 7932
holds a license to practice as a radiologist assistant issued 7933
under this chapter, or applies for a license, shall be deemed to 7934

have given consent to submit to a mental or physical examination 7935
when directed to do so in writing by the board and to have 7936
waived all objections to the admissibility of testimony or 7937
examination reports that constitute a privileged communication. 7938

(1) In enforcing division (B)(5) of this section, the 7939
board, on a showing of a possible violation, shall refer any 7940
individual who holds, or has applied for, a license to practice 7941
as a radiologist assistant issued under this chapter to the 7942
monitoring organization that conducts the confidential 7943
monitoring program established under section 4731.25 of the 7944
Revised Code. The board also may compel the individual to submit 7945
to a mental or physical examination, or both. A physical 7946
examination may include an HIV test. The expense of the 7947
examination is the responsibility of the individual compelled to 7948
be examined. Failure to submit to a mental or physical 7949
examination or consent to an HIV test ordered by the board 7950
constitutes an admission of the allegations against the 7951
individual unless the failure is due to circumstances beyond the 7952
individual's control, and a default and final order may be 7953
entered without the taking of testimony or presentation of 7954
evidence. If the board finds a radiologist assistant unable to 7955
practice because of the reasons set forth in division (B)(5) of 7956
this section, the board shall require the radiologist assistant 7957
to submit to care, counseling, or treatment by physicians 7958
approved or designated by the board, as a condition for an 7959
initial, continued, reinstated, or renewed license. An 7960
individual affected by this division shall be afforded an 7961
opportunity to demonstrate to the board the ability to resume 7962
practicing in compliance with acceptable and prevailing 7963
standards of care. 7964

(2) For purposes of division (B)(6) of this section, if 7965

the board has reason to believe that any individual who holds a 7966
license to practice as a radiologist assistant issued under this 7967
chapter or any applicant for a license suffers such impairment, 7968
the board shall refer the individual to the monitoring 7969
organization that conducts the confidential monitoring program 7970
established under section 4731.25 of the Revised Code. The board 7971
also may compel the individual to submit to a mental or physical 7972
examination, or both. The expense of the examination is the 7973
responsibility of the individual compelled to be examined. Any 7974
mental or physical examination required under this division 7975
shall be undertaken by a treatment provider or physician 7976
qualified to conduct such examination and approved under section 7977
4731.251 of the Revised Code. 7978

Failure to submit to a mental or physical examination 7979
ordered by the board constitutes an admission of the allegations 7980
against the individual unless the failure is due to 7981
circumstances beyond the individual's control, and a default and 7982
final order may be entered without the taking of testimony or 7983
presentation of evidence. If the board determines that the 7984
individual's ability to practice is impaired, the board shall 7985
suspend the individual's license or deny the individual's 7986
application and shall require the individual, as a condition for 7987
an initial, continued, reinstated, or renewed license to 7988
practice, to submit to treatment. 7989

Before being eligible to apply for reinstatement of a 7990
license suspended under this division, the radiologist assistant 7991
shall demonstrate to the board the ability to resume practice in 7992
compliance with acceptable and prevailing standards of care. The 7993
demonstration shall include the following: 7994

(a) Certification from a treatment provider approved under 7995

section 4731.251 of the Revised Code that the individual has 7996
successfully completed any required inpatient treatment; 7997

(b) Evidence of continuing full compliance with an 7998
aftercare contract or consent agreement; 7999

(c) Two written reports indicating that the individual's 8000
ability to practice has been assessed and that the individual 8001
has been found capable of practicing according to acceptable and 8002
prevailing standards of care. The reports shall be made by 8003
individuals or providers approved by the board for making such 8004
assessments and shall describe the basis for their 8005
determination. 8006

The board may reinstate a license suspended under this 8007
division after such demonstration and after the individual has 8008
entered into a written consent agreement. 8009

When the impaired radiologist assistant resumes practice, 8010
the board shall require continued monitoring of the radiologist 8011
assistant. The monitoring shall include monitoring of compliance 8012
with the written consent agreement entered into before 8013
reinstatement or with conditions imposed by board order after a 8014
hearing, and, on termination of the consent agreement, 8015
submission to the board for at least two years of annual written 8016
progress reports made under penalty of falsification stating 8017
whether the radiologist assistant has maintained sobriety. 8018

~~(H)~~ (H) (1) If either of the following circumstances occur, 8019
the secretary and supervising member ~~determine~~ may recommend 8020
that the board suspend the individual's license to practice 8021
without a prior hearing: 8022

(a) The secretary and supervising member determine that 8023
there is clear and convincing evidence that a radiologist 8024

assistant has violated division (B) of this section and that the 8025
individual's continued practice presents a danger of immediate 8026
and serious harm to the public, ~~they may recommend that the~~ 8027
~~board suspend the individual's license to practice without a~~ 8028
~~prior hearing.~~ 8029

(b) The board receives verifiable information that a 8030
licensee has been charged in any state or federal court for a 8031
crime classified as a felony under the charging court's law and 8032
the conduct charged constitutes a violation of division (B) of 8033
this section. ~~Written~~ 8034

(2) If a recommendation is made to suspend without a prior 8035
hearing pursuant to division (H) (1) of this section, written 8036
allegations shall be prepared for consideration by the board. 8037

The board, on review of the allegations and by an 8038
affirmative vote of not fewer than six of its members, excluding 8039
the secretary and supervising member, may suspend a license 8040
without a prior hearing. A telephone conference call may be 8041
utilized for reviewing the allegations and taking the vote on 8042
the summary suspension. 8043

The board shall serve a written order of suspension in 8044
accordance with sections 119.05 and 119.07 of the Revised Code. 8045
The order shall not be subject to suspension by the court during 8046
pendency of any appeal filed under section 119.12 of the Revised 8047
Code. If the radiologist assistant requests an adjudicatory 8048
hearing by the board, the date set for the hearing shall be 8049
within fifteen days, but not earlier than seven days, after the 8050
radiologist assistant requests the hearing, unless otherwise 8051
agreed to by both the board and the license holder. 8052

(3) A summary suspension imposed under this division shall 8053

remain in effect, unless reversed on appeal, until a final 8054
adjudicative order issued by the board pursuant to this section 8055
and Chapter 119. of the Revised Code becomes effective. The 8056
board shall issue its final adjudicative order within sixty days 8057
after completion of its hearing. Failure to issue the order 8058
within sixty days shall result in dissolution of the summary 8059
suspension order, but shall not invalidate any subsequent, final 8060
adjudicative order. 8061

(I) If the board takes action under division (B) (10), 8062
(12), or (13) of this section, and the judicial finding of 8063
guilt, guilty plea, or judicial finding of eligibility for 8064
intervention in lieu of conviction is overturned on appeal, on 8065
exhaustion of the criminal appeal, a petition for 8066
reconsideration of the order may be filed with the board along 8067
with appropriate court documents. On receipt of a petition and 8068
supporting court documents, the board shall reinstate the 8069
license to practice as a radiologist assistant. The board may 8070
then hold an adjudication under Chapter 119. of the Revised Code 8071
to determine whether the individual committed the act in 8072
question. Notice of opportunity for hearing shall be given in 8073
accordance with Chapter 119. of the Revised Code. If the board 8074
finds, pursuant to an adjudication held under this division, 8075
that the individual committed the act, or if no hearing is 8076
requested, it may order any of the sanctions specified in 8077
division (B) of this section. 8078

