

**As Passed by the House**

**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, Brennan, Carruthers, Dell'Aquila, Dobos, Jarrells, Jones, Lampton, Miller, J., Oelslager, Patton, Piccolantonio, Richardson, Russo, Schmidt, White, Willis**

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**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	104
in an examination for licensure as a nursing home administrator	105
that the board of executives of long-term services and supports	106
administers under section 4751.15 of the Revised Code or	107
contracts under that section with a private or government entity	108
to administer;	109
(v) Records the release of which is prohibited by state or	110
federal law;	111
(w) Proprietary information of or relating to any person	112
that is submitted to or compiled by the Ohio venture capital	113
authority created under section 150.01 of the Revised Code;	114
(x) Financial statements and data any person submits for	115
any purpose to the Ohio housing finance agency or the	116
controlling board in connection with applying for, receiving, or	117
accounting for financial assistance from the agency, and	118
information that identifies any individual who benefits directly	119
or indirectly from financial assistance from the agency;	120
(y) Records listed in section 5101.29 of the Revised Code;	121
(z) Discharges recorded with a county recorder under	122
section 317.24 of the Revised Code, as specified in division (B)	123
(2) of that section;	124
(aa) Usage information including names and addresses of	125
specific residential and commercial customers of a municipally	126
owned or operated public utility;	127
(bb) Records described in division (C) of section 187.04	128
of the Revised Code that are not designated to be made available	129
to the public as provided in that division;	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;	537 538
(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;	539 540 541 542
(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.	543 544 545 546
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) "Licensed medical professional" has the same meaning as in section 2907.01 of the Revised Code. 1100  
1101
- (4) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code. 1102  
1103
- ~~(4)~~-(5) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code. 1104  
1105
- ~~(5)~~-(6) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code. 1106  
1107
- ~~(6)~~-(7) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse. 1108  
1109
- (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: 1110  
1111  
1112  
1113  
1114  
1115
- (1) The date on which the alleged assault or battery occurred; 1116  
1117
- (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: 1118  
1119  
1120  
1121
- (a) The date on which the plaintiff learns the identity of that person; 1122  
1123
- (b) The date on which, by the exercise of reasonable diligence, the plaintiff should have learned the identity of that person. 1124  
1125  
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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1511  
1512  
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1515

(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  
1803

(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

<del>(d)</del> <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
<del>(e)</del> <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
<del>(f)</del> <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
<del>(g)</del> <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
<del>(h)</del> <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), <del>or (g)</del> , <u>or (h)</u> of this	1991
section;	1992
<del>(i)</del> <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), <del>or (h)</del> , <u>or (i)</u> of this	1995
section;	1996
<del>(j)</del> <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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2395

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

fifteen days after the minor's birth;	2619
(2) The court finds, after proper service of notice and hearing, that any of the following are the case:	2620 2621
(a) The putative father is not the father of the minor;	2622
(b) The putative father has willfully abandoned or failed to care for and support the minor;	2623 2624
(c) The putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of the petitioner, whichever occurs first.	2625 2626 2627 2628
(C) Except as provided in section 3107.071 of the Revised Code, a parent who has entered into a voluntary permanent custody surrender agreement under division (B) of section 5103.15 of the Revised Code;	2629 2630 2631 2632
(D) A parent whose parental rights have been terminated by order of a juvenile court under Chapter 2151. of the Revised Code;	2633 2634 2635
(E) A parent who is married to the petitioner and supports the adoption;	2636 2637
(F) The father, putative father, or mother, of a minor if the minor is conceived as the result of the commission of rape or sexual battery by the father, putative father, or mother and the father, putative father, or mother is convicted of or pleads guilty to the commission of that offense. As used in this division, "rape" means a violation of section 2907.02 of the Revised Code or a similar law of another state and "sexual battery" means a violation of section 2907.03 of the Revised Code <u>if the sexual activity involved is sexual conduct</u> , or a	2638 2639 2640 2641 2642 2643 2644 2645 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
<b>Sec. 4723.28.</b> (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	2876
required under the practice intervention and improvement program	2877
established under section 4723.282 of the Revised Code;	2878
(27) In the case of an advanced practice registered nurse:	2879
(a) Engaging in activities that exceed those permitted for	2880
the nurse's nursing specialty under section 4723.43 of the	2881
Revised Code;	2882
(b) Failure to meet the quality assurance standards	2883
established under section 4723.07 of the Revised Code.	2884
(28) In the case of an advanced practice registered nurse	2885
other than a certified registered nurse anesthetist, failure to	2886
maintain a standard care arrangement in accordance with section	2887
4723.431 of the Revised Code or to practice in accordance with	2888
the standard care arrangement;	2889
(29) In the case of an advanced practice registered nurse	2890
who is designated as a clinical nurse specialist, certified	2891
nurse-midwife, or certified nurse practitioner, failure to	2892
prescribe drugs and therapeutic devices in accordance with	2893
section 4723.481 of the Revised Code;	2894
(30) Prescribing any drug or device to perform or induce	2895
an abortion, or otherwise performing or inducing an abortion;	2896
(31) Failure to establish and maintain professional	2897
boundaries with a patient, as specified in rules adopted under	2898
section 4723.07 of the Revised Code;	2899
(32) Regardless of whether the contact or verbal behavior	2900
is consensual, engaging with a patient other than the spouse of	2901
the registered nurse, licensed practical nurse, or dialysis	2902
technician in any of the following:	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  
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 physician assistant, professional association or society of  
physician 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  
upon which the belief is based.