(J) The license to practice of a radiologist assistant and 8079
the assistant's practice in this state are automatically 8080
suspended as of the date the radiologist assistant pleads guilty 8081
to, is found by a judge or jury to be guilty of, or is subject 8082
to a judicial finding of eligibility for intervention in lieu of 8083
conviction in this state or treatment ~~of~~ or intervention in lieu 8084

of conviction in another jurisdiction for any of the following 8085
criminal offenses in this state or a substantially equivalent 8086
criminal offense in another jurisdiction: aggravated murder, 8087
murder, voluntary manslaughter, felonious assault, trafficking 8088
in persons, kidnapping, rape, sexual battery, gross sexual 8089
imposition, aggravated arson, aggravated robbery, or aggravated 8090
burglary. Continued practice after the suspension shall be 8091
considered practicing without a license. 8092

The board shall serve the individual subject to the 8093
suspension in accordance with sections 119.05 and 119.07 of the 8094
Revised Code. If an individual whose license is suspended under 8095
this division fails to make a timely request for an adjudication 8096
under Chapter 119. of the Revised Code, the board shall enter a 8097
final order permanently revoking the individual's license. 8098

(K) In any instance in which the board is required by 8099
Chapter 119. of the Revised Code to give notice of opportunity 8100
for hearing and the individual subject to the notice does not 8101
timely request a hearing in accordance with section 119.07 of 8102
the Revised Code, the board is not required to hold a hearing, 8103
but may adopt, by an affirmative vote of not fewer than six of 8104
its members, a final order that contains the board's findings. 8105
In the final order, the board may order any of the sanctions 8106
identified under division (A) or (B) of this section. 8107

(L) Any action taken by the board under division (B) of 8108
this section resulting in a suspension shall be accompanied by a 8109
written statement of the conditions under which the radiologist 8110
assistant's license may be reinstated. The board shall adopt 8111
rules in accordance with Chapter 119. of the Revised Code 8112
governing conditions to be imposed for reinstatement. 8113
Reinstatement of a license suspended pursuant to division (B) of 8114

this section requires an affirmative vote of not fewer than six 8115
members of the board. 8116

(M) When the board refuses to grant or issue a license to 8117
practice as a radiologist assistant to an applicant, revokes an 8118
individual's license, refuses to renew an individual's license, 8119
or refuses to reinstate an individual's license, the board may 8120
specify that its action is permanent. An individual subject to a 8121
permanent action taken by the board is forever thereafter 8122
ineligible to hold a license to practice as a radiologist 8123
assistant and the board shall not accept an application for 8124
reinstatement of the license or for issuance of a new license. 8125

(N) Notwithstanding any other provision of the Revised 8126
Code, all of the following apply: 8127

(1) The surrender of a license to practice as a 8128
radiologist assistant issued under this chapter is not effective 8129
unless or until accepted by the board. Reinstatement of a 8130
license surrendered to the board requires an affirmative vote of 8131
not fewer than six members of the board. 8132

(2) An application made under this chapter for a license 8133
to practice may not be withdrawn without approval of the board. 8134

(3) Failure by an individual to renew a license to 8135
practice in accordance with section 4774.06 of the Revised Code 8136
does not remove or limit the board's jurisdiction to take 8137
disciplinary action under this section against the individual. 8138

(4) The placement of an individual's license on retired 8139
status, as described in section 4774.062 of the Revised Code, 8140
does not remove or limit the board's jurisdiction to take any 8141
disciplinary action against the individual with regard to the 8142
license as it existed before being placed on retired status. 8143

Sec. 4774.14. (A) The state medical board shall 8144
investigate evidence that appears to show that any person has 8145
violated this chapter or the rules adopted under it. Any person 8146
may report to the board in a signed writing any information the 8147
person has that appears to show a violation of any provision of 8148
this chapter or the rules adopted under it. In the absence of 8149
bad faith, a person who reports such information or testifies 8150
before the board in an adjudication conducted under Chapter 119. 8151
of the Revised Code shall not be liable for civil damages as a 8152
result of reporting the information or providing testimony. Each 8153
complaint or allegation of a violation received by the board 8154
shall be assigned a case number and be recorded by the board. 8155

(B) Investigations of alleged violations of this chapter 8156
or rules adopted under it shall be supervised by the supervising 8157
member elected by the board in accordance with section 4731.02 8158
of the Revised Code and by the secretary as provided in section 8159
4774.17 of the Revised Code. The board's president may designate 8160
another member of the board to supervise the investigation in 8161
place of the supervising member. Upon a vote of the majority of 8162
the board to authorize the addition of a consumer member in the 8163
supervision of any part of any investigation, the president 8164
shall designate a consumer member for supervision of 8165
investigations as determined by the president. The authorization 8166
of consumer member participation in investigation supervision 8167
may be rescinded by a majority vote of the board. A member of 8168
the board who supervises the investigation of a case shall not 8169
participate in further adjudication of the case. 8170

(C) In investigating a possible violation of this chapter 8171
or the rules adopted under it, the board may administer oaths, 8172
order the taking of depositions, issue subpoenas, and compel the 8173
attendance of witnesses and production of books, accounts, 8174

papers, records, documents, and testimony, except that a 8175
subpoena for patient record information shall not be issued 8176
without consultation with the attorney general's office and 8177
approval of the secretary of the board. Before issuance of a 8178
subpoena for patient record information, the secretary shall 8179
determine whether there is probable cause to believe that the 8180
complaint filed alleges a violation of this chapter or the rules 8181
adopted under it and that the records sought are relevant to the 8182
alleged violation and material to the investigation. The 8183
subpoena may apply only to records that cover a reasonable 8184
period of time surrounding the alleged violation. 8185

On failure to comply with any subpoena issued by the board 8186
and after reasonable notice to the person being subpoenaed, the 8187
board may move for an order compelling the production of persons 8188
or records pursuant to the Rules of Civil Procedure. 8189

A subpoena issued by the board may be served by a sheriff, 8190
the sheriff's deputy, or a board employee designated by the 8191
board. Service of a subpoena issued by the board may be made by 8192
delivering a copy of the subpoena to the person named therein, 8193
reading it to the person, or leaving it at the person's usual 8194
place of residence. When the person being served is a 8195
radiologist assistant, service of the subpoena may be made by 8196
certified mail, restricted delivery, return receipt requested, 8197
and the subpoena shall be deemed served on the date delivery is 8198
made or the date the person refuses to accept delivery. 8199

A sheriff's deputy who serves a subpoena shall receive the 8200
same fees as a sheriff. Each witness who appears before the 8201
board in obedience to a subpoena shall receive the fees and 8202
mileage provided for witnesses in civil cases in the courts of 8203
common pleas. 8204

(D) All hearings and investigations of the board shall be 8205
considered civil actions for the purposes of section 2305.252 of 8206
the Revised Code. 8207

(E) Information received by the board pursuant to an 8208
investigation is confidential and not subject to discovery in 8209
any civil action. 8210

The board shall conduct all investigations and proceedings 8211
in a manner that protects the confidentiality of patients and 8212
persons who file complaints with the board. The board shall not 8213
make public the names or any other identifying information about 8214
patients or complainants unless proper consent is given. 8215

The board may share any information it receives pursuant 8216
to an investigation, including patient records and patient 8217
record information, with law enforcement agencies, other 8218
licensing boards, and other governmental agencies that are 8219
prosecuting, adjudicating, or investigating alleged violations 8220
of statutes or administrative rules. An agency or board that 8221
receives the information shall comply with the same requirements 8222
regarding confidentiality as those with which the state medical 8223
board must comply, notwithstanding any conflicting provision of 8224
the Revised Code or procedure of the agency or board that 8225
applies when it is dealing with other information in its 8226
possession. In a judicial proceeding, the information may be 8227
admitted into evidence only in accordance with the Rules of 8228
Evidence, but the court shall require that appropriate measures 8229
are taken to ensure that confidentiality is maintained with 8230
respect to any part of the information that contains names or 8231
other identifying information about patients or complainants 8232
whose confidentiality was protected by the state medical board 8233
when the information was in the board's possession. Measures to 8234

ensure confidentiality that may be taken by the court include 8235
sealing its records or deleting specific information from its 8236
records. 8237

No person shall knowingly access, use, or disclose 8238
confidential investigatory information in a manner prohibited by 8239
law. 8240

(F) The state medical board shall develop requirements for 8241
and provide appropriate initial training and continuing 8242
education for investigators employed by the board to carry out 8243
its duties under this chapter. The training and continuing 8244
education may include enrollment in courses operated or approved 8245
by the Ohio peace officer training commission that the board 8246
considers appropriate under conditions set forth in section 8247
109.79 of the Revised Code. 8248

(G) On a quarterly basis, the board shall prepare a report 8249
that documents the disposition of all cases during the preceding 8250
three months. The report shall contain the following information 8251
for each case with which the board has completed its activities: 8252

(1) The case number assigned to the complaint or alleged 8253
violation; 8254

(2) The type of license, if any, held by the individual 8255
against whom the complaint is directed; 8256

(3) A description of the allegations contained in the 8257
complaint; 8258

(4) Whether witnesses were interviewed; 8259

(5) Whether the individual against whom the complaint is 8260
directed is the subject of any pending complaints; 8261

(6) The disposition of the case. 8262

The report shall state how many cases are still pending, 8263
and shall be prepared in a manner that protects the identity of 8264
each person involved in each case. The report is a public record 8265
for purposes of section 149.43 of the Revised Code. 8266

(H) The board may provide a status update regarding an 8267
investigation to a complainant on request if the board verifies 8268
the complainant's identity. 8269

Sec. 4774.16. (A) As used in this section, "criminal 8270
conduct" and "sexual misconduct" have the same meanings as in 8271
section 4731.224 of the Revised Code. 8272

(B) (1) Within ~~sixty~~-thirty days after the imposition of 8273
any formal disciplinary action taken by any health care 8274
facility, including a hospital, health care facility operated by 8275
a health insuring corporation, ambulatory surgical facility, or 8276
similar facility, against any individual holding a valid license 8277
to practice as a radiologist assistant, the chief administrator 8278
or executive officer of the facility shall report to the state 8279
medical board the name of the individual, the action taken by 8280
the facility, and a summary of the underlying facts leading to 8281
the action taken. On request, the board shall be provided 8282
certified copies of the patient records that were the basis for 8283
the facility's action. Prior to release to the board, the 8284
summary shall be approved by the peer review committee that 8285
reviewed the case or by the governing board of the facility. 8286

The filing of a report with the board or decision not to 8287
file a report, investigation by the board, or any disciplinary 8288
action taken by the board, does not preclude a health care 8289
facility from taking disciplinary action against a radiologist 8290
assistant. 8291

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

(2) 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 center, 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.

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

(2) A radiologist assistant, professional association or
society of radiologist assistants, physician, or professional
association or society of physicians that believes a violation
of division (B) (5) or (6) of section 4774.13 of the Revised Code
has occurred shall report the information upon which the belief
is based to the monitoring organization conducting the
confidential monitoring program established under section
4731.25 of the Revised Code. If any such report is made to the
board, it shall be referred to the monitoring organization
unless the board is aware that the individual who is the subject

of the report does not meet the program eligibility requirements 8322
of section 4731.252 of the Revised Code. 8323

(3) If any individual authorized to practice under this 8324
chapter or any professional association or society of such 8325
individuals knows or has reasonable cause to suspect based on 8326
facts that would cause a reasonable person in a similar position 8327
to suspect that an individual authorized to practice under this 8328
chapter has committed or participated in criminal conduct or 8329
sexual misconduct, the information upon which the belief is 8330
based shall be reported to the board within thirty days. 8331

This division does not apply to a professional association 8332
or society whose staff interacts with members of the association 8333
or society only in advocacy, governance, or educational 8334
capacities and whose staff does not regularly interact with 8335
members in practice settings. 8336

(4) In addition to the self-reporting of criminal offenses 8337
that is required for license renewal, an individual authorized 8338
to practice under this chapter shall report to the board 8339
criminal charges regarding criminal conduct, sexual misconduct, 8340
or any conduct involving the use of a motor vehicle while under 8341
the influence of alcohol or drugs, including offenses that are 8342
equivalent offenses under division (A) of section 4511.181 of 8343
the Revised Code, violations of division (D) of section 4511.194 8344
of the Revised Code, and violations of division (C) of section 8345
4511.79 of the Revised Code. Reports under this division shall 8346
be made within thirty days of the criminal charge being filed. 8347

~~(C)~~(D) Any professional association or society composed 8348
primarily of radiologist assistants that suspends or revokes an 8349
individual's membership for violations of professional ethics, 8350
or for reasons of professional incompetence or professional 8351

malpractice, within ~~sixty~~thirty days after a final decision, 8352
shall report to the board, on forms prescribed and provided by 8353
the board, the name of the individual, the action taken by the 8354
professional organization, and a summary of the underlying facts 8355
leading to the action taken. 8356

The filing of a report with the board or decision not to 8357
file a report, investigation by the board, or any disciplinary 8358
action taken by the board, does not preclude a professional 8359
organization from taking disciplinary action against a 8360
radiologist assistant. 8361

~~(D)~~(E) Any insurer providing professional liability 8362
insurance to any person holding a valid license to practice as a 8363
radiologist assistant or any other entity that seeks to 8364
indemnify the professional liability of a radiologist assistant 8365
shall notify the board within thirty days after the final 8366
disposition of any written claim for damages where such 8367
disposition results in a payment exceeding twenty-five thousand 8368
dollars. The notice shall contain the following information: 8369

(1) The name and address of the person submitting the 8370
notification; 8371

(2) The name and address of the insured who is the subject 8372
of the claim; 8373