(2) A physician assistant, professional association or  
society of physician assistants, physician, or professional  
association or society of physicians that believes that a  
violation of division (B) (4) or (5) of section 4730.25 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 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  
reinstatement 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 4675  
Code, all of the following apply: 4676

(1) The surrender of a license or certificate issued under 4677  
this chapter shall not be effective unless or until accepted by 4678  
the board. A telephone conference call may be utilized for 4679  
acceptance of the surrender of an individual's license or 4680  
certificate to practice. The telephone conference call shall be 4681  
considered a special meeting under division (F) of section 4682  
121.22 of the Revised Code. Reinstatement of a license or 4683  
certificate surrendered to the board requires an affirmative 4684  
vote of not fewer than six members of the board. 4685

(2) An application for a license or certificate made under 4686  
the provisions of this chapter may not be withdrawn without 4687  
approval of the board. 4688

(3) Failure by an individual to renew a license or 4689  
certificate to practice in accordance with this chapter or a 4690  
certificate to recommend in accordance with rules adopted under 4691  
section 4731.301 of the Revised Code does not remove or limit 4692  
the board's jurisdiction to take any disciplinary action under 4693  
this section against the individual. 4694

(4) The placement of an individual's license on retired 4695  
status, as described in section 4731.283 of the Revised Code, 4696  
does not remove or limit the board's jurisdiction to take any 4697  
disciplinary action against the individual with regard to the 4698  
license as it existed before being placed on retired status. 4699

(5) At the request of the board, a license or certificate 4700  
holder shall immediately surrender to the board a license or 4701  
certificate that the board has suspended, revoked, or 4702

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  
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(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
<b>Sec. 4731.99.</b> (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
<del>(E)</del> <u>(E) (1) Whoever violates division <del>(A)</del>, <del>(B)</del> (B) (1), <del>(C)</del> (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  
5825  
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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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5829
- (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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5832
- (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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5835  
5836  
5837
- (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 6344  
indemnify the professional liability of an anesthesiologist 6345  
assistant shall notify the board within thirty days after the 6346  
final disposition of any written claim for damages where such 6347  
disposition results in a payment exceeding twenty-five thousand 6348  
dollars. The notice shall contain the following information: 6349

(1) The name and address of the person submitting the 6350  
notification; 6351

(2) The name and address of the insured who is the subject 6352  
of the claim; 6353

(3) The name of the person filing the written claim; 6354

(4) The date of final disposition; 6355

(5) If applicable, the identity of the court in which the 6356  
final disposition of the claim took place. 6357