(3) The name of the person filing the written claim; 8374

(4) The date of final disposition; 8375

(5) If applicable, the identity of the court in which the 8376
final disposition of the claim took place. 8377

~~(E)~~(F) The board may investigate possible violations of 8378
this chapter or the rules adopted under it that are brought to 8379

its attention as a result of the reporting requirements of this 8380
section, except that the board shall conduct an investigation if 8381
a possible violation involves repeated malpractice. As used in 8382
this division, "repeated malpractice" means three or more claims 8383
for malpractice within the previous five-year period, each 8384
resulting in a judgment or settlement in excess of twenty-five 8385
thousand dollars in favor of the claimant, and each involving 8386
negligent conduct by the radiologist assistant. 8387

~~(F)-(G) All summaries, reports, and records received and 8388
maintained by the board pursuant to this section shall be held- 8389
in confidence and shall not be subject to discovery or 8390
introduction in evidence in any federal or state civil action- 8391
involving a radiologist assistant, supervising physician, or 8392
health care facility arising out of matters that are the subject- 8393
of the reporting required by this section. The board may use the 8394
information obtained only as the basis for an investigation, as 8395
evidence in a disciplinary hearing against a radiologist 8396
assistant or supervising radiologist, or in any subsequent trial- 8397
or appeal of a board action or order.- 8398~~

~~The board may disclose the summaries and reports it 8399
receives under this section only to health care facility 8400
committees within or outside this state that are involved in 8401
credentialing or recredentialing a radiologist assistant or 8402
supervising radiologist or reviewing their privilege to practice- 8403
within a particular facility. The board shall indicate whether 8404
or not the information has been verified. Information 8405
transmitted by the board shall be subject to the same 8406
confidentiality provisions as when maintained by the 8407
board~~confidential pursuant to division (E) of section 4774.14 of~~ 8408
the Revised Code. 8409~~

~~(G)~~ (H) Except for reports filed by an individual pursuant 8410
to division ~~(B)~~ (B) (2) or (C) of this section, the board shall 8411
send a copy of any reports or summaries it receives pursuant to 8412
this section to the radiologist assistant. The radiologist 8413
assistant shall have the right to file a statement with the 8414
board concerning the correctness or relevance of the 8415
information. The statement shall at all times accompany that 8416
part of the record in contention. 8417

~~(H)~~ (I) An individual or entity that reports to the board, 8418
reports to the monitoring organization described in section 8419
4731.25 of the Revised Code, or refers an impaired radiologist 8420
assistant to a treatment provider approved under section 8421
4731.251 of the Revised Code shall not be subject to suit for 8422
civil damages as a result of the report, referral, or provision 8423
of the information. 8424

~~(I)~~ (J) In the absence of fraud or bad faith, a 8425
professional association or society of radiologist assistants 8426
that sponsors a committee or program to provide peer assistance 8427
to a radiologist assistant with substance abuse problems, a 8428
representative or agent of such a committee or program, a 8429
representative or agent of the monitoring organization described 8430
in section 4731.25 of the Revised Code, and a member of the 8431
state medical board shall not be held liable in damages to any 8432
person by reason of actions taken to refer a radiologist 8433
assistant to a treatment provider approved under section 8434
4731.251 of the Revised Code for examination or treatment. 8435

Sec. 4774.99. (A) Whoever violates division (A) (1) or (2) 8436
of section 4774.02 of the Revised Code is guilty of a 8437
misdemeanor of the first degree on a first offense; on each 8438
subsequent offense, the person is guilty of a felony of the 8439

fourth degree. 8440

~~(B)~~ (B) (1) Whoever violates division ~~(A)~~, ~~(B)~~ (B) (1), ~~(C)~~ (C)
(1), ~~or (C) (2)~~, (D), or (E) of section 4774.16 of the Revised 8441
Code is guilty of a minor misdemeanor on a first offense; on 8442
each subsequent offense the person is guilty of a misdemeanor of 8443
the fourth degree, except that an individual guilty of a 8444
subsequent offense shall not be subject to imprisonment, but to 8445
a fine alone of up to one thousand dollars for each offense. 8446
8447

(2) Whoever violates division (B) (2) or (C) (3) of section 8448
4774.16 of the Revised Code is guilty of failure to report 8449
criminal conduct or sexual misconduct, a misdemeanor of the 8450
fourth degree. If the offender has previously been convicted of 8451
a violation of this division, the failure to report is a 8452
misdemeanor of the first degree. 8453

(C) Whoever violates division (E) of section 4774.14 of 8454
the Revised Code is guilty of disclosing confidential 8455
investigatory information, a misdemeanor of the first degree. 8456

Sec. 4778.14. (A) The state medical board, by an 8457
affirmative vote of not fewer than six members, may refuse to 8458
grant a license to practice as a genetic counselor to, or may 8459
revoke the license held by, an individual found by the board to 8460
have committed fraud, misrepresentation, or deception in 8461
applying for or securing the license. 8462

(B) The board, by an affirmative vote of not fewer than 8463
six members, shall, except as provided in division (C) of this 8464
section, and to the extent permitted by law, limit, revoke, or 8465
suspend an individual's license to practice as a genetic 8466
counselor, refuse to issue a license to an applicant, refuse to 8467
renew a license, refuse to reinstate a license, or reprimand or 8468

place on probation the holder of a license for any of the	8469
following reasons:	8470
(1) Permitting the holder's name or license to be used by	8471
another person;	8472
(2) Failure to comply with the requirements of this	8473
chapter, Chapter 4731. of the Revised Code, or any rules adopted	8474
by the board;	8475
(3) Violating or attempting to violate, directly or	8476
indirectly, or assisting in or abetting the violation of, or	8477
conspiring to violate, any provision of this chapter, Chapter	8478
4731. of the Revised Code, or the rules adopted by the board;	8479
(4) A departure from, or failure to conform to, minimal	8480
standards of care of similar practitioners under the same or	8481
similar circumstances whether or not actual injury to the	8482
patient is established;	8483
(5) Inability to practice according to acceptable and	8484
prevailing standards of care by reason of mental illness or	8485
physical illness, including physical deterioration that	8486
adversely affects cognitive, motor, or perceptive skills;	8487
(6) Impairment of ability to practice according to	8488
acceptable and prevailing standards of care because of substance	8489
use disorder or excessive use or abuse of drugs, alcohol, or	8490
other substances that may impair ability to practice;	8491
(7) Willfully betraying a professional confidence;	8492
(8) Making a false, fraudulent, deceptive, or misleading	8493
statement in securing or attempting to secure a license to	8494
practice as a genetic counselor.	8495
As used in this division, "false, fraudulent, deceptive,	8496

or misleading statement" means a statement that includes a 8497
misrepresentation of fact, is likely to mislead or deceive 8498
because of a failure to disclose material facts, is intended or 8499
is likely to create false or unjustified expectations of 8500
favorable results, or includes representations or implications 8501
that in reasonable probability will cause an ordinarily prudent 8502
person to misunderstand or be deceived. 8503

(9) The obtaining of, or attempting to obtain, money or a 8504
thing of value by fraudulent misrepresentations in the course of 8505
practice; 8506

(10) A plea of guilty to, a judicial finding of guilt of, 8507
or a judicial finding of eligibility for intervention in lieu of 8508
conviction for, a felony; 8509

(11) Commission of an act that constitutes a felony in 8510
this state, regardless of the jurisdiction in which the act was 8511
committed; 8512

(12) A plea of guilty to, a judicial finding of guilt of, 8513
or a judicial finding of eligibility for intervention in lieu of 8514
conviction for, a misdemeanor committed in the course of 8515
practice; 8516

(13) A plea of guilty to, a judicial finding of guilt of, 8517
or a judicial finding of eligibility for intervention in lieu of 8518
conviction for, a misdemeanor involving moral turpitude; 8519

(14) Commission of an act in the course of practice that 8520
constitutes a misdemeanor in this state, regardless of the 8521
jurisdiction in which the act was committed; 8522

(15) Commission of an act involving moral turpitude that 8523
constitutes a misdemeanor in this state, regardless of the 8524
jurisdiction in which the act was committed; 8525

(16) A plea of guilty to, a judicial finding of guilt of, 8526
or a judicial finding of eligibility for intervention in lieu of 8527
conviction for violating any state or federal law regulating the 8528
possession, distribution, or use of any drug, including 8529
trafficking in drugs; 8530

(17) Any of the following actions taken by an agency 8531
responsible for authorizing, certifying, or regulating an 8532
individual to practice a health care occupation or provide 8533
health care services in this state or in another jurisdiction, 8534
for any reason other than the nonpayment of fees: the 8535
limitation, revocation, or suspension of an individual's license 8536
to practice; acceptance of an individual's license surrender; 8537
denial of a license; refusal to renew or reinstate a license; 8538
imposition of probation; or issuance of an order of censure or 8539
other reprimand; 8540

(18) Violation of the conditions placed by the board on a 8541
license to practice as a genetic counselor; 8542

(19) Failure to cooperate in an investigation conducted by 8543
the board under section 4778.18 of the Revised Code, including 8544
failure to comply with a subpoena or order issued by the board 8545
or failure to answer truthfully a question presented by the 8546
board at a deposition or in written interrogatories, except that 8547
failure to cooperate with an investigation shall not constitute 8548
grounds for discipline under this section if a court of 8549
competent jurisdiction has issued an order that either quashes a 8550
subpoena or permits the individual to withhold the testimony or 8551
evidence in issue; 8552

(20) Failure to maintain the individual's status as a 8553
certified genetic counselor; 8554

(21) Failure to comply with the code of ethics established 8555
by the national society of genetic counselors. 8556

(C) The board shall not refuse to issue a license to an 8557
applicant because of a plea of guilty to, a judicial finding of 8558
guilt of, or a judicial finding of eligibility for intervention 8559
in lieu of conviction for an offense unless the refusal is in 8560
accordance with section 9.79 of the Revised Code. 8561

(D) Disciplinary actions taken by the board under 8562
divisions (A) and (B) of this section shall be taken pursuant to 8563
an adjudication under Chapter 119. of the Revised Code, except 8564
that in lieu of an adjudication, the board may enter into a 8565
consent agreement with a genetic counselor or applicant to 8566
resolve an allegation of a violation of this chapter or any rule 8567
adopted under it. A consent agreement, when ratified by an 8568
affirmative vote of not fewer than six members of the board, 8569
shall constitute the findings and order of the board with 8570
respect to the matter addressed in the agreement. If the board 8571
refuses to ratify a consent agreement, the admissions and 8572
findings contained in the consent agreement shall be of no force 8573
or effect. 8574

A telephone conference call may be utilized for 8575
ratification of a consent agreement that revokes or suspends an 8576
individual's license. The telephone conference call shall be 8577
considered a special meeting under division (F) of section 8578
121.22 of the Revised Code. 8579

(E) For purposes of divisions (B) (11), (14), and (15) of 8580
this section, the commission of the act may be established by a 8581
finding by the board, pursuant to an adjudication under Chapter 8582
119. of the Revised Code, that the applicant or license holder 8583
committed the act in question. The board shall have no 8584

jurisdiction under these divisions in cases where the trial 8585
court renders a final judgment in the license holder's favor and 8586
that judgment is based upon an adjudication on the merits. The 8587
board shall have jurisdiction under these divisions in cases 8588
where the trial court issues an order of dismissal on technical 8589
or procedural grounds. 8590

(F) The sealing or expungement of conviction records by 8591
any court shall have no effect on a prior board order entered 8592
under the provisions of this section or on the board's 8593
jurisdiction to take action under the provisions of this section 8594
if, based upon a plea of guilty, a judicial finding of guilt, or 8595
a judicial finding of eligibility for intervention in lieu of 8596
conviction, the board issued a notice of opportunity for a 8597
hearing or took other formal action under Chapter 119. of the 8598
Revised Code prior to the court's order to seal or expunge the 8599
records. The board shall not be required to seal, destroy, 8600
redact, or otherwise modify its records to reflect the court's 8601
sealing or expungement of conviction records. 8602

(G) For purposes of this division, any individual who 8603
holds a license to practice as a genetic counselor, or applies 8604
for a license, shall be deemed to have given consent to submit 8605
to a mental or physical examination when directed to do so in 8606
writing by the board and to have waived all objections to the 8607
admissibility of testimony or examination reports that 8608
constitute a privileged communication. 8609

(1) In enforcing division (B)(5) of this section, the 8610
board, on a showing of a possible violation, shall refer any 8611
individual who holds, or has applied for, a license to practice 8612
as a genetic counselor to the monitoring organization that 8613
conducts the confidential monitoring program established under 8614

section 4731.25 of the Revised Code. The board also may compel 8615
the individual to submit to a mental or physical examination, or 8616
both. A physical examination may include an HIV test. The 8617
expense of the examination is the responsibility of the 8618
individual compelled to be examined. Failure to submit to a 8619
mental or physical examination or consent to an HIV test ordered 8620
by the board constitutes an admission of the allegations against 8621
the individual unless the failure is due to circumstances beyond 8622
the individual's control, and a default and final order may be 8623
entered without the taking of testimony or presentation of 8624
evidence. If the board finds a genetic counselor unable to 8625
practice because of the reasons set forth in division (B) (5) of 8626
this section, the board shall require the genetic counselor to 8627
submit to care, counseling, or treatment by physicians approved 8628
or designated by the board, as a condition for an initial, 8629
continued, reinstated, or renewed license to practice. An 8630
individual affected by this division shall be afforded an 8631
opportunity to demonstrate to the board the ability to resume 8632
practicing in compliance with acceptable and prevailing 8633
standards of care. 8634

(2) For purposes of division (B) (6) of this section, if 8635
the board has reason to believe that any individual who holds a 8636
license to practice as a genetic counselor or any applicant for 8637
a license suffers such impairment, the board shall refer the 8638
individual to the monitoring organization that conducts the 8639
confidential monitoring program established under section 8640
4731.25 of the Revised Code. The board also may compel the 8641
individual to submit to a mental or physical examination, or 8642
both. The expense of the examination is the responsibility of 8643
the individual compelled to be examined. Any mental or physical 8644
examination required under this division shall be undertaken by 8645

a treatment provider or physician qualified to conduct such 8646
examination and approved under section 4731.251 of the Revised 8647
Code. 8648