~~(E)~~ (F) The board may investigate possible violations of 6358  
this chapter or the rules adopted under it that are brought to 6359  
its attention as a result of the reporting requirements of this 6360  
section, except that the board shall conduct an investigation if 6361  
a possible violation involves repeated malpractice. As used in 6362  
this division, "repeated malpractice" means three or more claims 6363  
for malpractice within the previous five-year period, each 6364  
resulting in a judgment or settlement in excess of twenty-five 6365  
thousand dollars in favor of the claimant, and each involving 6366  
negligent conduct by the anesthesiologist assistant. 6367

~~(F)~~ (G) All summaries, reports, and records received and 6368  
maintained by the board pursuant to this section shall be held 6369  
~~in confidence and shall not be subject to discovery or~~ 6370  
~~introduction in evidence in any federal or state civil action~~ 6371  
~~involving an anesthesiologist assistant, supervising physician,~~ 6372

~~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 board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends 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.

(B) The board shall not refuse to issue a license or limited permit to an applicant because of a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(C) Any action taken by the board under division (A) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or permit may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a license or permit suspended pursuant to division (A) of this section requires an affirmative vote of not fewer than six members of the board.

(D) When the board refuses to grant or issue a license or permit to an applicant, revokes an individual's license or permit, refuses to renew an individual's license or permit, or refuses to reinstate an individual's license or permit, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or permit and the board



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 6996 6997 6998 6999 7000 7001 7002 7003
(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 7005 7006
(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 7008 7009 7010
(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 7012 7013 7014 7015
(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 7017 7018 7019
<b>Sec. 4761.14. <u>(A) As used in this section, "criminal conduct" and "sexual misconduct" have the same meanings as in</u></b>	7020 7021



section 4731.224 of the Revised Code. 7022

(B) (1) An employer that disciplines or terminates the 7023  
employment of a respiratory care professional or individual 7024  
holding a limited permit issued under this chapter because of 7025  
conduct that would be grounds for disciplinary action under 7026  
section 4761.09 of the Revised Code shall, not later than ~~sixty-~~ 7027  
thirty days after the discipline or termination, report the 7028  
action to the state medical board. The report shall state the 7029  
name of the respiratory care professional or individual holding 7030  
the limited permit and the reason the employer took the action. 7031  
If an employer fails to report to the board, the board may seek 7032  
an order from the Franklin county court of common pleas, or any 7033  
other court of competent jurisdiction, compelling submission of 7034  
the report. 7035

(2) Within thirty days after commencing an investigation 7036  
regarding criminal conduct or sexual misconduct against any 7037  
individual holding a valid license or limited permit issued 7038  
pursuant to this chapter, a health care facility, including a 7039  
hospital, health care facility operated by a health insuring 7040  
corporation, ambulatory surgical center, or similar facility or 7041  
employer, shall report to the board the name of the individual 7042  
and a summary of the underlying facts related to the 7043  
investigation being commenced. 7044

(C) If any individual authorized to practice under this 7045  
chapter or any professional association or society of such 7046  
individuals knows or has reasonable cause to suspect based on 7047  
facts that would cause a reasonable person in a similar position 7048  
to suspect that an individual authorized to practice under this 7049  
chapter has committed or participated in criminal conduct or 7050  
sexual misconduct the information upon which the belief is based 7051

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), ~~or (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 8796  
Code, all of the following apply: 8797

(1) The surrender of a license to practice as a genetic 8798  
counselor is not effective unless or until accepted by the 8799  
board. A telephone conference call may be utilized for 8800  
acceptance of the surrender of an individual's license. The 8801  
telephone conference call shall be considered a special meeting 8802  
under division (F) of section 121.22 of the Revised Code. 8803  
Reinstatement of a license surrendered to the board requires an 8804  
affirmative vote of not fewer than six members of the board. 8805

(2) An application made under this chapter for a license 8806  
to practice may not be withdrawn without approval of the board. 8807

(3) Failure by an individual to renew a license in 8808  
accordance with section 4778.06 of the Revised Code does not 8809  
remove or limit the board's jurisdiction to take disciplinary 8810  
action under this section against the individual. 8811

(4) The placement of an individual's license on retired 8812  
status, as described in section 4778.072 of the Revised Code, 8813  
does not remove or limit the board's jurisdiction to take any 8814  
disciplinary action against the individual with regard to the 8815  
license as it existed before being placed on retired status. 8816