Failure to submit to a mental or physical examination 8649
ordered by the board constitutes an admission of the allegations 8650
against the individual unless the failure is due to 8651
circumstances beyond the individual's control, and a default and 8652
final order may be entered without the taking of testimony or 8653
presentation of evidence. If the board determines that the 8654
individual's ability to practice is impaired, the board shall 8655
suspend the individual's license or deny the individual's 8656
application and shall require the individual, as a condition for 8657
an initial, continued, reinstated, or renewed license, to submit 8658
to treatment. 8659

Before being eligible to apply for reinstatement of a 8660
license suspended under this division, the genetic counselor 8661
shall demonstrate to the board the ability to resume practice in 8662
compliance with acceptable and prevailing standards of care. The 8663
demonstration shall include the following: 8664

(a) Certification from a treatment provider approved under 8665
section 4731.251 of the Revised Code that the individual has 8666
successfully completed any required inpatient treatment; 8667

(b) Evidence of continuing full compliance with an 8668
aftercare contract or consent agreement; 8669

(c) Two written reports indicating that the individual's 8670
ability to practice has been assessed and that the individual 8671
has been found capable of practicing according to acceptable and 8672
prevailing standards of care. The reports shall be made by 8673
individuals or providers approved by the board for making such 8674

assessments and shall describe the basis for their 8675
determination. 8676

The board may reinstate a license suspended under this 8677
division after such demonstration and after the individual has 8678
entered into a written consent agreement. 8679

When the impaired genetic counselor resumes practice, the 8680
board shall require continued monitoring of the genetic 8681
counselor. The monitoring shall include monitoring of compliance 8682
with the written consent agreement entered into before 8683
reinstatement or with conditions imposed by board order after a 8684
hearing, and, on termination of the consent agreement, 8685
submission to the board for at least two years of annual written 8686
progress reports made under penalty of falsification stating 8687
whether the genetic counselor has maintained sobriety. 8688

~~(H)~~ (H) (1) If either of the following circumstances occur, 8689
the secretary and supervising member ~~determine both of the~~ 8690
~~following, they may~~ recommend that the board suspend an 8691
individual's license to practice without a prior hearing: 8692

~~(1)~~ (a) The secretary and supervising member determine 8693
both of the following: 8694

(i) That there is clear and convincing evidence that a 8695
genetic counselor has violated division (B) of this section; 8696

~~(2)~~ (ii) That the individual's continued practice presents 8697
a danger of immediate and serious harm to the public. 8698

~~Written~~ (b) The board receives verifiable information that 8699
a licensee has been charged in any state or federal court for a 8700
crime classified as a felony under the charging court's law and 8701
the conduct charged constitutes a violation of division (B) of 8702
this section. 8703

(2) If a recommendation is made to suspend without a prior 8704
hearing pursuant to division (H) (1) of this section, written 8705
allegations shall be prepared for consideration by the board. 8706
The board, on review of the allegations and by an affirmative 8707
vote of not fewer than six of its members, excluding the 8708
secretary and supervising member, may suspend a license without 8709
a prior hearing. A telephone conference call may be utilized for 8710
reviewing the allegations and taking the vote on the summary 8711
suspension. 8712

The board shall serve a written order of suspension in 8713
accordance with sections 119.05 and 119.07 of the Revised Code. 8714
The order shall not be subject to suspension by the court during 8715
pendency of any appeal filed under section 119.12 of the Revised 8716
Code. If the genetic counselor requests an adjudicatory hearing 8717
by the board, the date set for the hearing shall be within 8718
fifteen days, but not earlier than seven days, after the genetic 8719
counselor requests the hearing, unless otherwise agreed to by 8720
both the board and the genetic counselor. 8721

(3) A summary suspension imposed under this division shall 8722
remain in effect, unless reversed on appeal, until a final 8723
adjudicative order issued by the board pursuant to this section 8724
and Chapter 119. of the Revised Code becomes effective. The 8725
board shall issue its final adjudicative order within sixty days 8726
after completion of its hearing. Failure to issue the order 8727
within sixty days shall result in dissolution of the summary 8728
suspension order, but shall not invalidate any subsequent, final 8729
adjudicative order. 8730

(I) If the board takes action under division (B) (10), 8731
(12), or (13) of this section, and the judicial finding of 8732
guilt, guilty plea, or judicial finding of eligibility for 8733

intervention in lieu of conviction is overturned on appeal, on 8734
exhaustion of the criminal appeal, a petition for 8735
reconsideration of the order may be filed with the board along 8736
with appropriate court documents. On receipt of a petition and 8737
supporting court documents, the board shall reinstate the 8738
license to practice as a genetic counselor. The board may then 8739
hold an adjudication under Chapter 119. of the Revised Code to 8740
determine whether the individual committed the act in question. 8741
Notice of opportunity for hearing shall be given in accordance 8742
with Chapter 119. of the Revised Code. If the board finds, 8743
pursuant to an adjudication held under this division, that the 8744
individual committed the act, or if no hearing is requested, it 8745
may order any of the sanctions specified in division (B) of this 8746
section. 8747

(J) The license to practice as a genetic counselor and the 8748
counselor's practice in this state are automatically suspended 8749
as of the date the genetic counselor pleads guilty to, is found 8750
by a judge or jury to be guilty of, or is subject to a judicial 8751
finding of eligibility for intervention in lieu of conviction in 8752
this state or treatment ~~of~~ or intervention in lieu of conviction 8753
in another jurisdiction for any of the following criminal 8754
offenses in this state or a substantially equivalent criminal 8755
offense in another jurisdiction: aggravated murder, murder, 8756
voluntary manslaughter, felonious assault, trafficking in 8757
persons, kidnapping, rape, sexual battery, gross sexual 8758
imposition, aggravated arson, aggravated robbery, or aggravated 8759
burglary. Continued practice after the suspension shall be 8760
considered practicing without a license. 8761

The board shall serve the individual subject to the 8762
suspension in accordance with sections 119.05 and 119.07 of the 8763
Revised Code. If an individual whose license is suspended under 8764

this division fails to make a timely request for an adjudication 8765
under Chapter 119. of the Revised Code, the board shall enter a 8766
final order permanently revoking the individual's license to 8767
practice. 8768

(K) In any instance in which the board is required by 8769
Chapter 119. of the Revised Code to give notice of opportunity 8770
for hearing and the individual subject to the notice does not 8771
timely request a hearing in accordance with section 119.07 of 8772
the Revised Code, the board is not required to hold a hearing, 8773
but may adopt, by an affirmative vote of not fewer than six of 8774
its members, a final order that contains the board's findings. 8775
In the final order, the board may order any of the sanctions 8776
identified under division (A) or (B) of this section. 8777

(L) Any action taken by the board under division (B) of 8778
this section resulting in a suspension shall be accompanied by a 8779
written statement of the conditions under which the license of 8780
the genetic counselor may be reinstated. The board shall adopt 8781
rules in accordance with Chapter 119. of the Revised Code 8782
governing conditions to be imposed for reinstatement. 8783
Reinstatement of a license suspended pursuant to division (B) of 8784
this section requires an affirmative vote of not fewer than six 8785
members of the board. 8786

(M) When the board refuses to grant or issue a license to 8787
practice as a genetic counselor to an applicant, revokes an 8788
individual's license, refuses to renew an individual's license, 8789
or refuses to reinstate an individual's license, the board may 8790
specify that its action is permanent. An individual subject to a 8791
permanent action taken by the board is forever thereafter 8792
ineligible to hold a license to practice as a genetic counselor 8793
and the board shall not accept an application for reinstatement 8794

of the license or for issuance of a new license. 8795

(N) Notwithstanding any other provision of the Revised Code, all of the following apply: 8796

(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. 8798
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(2) An application made under this chapter for a license to practice may not be withdrawn without approval of the board. 8806
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(3) Failure by an individual to renew a license in accordance with section 4778.06 of the Revised Code does not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual. 8808
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(4) The placement of an individual's license on retired status, as described in section 4778.072 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status. 8812
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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. 8817
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(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, 8820
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including a hospital, health care facility operated by a health 8824
insuring corporation, ambulatory surgical facility, or similar 8825
facility, shall report to the board the name of the individual 8826
and a summary of the underlying facts related to the 8827
investigation being commenced. 8828

(2) If any individual authorized to practice under this 8829
chapter or any professional association or society of such 8830
individuals knows or has reasonable cause to suspect based on 8831
facts that would cause a reasonable person in a similar position 8832
to suspect that an individual authorized to practice under this 8833
chapter has committed or participated in criminal conduct or 8834
sexual misconduct the information upon which the belief is based 8835
shall be reported to the board within thirty days. 8836

This division does not apply to a professional association 8837
or society whose staff interacts with members of the association 8838
or society only in advocacy, governance, or educational 8839
capacities and whose staff does not regularly interact with 8840
members in practice settings. 8841

(3) In addition to the self-reporting of criminal offenses 8842
that is required for license renewal, an individual authorized 8843
to practice under this chapter shall report to the board 8844
criminal charges regarding criminal conduct, sexual misconduct, 8845
or any conduct involving the use of a motor vehicle while under 8846
the influence of alcohol or drugs, including offenses that are 8847
equivalent offenses under division (A) of section 4511.181 of 8848
the Revised Code, violations of division (D) of section 4511.194 8849
of the Revised Code, and violations of division (C) of section 8850
4511.79 of the Revised Code. Reports under this division shall 8851
be made within thirty days of the criminal charge being filed. 8852

Sec. 4778.18. (A) The state medical board shall 8853

investigate evidence that appears to show that any individual 8854
has violated this chapter or the rules adopted under it. Any 8855
person may report to the board in a signed writing any 8856
information the person has that appears to show a violation of 8857
this chapter or rules adopted under it. In the absence of bad 8858
faith, a person who reports such information or testifies before 8859
the board in an adjudication conducted under Chapter 119. of the 8860
Revised Code shall not be liable for civil damages as a result 8861
of reporting the information or providing testimony. Each 8862
complaint or allegation of a violation received by the board 8863
shall be assigned a case number and be recorded by the board. 8864

(B) Investigations of alleged violations of this chapter 8865
or rules adopted under it shall be supervised by the supervising 8866
member elected by the board in accordance with section 4731.02 8867
of the Revised Code and by the board's secretary, pursuant to 8868
section 4778.20 of the Revised Code. The board's president may 8869
designate another member of the board to supervise the 8870
investigation in place of the supervising member. Upon a vote of 8871
the majority of the board to authorize the addition of a 8872
consumer member in the supervision of any part of any 8873
investigation, the president shall designate a consumer member 8874
for supervision of investigations as determined by the 8875
president. The authorization of consumer member participation in 8876
investigation supervision may be rescinded by a majority vote of 8877
the board. A member of the board who supervises the 8878
investigation of a case shall not participate in further 8879
adjudication of the case. 8880

(C) In investigating a possible violation of this chapter 8881
or the rules adopted under it, the board may administer oaths, 8882
order the taking of depositions, inspect and copy any books, 8883
accounts, papers, records, or documents, issue subpoenas, and 8884

compel the attendance of witnesses and production of books, 8885
accounts, papers, records, documents, and testimony, except that 8886
a subpoena for patient record information shall not be issued 8887
without consultation with the attorney general's office and 8888
approval of the secretary of the board. Before issuance of a 8889
subpoena for patient record information, the secretary shall 8890
determine whether there is probable cause to believe that the 8891
complaint filed alleges a violation of this chapter or the rules 8892
adopted under it and that the records sought are relevant to the 8893
alleged violation and material to the investigation. The 8894
subpoena may apply only to records that cover a reasonable 8895
period of time surrounding the alleged violation. 8896

On failure to comply with any subpoena issued by the board 8897
and after reasonable notice to the person being subpoenaed, the 8898
board may move for an order compelling the production of persons 8899
or records pursuant to the Rules of Civil Procedure. 8900

A subpoena issued by the board may be served by a sheriff, 8901
the sheriff's deputy, or a board employee designated by the 8902
board. Service of a subpoena issued by the board may be made by 8903
delivering a copy of the subpoena to the person named therein, 8904
reading it to the person, or leaving it at the person's usual 8905
place of residence. When the person being served is a genetic 8906
counselor, service of the subpoena may be made by certified 8907
mail, restricted delivery, return receipt requested, and the 8908
subpoena shall be deemed served on the date delivery is made or 8909
the date the person refuses to accept delivery. 8910

A sheriff's deputy who serves a subpoena shall receive the 8911
same fees as a sheriff. Each witness who appears before the 8912
board in obedience to a subpoena shall receive the fees and 8913
mileage provided for witnesses in civil cases in the courts of 8914

common pleas. 8915

(D) All hearings and investigations of the board shall be 8916
considered civil actions for the purposes of section 2305.252 of 8917
the Revised Code. 8918

(E) Information received by the board pursuant to an 8919
investigation is confidential and not subject to discovery in 8920
any civil action. 8921

The board shall conduct all investigations and proceedings 8922
in a manner that protects the confidentiality of patients and 8923
persons who file complaints with the board. The board shall not 8924
make public the names or any other identifying information about 8925
patients or complainants unless proper consent is given. 8926

The board may share any information it receives pursuant 8927
to an investigation, including patient records and patient 8928
record information, with law enforcement agencies, other 8929
licensing boards, and other governmental agencies that are 8930
prosecuting, adjudicating, or investigating alleged violations 8931
of statutes or administrative rules. An agency or board that 8932
receives the information shall comply with the same requirements 8933
regarding confidentiality as those with which the state medical 8934
board must comply, notwithstanding any conflicting provision of 8935
the Revised Code or procedure of the agency or board that 8936
applies when it is dealing with other information in its 8937
possession. In a judicial proceeding, the information may be 8938
admitted into evidence only in accordance with the Rules of 8939
Evidence, but the court shall require that appropriate measures 8940
are taken to ensure that confidentiality is maintained with 8941
respect to any part of the information that contains names or 8942
other identifying information about patients or complainants 8943
whose confidentiality was protected by the state medical board 8944

when the information was in the board's possession. Measures to 8945
ensure confidentiality that may be taken by the court include 8946
sealing its records or deleting specific information from its 8947
records. 8948