Sec. 4778.171. (A) As used in this section, "criminal 8817  
conduct" and "sexual misconduct" have the same meanings as in 8818  
section 4731.224 of the Revised Code. 8819

(B) (1) Within thirty days after commencing an 8820  
investigation regarding criminal conduct or sexual misconduct 8821  
against any individual holding a valid license to practice 8822  
issued pursuant to this chapter, a health care facility, 8823

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. 9002

**Section 3.** That the version of section 2305.111 of the 9003  
Revised Code that is scheduled to take effect October 12, 2028, 9004  
be amended to read as follows: 9005

**Sec. 2305.111.** (A) As used in this section: 9006

(1) "Childhood sexual abuse" means any conduct that 9007  
constitutes any of the violations identified in division (A)(1) 9008  
(a) or (b) of this section and would constitute a criminal 9009  
offense under the specified section ~~or division~~ of the Revised 9010  
Code, if the victim of the violation is at the time of the 9011  
violation a child under eighteen years of age or a child with a 9012  
developmental disability or physical impairment under twenty-one 9013  
years of age. The court need not find that any person has been 9014  
convicted of or pleaded guilty to the offense under the 9015  
specified section ~~or division~~ of the Revised Code in order for 9016  
the conduct that is the violation constituting the offense to be 9017  
childhood sexual abuse for purposes of this division. This 9018  
division applies to any of the following violations committed in 9019  
the following specified circumstances: 9020

(a) A violation of section 2907.02 or ~~of division (A)(1),~~ 9021  
~~(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03~~ 9022  
of the Revised Code; 9023

(b) A violation of section 2907.05 or 2907.06 of the 9024  
Revised Code if, at the time of the violation, any of the 9025  
following apply: 9026

(i) The actor is the victim's natural parent, adoptive 9027  
parent, or stepparent or the guardian, custodian, or person in 9028  
loco parentis of the victim. 9029

(ii) The victim is in custody of law or a patient in a 9030

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  
9062

(3) "Licensed medical professional" has the same meaning as in section 2907.01 of the Revised Code. 9063  
9064

(4) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code. 9065  
9066

~~(4)~~(5) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code. 9067  
9068

~~(5)~~(6) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code. 9069  
9070

~~(6)~~(7) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse. 9071  
9072

(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  
9074  
9075  
9076  
9077  
9078

(1) The date on which the alleged assault or battery occurred; 9079  
9080

(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  
9082  
9083  
9084

(a) The date on which the plaintiff learns the identity of that person; 9085  
9086

(b) The date on which, by the exercise of reasonable 9087  
diligence, the plaintiff should have learned the identity of 9088  
that person. 9089

(C) An action for assault or battery brought by a victim 9090  
of childhood sexual abuse based on childhood sexual abuse, or an 9091  
action brought by a victim of childhood sexual abuse asserting 9092  
any claim resulting from childhood sexual abuse, shall be 9093  
brought within twelve years after the cause of action accrues. 9094  
For purposes of this section, a cause of action for assault or 9095  
battery based on childhood sexual abuse, or a cause of action 9096  
for a claim resulting from childhood sexual abuse, accrues upon 9097  
the date on which the victim reaches the age of majority. If the 9098  
defendant in an action brought by a victim of childhood sexual 9099  
abuse asserting a claim resulting from childhood sexual abuse 9100  
that occurs on or after August 3, 2006, has fraudulently 9101  
concealed from the plaintiff facts that form the basis of the 9102  
claim, the running of the limitations period with regard to that 9103  
claim is tolled until the time when the plaintiff discovers or 9104  
in the exercise of due diligence should have discovered those 9105  
facts. 9106

**Section 4.** That the existing version of section 2305.111 9107  
of the Revised Code that is scheduled to take effect October 12, 9108  
2028, is hereby repealed. 9109

**Section 5.** Sections 3 and 4 of this act take effect 9110  
October 12, 2028. 9111

**Section 6.** The General Assembly, applying the principle 9112  
stated in division (B) of section 1.52 of the Revised Code that 9113  
amendments are to be harmonized if reasonably capable of 9114  
simultaneous operation, finds that the following sections, 9115  
presented in this act as composites of the sections as amended 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