No person shall knowingly access, use, or disclose 8949
confidential investigatory information in a manner prohibited by 8950
law. 8951

(F) The state medical board shall develop requirements for 8952
and provide appropriate initial training and continuing 8953
education for investigators employed by the board to carry out 8954
its duties under this chapter. The training and continuing 8955
education may include enrollment in courses operated or approved 8956
by the Ohio peace officer training commission that the board 8957
considers appropriate under conditions set forth in section 8958
109.79 of the Revised Code. 8959

(G) On a quarterly basis, the board shall prepare a report 8960
that documents the disposition of all cases during the preceding 8961
three months. The report shall contain the following information 8962
for each case with which the board has completed its activities: 8963

(1) The case number assigned to the complaint or alleged 8964
violation; 8965

(2) The type of license, if any, held by the individual 8966
against whom the complaint is directed; 8967

(3) A description of the allegations contained in the 8968
complaint; 8969

(4) Whether witnesses were interviewed; 8970

(5) Whether the individual against whom the complaint is 8971
directed is the subject of any pending complaints; 8972

(6) The disposition of the case. 8973

The report shall state how many cases are still pending, 8974
and shall be prepared in a manner that protects the identity of 8975
each individual involved in each case. The report is a public 8976
record for purposes of section 149.43 of the Revised Code. 8977

(H) The board may provide a status update regarding an 8978
investigation to a complainant on request if the board verifies 8979
the complainant's identity. 8980

Sec. 4778.99. Whoever violates section 4778.02 of the 8981
Revised Code is guilty of a misdemeanor of the first degree on a 8982
first offense and felony of the fifth degree on each subsequent 8983
offense. 8984

Whoever violates division (B) (1) or (2) of section 8985
4778.171 of the Revised Code is guilty of failure to report 8986
criminal conduct or sexual misconduct, a misdemeanor of the 8987
fourth degree. If the offender has previously been convicted of 8988
a violation of this division, the failure to report is a 8989
misdemeanor of the first degree. 8990

Whoever violates division (E) of section 4778.18 of the 8991
Revised Code is guilty of disclosing confidential investigatory 8992
information, a misdemeanor of the first degree. 8993

Section 2. That existing sections 149.43, 2105.062, 8994
2305.111, 2907.01, 2907.02, 2907.03, 2907.06, 2907.17, 2907.18, 8995
2921.22, 2929.42, 2950.01, 2950.151, 2971.01, 3107.07, 3109.50, 8996
3111.04, 4723.28, 4730.25, 4730.26, 4730.32, 4730.99, 4731.22, 8997
4731.224, 4731.99, 4759.05, 4759.07, 4759.99, 4760.13, 4760.14, 8998
4760.16, 4760.99, 4761.03, 4761.09, 4761.14, 4761.99, 4762.13, 8999
4762.14, 4762.16, 4762.99, 4774.13, 4774.14, 4774.16, 4774.99, 9000
4778.14, 4778.18, and 4778.99 of the Revised Code are hereby 9001

repealed.

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Section 3. That the version of section 2305.111 of the Revised Code that is scheduled to take effect October 12, 2028, be amended to read as follows:

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

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(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:

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(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;

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(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:

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(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.

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(ii) The victim is in custody of law or a patient in a

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hospital or other institution, and the actor has supervisory or 9031
disciplinary authority over the victim. 9032

(iii) The actor is a teacher, administrator, coach, or 9033
other person in authority employed by or serving in a school for 9034
which the director of education and workforce prescribes minimum 9035
standards pursuant to division (D) of section 3301.07 of the 9036
Revised Code, the victim is enrolled in or attends that school, 9037
and the actor is not enrolled in and does not attend that 9038
school. 9039

(iv) The actor is a teacher, administrator, coach, or 9040
other person in authority employed by or serving in an 9041
institution of higher education, and the victim is enrolled in 9042
or attends that institution. 9043

(v) The actor is the victim's athletic or other type of 9044
coach, is the victim's instructor, is the leader of a scouting 9045
troop of which the victim is a member, or is a person with 9046
temporary or occasional disciplinary control over the victim. 9047

(vi) The actor is a mental health professional, the victim 9048
is a mental health client or patient of the actor, and the actor 9049
induces the victim to submit by falsely representing to the 9050
victim that the sexual contact involved in the violation is 9051
necessary for mental health treatment purposes. 9052

(vii) The actor is a licensed medical professional, the 9053
victim is a patient of the actor, and the sexual contact occurs 9054
in the course of medical treatment. 9055

(viii) The victim is confined in a detention facility, and 9056
the actor is an employee of that detention facility. 9057

~~(viii)~~ (ix) The actor is a cleric, and the victim is a 9058
member of, or attends, the church or congregation served by the 9059

cleric. 9060

(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code. 9061
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(3) "Licensed medical professional" has the same meaning as in section 2907.01 of the Revised Code. 9063
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(4) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code. 9065
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~~(4)~~(5) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code. 9067
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~~(5)~~(6) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code. 9069
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~~(6)~~(7) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse. 9071
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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: 9073
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(1) The date on which the alleged assault or battery occurred; 9079
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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: 9081
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(a) The date on which the plaintiff learns the identity of that person; 9085
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(b) The date on which, by the exercise of reasonable diligence, the plaintiff should have learned the identity of that person. 9087
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(C) An action for assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, shall be brought within twelve years after the cause of action accrues. For purposes of this section, a cause of action for assault or battery based on childhood sexual abuse, or a cause of action for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority. If the defendant in an action brought by a victim of childhood sexual abuse asserting a claim resulting from childhood sexual abuse that occurs on or after August 3, 2006, has fraudulently concealed from the plaintiff facts that form the basis of the claim, the running of the limitations period with regard to that claim is tolled until the time when the plaintiff discovers or in the exercise of due diligence should have discovered those facts. 9090
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Section 4. That the existing version of section 2305.111 of the Revised Code that is scheduled to take effect October 12, 2028, is hereby repealed. 9107
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Section 5. Sections 3 and 4 of this act take effect October 12, 2028. 9110
9111

Section 6. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended 9112
9113
9114
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9116

by the acts indicated, are the resulting versions of the 9117
sections in effect prior to the effective date of the sections 9118
as presented in this act: 9119

The version of section 2305.111 of the Revised Code 9120
effective until October 12, 2028, as amended by both H.B. 33 and 9121
H.B. 35 of the 135th General Assembly. 9122

The version of section 2305.111 of the Revised Code that 9123
is scheduled to take effect October 12, 2028, as amended by both 9124
H.B. 33 and H.B. 35 of the 135th General Assembly. 9125

Section 3107.07 of the Revised Code as amended by both 9126
S.B. 207 and S.B. 250 of the 130th General Assembly. 9127